BACKGROUND PAPER FOR
The Bureau of Real Estate Appraisers

Joint Sunset Review Oversight Hearing, March 4, 2025
Senate Committee on Business, Professions and Economic Development
Assembly Committee on Business and Professions

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS

BRIEF OVERVIEW OF THE BUREAU OF REAL ESTATE APPRAISERS

History and Function of the Bureau of Real Estate Appraisers

In 1989, the United States Congress passed Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), requiring all states to license and certify real estate appraisers who conduct appraisals for federally related transactions, which are sale transactions involving a federal agency in either the primary or secondary mortgage market. In response to the federal mandate, the California Legislature enacted the Real Estate Appraisers Licensing and Certification Law in 1990 (AB 527, Chapter 491, Statutes of 1990). The Office of Real Estate Appraisers (OREA) was established within the Business, Transportation and Housing Agency, and charged with developing and implementing a real estate appraiser licensing and certification program compliant with the federal mandate. In 2012, Governor Brown submitted a reorganization plan to the Legislature. As a result, on July 1, 2013, OREA became the Bureau of Real Estate Appraisers (Bureau) within the Department of Consumer Affairs (Department or DCA). The Bureau, entirely funded by licensing fees, is a single program comprised of two core components: licensing and enforcement.

The Bureau issues trainee licenses, residential licenses, certified residential licenses, and certified general licenses. The Licensing Unit implements the minimum requirements for licensure, according to criteria established by the federal government and California law, to ensure that only qualified persons are licensed to conduct appraisals in federally related real estate transactions. Applicants must meet minimum education and experience requirements and successfully complete a nationally approved examination. The Licensing Unit also registers Appraisal Management Companies (AMC) in compliance with California law.

The Enforcement Unit investigates the background of applicants, licensees, and AMC registrants to ensure they meet the standards for licensure. The Enforcement Unit also investigates complaints of violations of California law and national appraisal standards filed against licensed appraisers and registered AMCs.

The Bureau is responsible for the accreditation of educational courses and providers for real estate appraisers. The Bureau has reviewed and approved over 1,800 pre-licensing and continuing education courses. In addition to the real estate appraisal related courses offered by California’s community colleges and universities, the Bureau accredits approximately 70 proprietary schools that provide appraisal education.

The Bureau is subject to unique federal oversight, in that the Appraisal Subcommittee and the Appraisal Foundation, are not part of the Bureau, but they have influence over the Bureau and its operations at the federal level:

- Appraisal Subcommittee – the Appraisal Subcommittee (ASC) was created in 1989 pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The ASC's role as an independent federal institution is to generally oversee the real estate appraisal process as it relates to federally regulated transactions. More specifically, the ASC reviews each state's compliance with federal requirements for licensed appraisers and appraisal management companies and can take action in the case of noncompliance; maintains a national registry of approved appraisers; and oversees the Appraisal Foundation.

- Appraisal Foundation – the Appraisal Foundation is a nonprofit organization that works to advance professionalism for appraisers through promulgating standards, appraiser qualifications, and guidance for appraisal methods and techniques. The Appraisal Standards Board within the Foundation determines and maintains the Uniform Standards of Professional Appraisal Practice (USPAP), which all states must enforce to be compliant with federal requirements and allows state licensed appraisers to participate in federally regulated transactions. The Appraisal Qualifications Board (AQB) within the Foundation establishes the minimum education and experience requirements as well as the examination requirements. The Appraisal Practices Board within the Foundation is charged with providing guidance and issuing opinions on recognized valuation methods and techniques.

The current Bureau's mission statement, as stated in its 2020-25 Strategic Plan, is as follows:

Safeguard public trust by promoting professionalism in the real estate appraisal industry through licensing, education, and enforcement.

To achieve this mission, the Bureau issues trainee, residential, certified residential, and certified general licenses to about 8,800 real estate appraisers and appraisal management companies.

Fiscal, Fund and Fee Analysis

As a special fund agency, the Bureau receives no General Fund (GF) support, relying solely on license and renewal fees set by statute and collected from applicants. The Real Estate Appraisers Fund is not continuously appropriated and the DCA prepares the Bureau's annual budget. Pursuant to Business and Professions Code (BPC) § 128.5 (a), the Bureau's fund shall not exceed two fiscal years in reserves or the Bureau must reduce licensing or other fees to reduce surplus funds.

Historically, three loans were made to the General Fund. The latest general fund loan was made in 2008 for $16.6 million. The final repayment was in FY 2018/19 for $500,000 with $143,000 in interest. There is no outstanding balance due to the Bureau and there have been no loans made during the current sunset period.

The Real Estate Appraisers Regulation Fund (Fund) is intended to be comprised of two separate accounts – an account for administration and an account for recovery. The recovery account is to receive 5 percent of the amount of any license or certificate fee collected (BPC § 11411); however, that account has not been created. At the close of FY 2023/24, the Bureau had a reserve balance equivalent to 10.8 months of operating expenses.

The following is the past, current and projected fund condition for the Bureau.

Fund Condition						
(Dollars in Thousands)	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25[3]	FY 2025/26[4]
Beginning Balance[1]	$4,189	$5,132	$5,172	$5,416	$5,223	$4,453
Revenues and Transfers	$6,065	$5,970	$6,372	$5,279	$5,059	$4,612
Total Resources	$10,254	$11,102	$11,544	$10,695	$10,282	$9,065
Budget Authority	$5,756	$6,145	$6,234	$6,530	$6,502	$6,473
Expenditures[2]	$5,200	$5,819	$6,126	$5,472	$5,829	$7,055
Loans to General Fund	$0	$0	$0	$0	$0	$0
Accrued Interest, Loans to General Fund	$0	$0	$0	$0	$0	$0
Loans Repaid From General Fund	$0	$0	$0	$0	$0	$0
Fund Balance	$5,054	$5,283	$5,418	$5,223	$4,453	$2,010
Months in Reserve	10.4	10.3	11.9	10.8	7.7	3.4

[1] Beginning balances include the prior year ending balance plus (or minus) any prior year adjustments.
[2] Expenditures include reimbursements and direct draws to the fund.
[3] Current year values are estimates.
[4] Estimates are based on the Governor's FY 2025/26 budget and are not forecasts based on past spending.

The Bureau stated a decrease in revenue is due to a slowdown in the housing market and mortgage refinances after the COVID pandemic, which has resulted in fewer license renewals. Expenditures increased year over year until FY 2023/24 when it decreased significantly. Over the last few years, the Bureau has had to realize savings to remain solvent as the fund has been declining as a result of a shift in the market. Additionally, in FY 2023/24 there was a Governor's initiative that reduced expenditures to mission critical needs to achieve savings. For 2024-25 and ongoing, the fund condition assumes the Bureau will spend to its full appropriation.

The Bureau typically does not spend its full budget authority. Thus, the months in reserve line item presents artificially low; however, the Bureau still projects a deficit to occur in FY 2027/28. While the Bureau currently has no plans to immediately raise fees, it is actively considering several strategies to maintain the sustainability of its services and operations. These include exploring alternative education and experience pathways, such as the Practical Applications of Real Estate Appraisal (PAREA), which has been recently implemented, and the California Appraiser Career Education and Experience (ACEE) Practicum Program (Practicum Program). The Bureau is also considering ways to reduce achieve continued operational costs.

During the past four fiscal years, the Bureau's enforcement program accounted for an average of 41% of Bureau expenditures, while licensing and administration each accounted for approximately 23% of the Bureau's expenditures. Pro rata to the Department made up approximately 15% of the Bureau's expenditures compared to 11% during the previous sunset review period. Bureau expenditures are noted below.

Expenditures by Program Component	(list dollars in thousands)							
	FY 2020/21		FY 2021/22		FY 2022/23		FY 2023/24	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	$1,459	$521	$1,582	$851	$1,346	$873	$1,226	$485
Examination	$0	$0	$0	$0	$0	$0	$0	$0
Licensing	$833	$316	$792	$386	$785	$431	$1,003	$355
Administration *	$729	$213	$729	$331	$1,054	$484	$941	$225
DCA Pro Rata	$0	$611	$0	$629	$0	$637	$0	$732
Diversion (if applicable)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
TOTALS	$3,021	$1,661	$3,103	$2,197	$3,185	$2,425	$3,170	$1,797
* Administration includes costs for executive staff, board, administrative support, and fiscal services.								

The Bureau does not participate in the BreEZe program and instead utilizes its internal system, the Real Estate Appraiser Licensing and Enforcement (REALE) system, which was developed in 2014. However, the Bureau is actively collaborating with the Department to explore options for system modernization and upgrades. The Bureau has not made any payments to DCA toward system modernization.

The license renewal cycle for all license types is every two years. This authority is granted within BPC §§ 114004 through 11408 and Title 10 of the California Code of Regulations (10 CCR), § 3582.

In 2006, the licensee population peaked and revenue exceeded amounts needed to keep the Bureau solvent. In response, the Bureau temporarily reduced its issuance fee for trainees and residential appraisers to $150 (from $300) and certified appraisers to $200 (from $375) until 2014. In 2014 and despite a then declining population, the Bureau was receiving repayments from the General Fund, with interest, so the Bureau determined it was in the best interest of the licensee population to maintain the lower fees.

Effective July 1, 2018, the issuance fees for trainees and residential appraisers were returned to the regulatory rates of $300 and certified appraisers of $375. By June 30, 2019, the licensee population had dropped to 10,069 from the FY 2006/07 peak of 20,080. Due to the continued decline, the Bureau performed a workload and cost analysis to determine the appropriate fee increase. The Bureau raised its fees through regulation for trainees and residential appraisers to $450 and certified appraisers to $525, effective January 1, 2020. No fee changes have occurred since January 1, 2020. These fees are currently set at their statutory limit.

Staffing Levels

The Bureau is comprised of 27 positions, and since January 2022, has experienced significant staff turnover (nine in total) due to retirements, transfers to other state agencies, separations, and employee death.

Over the past four years, while managing ongoing COVID-19 pandemic concerns and a nationwide shift to work from home, the Bureau faced some difficulties onboarding and training new staff. The ability to return to the office and conduct the onboarding process in person has greatly alleviated those difficulties and employees have expressed their strong preference for in-person onboarding.

The Bureau has also encountered challenges recruiting for vacant Property Appraiser Investigator (investigator) positions who must meet typical requirements to become an investigator while also being licensed appraiser in good standing. The Bureau attributes its recruiting challenges to the higher educational requirements and lower salaries of an investigator compared to those of real estate appraisers working in private industry. This matter is discussed further in Issue # 8.

The Bureau utilizes cross-training to ensure staff have knowledge of a wide range of Bureau processes and procedures. The Bureau also actively maintains procedure manuals and reference documents to retain institutional knowledge when a staff member separates, promotes, or retires.

The Bureau encourages staff to attend training classes, including those that lead to staff promotions. Most classes that Bureau staff attend are free of charge and provided by the Department's SOLID unit. However, the Bureau typically spends $13,531 each year to train staff outside SOLID's portfolio of classes, including those required for investigators to keep their license in good standing.

Licensing

The Bureau issues four license types, a certificate of registration to AMCs, and a temporary practice permit. Based on the past four years, the Bureau has averaged 9,620 active licensees, including 219 appraisal management companies, 189 certified general licenses, 509 certified residential licenses, 148 residential licenses, 101 temporary practice permits, and 362 trainee licenses. During this time, all license types have seen a steady decline in the license population with the largest decline in certified residential licenses with 509 fewer licenses in FY 2023/24 than in FY 2020/21. The largest percentage decline was in trainee licenses, which decreased by 362 or 45 percent from its peak in FY 2021/22.

The Bureau has a 90-day deadline for processing license applications or notifying applicants in writing if additional information is needed for incomplete applications (10 CCR, § 3570). Although the Bureau has consistently met the 90-day requirement set in regulations, processing times increased significantly to as much as 85 days in 2023, with a backlog of over 350 applications. This delay was primarily due to a decrease in the number of staff in the licensing unit. To address this issue, the Bureau implemented new processes and established task queues in early 2024. Additionally, small-scale automation was introduced into the REALE system, which enhanced process monitoring and workload distribution. These measures effectively reduced processing times. Complete licensing timelines can be found in Table 7a on pages 12-15 of the sunset report.

Permit holders may submit complete applications for renewal of licenses to the Bureau at least 90 days prior to the license expiration date. If the renewal application is received timely and without deficiencies (e.g., failure to include payment or sign the form), the Bureau renews the registration before the current one expires. Although renewal processing times fluctuated, individual renewal processing ranged between two and nine days and appraisal management company renewals were processed in 27 days or less.

To address the processing time increase issue, the Bureau implemented new processes and established task queues in early 2024. Additionally, small-scale automation was introduced into the REALE system, which enhanced process monitoring and workload distribution. These measures effectively reduced processing times. The current average processing time for appraiser licensing applications has significantly improved to approximately 25 days as of October 2024 for individual licenses. Additionally, trainee applications, AMC applications, and requests for license issuance after receiving examination scores, are now being processed in less than 10 days.

The Bureau has not denied any applications based on criminal history. The Bureau conducts criminal background investigations in collaboration with the California Department of Justice and the Federal Bureau of Investigation. For all out-of-state applicants, the Bureau also checks the Appraisal Subcommittee National Registry, a national registry of licensed appraisers that includes disciplinary actions.

The Bureau fingerprints all applicants and utilizes either Live Scan to obtain electronic fingerprints for individuals in California or requires applicants to submit hardcopy fingerprint cards if they are out of state. The Bureau also receives subsequent arrest records for its licensees without issue. All current licensees have been fingerprinted.

The Appraisal Subcommittee maintains a National Registry of licensed appraisers that includes disciplinary actions. The Bureau checks the National Registry prior to renewing a license.

The Bureau has several processes that require documentation. Examination results are received directly from the exam administrator. Education certificates are not received from the providers, but the Bureau is working to establish a direct data sharing process with education providers. Applicants are required to provide certified copies of any police reports and/or court documents related to the applicant's record; however, the Bureau follows up by acquiring an original set of documents directly from the arresting agency or the court of record as a matter of procedure, especially when incomplete records are submitted by the applicant.

Applicants with an active license in good standing from another state may apply through the reciprocal application process. The applicant is not required to take any additional exams in California if their home state’s licensing examination was endorsed by the AQB, and they maintain good standing in all states where they are licensed. Additionally, appraisers with an active license in good standing in any other state(s) may apply for a one-year Temporary Practice Permit to conduct real property appraisal assignments in California.

Out-of-country applicants must meet all requirements for the license type for which they are applying. For those that require college education (certified residential and certified general), transcripts showing education or a degree earned outside the United States require translation and evaluation at a credentialing service, which can also determine if a degree is equivalent to an Associate of Arts degree or a Bachelor of Arts degree from an accredited college in the United States.

Military service, education or training can be applied for credit towards licensure only if the education and experience meets the minimum requirements of the Appraisal Foundation pursuant to Section 1112 of FIRREA. To date, the Bureau has not received any applications offering military education, training, or experience.

The Bureau does identify and track applicants who are veterans pursuant to BPC § 114.3 and has implemented an expedited process for military applicants as required by BPC § 115.5. The table below provides the statistics for applications that benefited from this process.

Military Applications by Fiscal Year				
Fiscal Year	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24
Total	64	34	52	61

The examination for each license category is a national examination developed by the AQB and administered to all license candidates nationwide.

The national exam is administered by PSI through a contract with the Bureau. A recent review and inquiry discovered a system error by the exam administrator, PSI, which led to reporting low pass rates in California. Both PSI and the AQB formally acknowledged these errors in an official letter. They stated that the issues were due to technical malfunctions in the reporting system and, consequently, should not have affected the licensees. However, PSI has been unable to produce corrected historical data for previously reported timeframes listed in the table below. The passing rates in first half of FY 2024/25 for most exam types are approximately 60% which is much closer to the national average pass rate than previously indicated numbers suggest. The Bureau is actively monitoring the situation and following up on corrective and preventive measures to prevent similar issues in the future.

National Examination.				
	License Type	Licensed Residential	Certified Residential	Certified General
	Exam Title	National Uniform Licensing and Certification Exam		
FY 2020/21	Number of Candidates	78	132	73
	Overall Pass %	50	53	59
	Overall Fail %	50	47	41
FY 2021/22	Number of Candidates	112	141	33
	Overall Pass %	53	53	39
	Overall Fail %	47	47	61
FY 2022/23	Number of Candidates	99	149	59
	Overall Pass %	54	47	42
	Overall Fail %	46	53	58
FY 2023/24	Number of Candidates	22	56	43
	Overall Pass %	54	58	62
	Overall Fail %	46	42	38
	Date of Last OA	2021	2021	2021
	Name of OA Developer	The Appraisal Foundation through the Appraisal Qualifications Board		
	Target OA Date	2026	2026	2026

The Bureau did not identify any statutes hindering the Bureau's efficient and effective processing of applications or examinations. However, a declining license population may be attributable to limited pathways to licensure or the ability to make a living conducting appraisals that are not subject to licensure, which are discussed in New Issue 6.

School Approvals

The Bureau's education program must meet standards set by the Appraisal Foundation through the AQB. The Bureau approves courses and providers for both qualifying and continuing education, which may be offered by private vocational schools, professional organizations, or accredited community colleges and universities. While the Bureau does not directly collaborate with the Bureau of Private

Postsecondary Education (BPPE) in the course approval process, it can accept coursework from BPPE-approved institutions, provided these courses meet AQB minimum requirements.

The Bureau maintains a list of approved course providers, which currently includes 48 providers. These providers are reviewed every four years or whenever significant changes occur in their ownership, management, or operating policies. The Bureau has the authority to revoke a provider's approval if it no longer meets the established criteria or violates Bureau requirements.

The Bureau can accept international course providers, provided they meet the same standards as other approved providers. For example, online or asynchronous courses from international providers must be approved by the International Distance Education Certification Center (IDECC) and comply with the minimum AQB requirements.

Continuing Education (CE)

All licensed appraisers must complete 56 hours of continuing education before renewing their license every other renewal, a four-year cycle. Required courses include:

- A seven-hour National Uniform Standards of Professional Appraisal Practice course every two years.
- A four-hour Bureau-approved course titled "Federal and State Laws and Regulations," which includes an examination requirement.
- A three-hour Bureau-approved course titled "Cultural Competency and Elimination of Bias," which is required as a result of AB 948 (Holden, Chapter 352, Statutes of 2021).

Other continuing education courses or seminars must focus on appraisal-related topics, such as valuation methodologies, land use planning, appraisal software applications, cost estimating, green building appraisals, valuation bias, and fair housing.

Bureau licensees must submit their proof of continuing education with their application for renewal. Verification of continuing education completion is performed for every renewal applicant, so audits are not conducted. Bureau staff reviews each completion certificate for key details, including the course name and approval number, number of hours, method of instruction, completion date, and a penalty of perjury statement signed by the instructor or verifier. If continuing education hours cannot be verified upon receipt of the application for renewal, the Bureau issues a deficiency letter, allowing the applicant to provide additional documentation.

The Bureau approves continuing education course providers and continuing education courses. Courses may also be pre-approved by the AQB. The Bureau reviews course approval applications to ensure compliance with its approval policies and consistency with AQB standards.

In the past four years, the Bureau has approved a total of seven course providers and 525 courses (a breakdown of approvals by year is on page 21 of the Bureau's sunset report). If an application for a course does not initially meet the requirements set forth by the state or the AQB, the Bureau collaborates with the applicant to enhance the course to ensure compliance with these standards. Thus, all continuing education course applications were ultimately approved.

Continuing education provider accreditation is valid for four years, after which providers must submit a new application for review. During this four-year period, providers are required to notify the Bureau of any significant changes to their educational offerings, ownership, or operating policies.

The Bureau does not conduct formal audits of all continuing education providers. Although a structured evaluation of the continuing education process has not yet been implemented, the Bureau gathers feedback from the enforcement team members who participate in courses as part of their license renewal process. This feedback is used to assess the effectiveness of the courses.

Enforcement

The Bureau is currently facing a backlog of cases, with some cases exceeding a year in age. Despite receiving a "Good" rating from the federal audit conducted by the Appraisal Subcommittee in 2023, the Bureau is proactively exploring several measures to address and reduce the backlog in the investigation process. These measures include hiring for vacant positions, streamlining the investigation process, standardizing investigation reports, and providing staff training. To enhance performance, the Bureau participates in settlement conferences, seeks early hearing dates, and collaborates with investigators to expedite the investigation process.

According to Appraisal Subcommittee Policy Statement Seven, complaints against appraisers should be resolved within one year of filing.

Since the last review, there has been an increase in the time required to complete cases, which could be due to complaints involving multiple appraisal reports and more complex allegations. These extended investigation times could be a reason for the decrease in disciplinary actions.

The most critical performance challenges include a high rate of enforcement staff attrition and difficulties in recruiting and hiring qualified personnel. Despite repeated efforts to hire Property Appraiser Investigators, Senior Property Appraiser Investigators, and Supervising Property Appraiser Investigators, recruitment has been limited. While some new hires have been made, the Bureau's enforcement team is now smaller than during the last Sunset review with only 9 staff compared to 15 staff in FY 2018/19.

To address these challenges, the Bureau has expanded marketing efforts to improve its hiring process and contracted with external trainers to help train new staff and assist with initial investigations. Additionally, the Bureau has streamlined processes and developed templates for common violations to improve efficiency in investigative report writing. In July 2024, the Bureau hired a new Deputy Chief of Enforcement to manage the growing backlog of complaints.

Additionally, there is an increase in complaints from governmental agencies. After January 2021, the Property Appraisal and Valuation Equity task force and other government reports began requiring government agencies to file complaints. The public and consumers were aware of these complaints and public volume decreased while governmental agency complaints increased.

Following are data of interest for the Bureau's enforcement program.

Enforcement Statistics*				
	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24
COMPLAINTS				
Intake				
Received	313	295	202	223
Closed without Referral for Investigation	0	0	0	0
Referred to INV	314	290	208	223
Pending	1	6	0	6
Source of Complaint				
Public	205	139	27	38
Licensee/Professional Groups	35	31	2	11
Governmental Agencies	24	227	185	130
Internal	16	18	11	12
Other	33	90	86	94
Anonymous	N/A	N/A	N/A	N/A
Average Time to Refer for Investigation (from receipt of complaint / conviction to referral for investigation)	3	3	2	5
Average Time to Closure (from receipt of complaint / conviction to closure at intake)	0	0	0	0
Average Time at Intake (from receipt of complaint / conviction to closure or referral for investigation	3	3	2	5
INVESTIGATIONS**				
Non-Sworn Investigation				
Opened	314	443	317	283
Closed	279	286	162	296
Average days to close (from assignment to investigation closure)	183	185	186	225
Pending (close of FY)				
Average days for all investigation outcomes (from start investigation to investigation closure or referral for prosecution)	183	185	186	225
Average days for investigation closures (from start investigation to investigation closure)	166	162	168	199
Average days for investigation when referring for prosecution (from start investigation to referral for prosecution)	N/A	N/A	N/A	N/A
Average days from receipt of complaint to investigation closure	183	187	187	246
Pending (close of FY)	167	171	221	213
CITATION AND FINE				
Citations Issued	80	70	31	31
Average Days to Complete (from complaint receipt / inspection conducted to citation issued)	187	352	409	683
Amount of Fines Assessed	$119,000	$81,500	$88,250	$78,000

Amount of Fines Reduced, Withdrawn, Dismissed	$0	$0	$0	$4,000
Amount Collected	$115,936	$106,581	$30,000	$49,328

* Table excerpt taken from the Bureau's Sunset Review Report. The full table can be found on pages 22-25 of that report.

** BREA does not complete desk investigations. Each complaint by BREA is assigned to a non-sworn investigator for investigation.

There has been a decrease in disciplinary action since the last sunset review. During the previous sunset review period (2016 - 2019) 78 disciplines were imposed, and in the current sunset review period 52 disciplines were imposed. Extended investigation times and challenges with staffing were significant factors in the reduction of disciplinary outcomes.

Once the Bureau establishes jurisdiction, cases are prioritized as follows:

- Priority 1: Complaints where the public may be at risk of serious harm, or where the licensee or registrant is already under investigation for another open case.
- Priority 2: Complaints involving a licensee or registrant with a prior disciplinary history.
- Priority 3: All other complaints, handled in the order they are received.

Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer who has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the applicable state appraiser certifying and licensing agency (15 USC 1639(e)). The Bureau has received these reports without issue. The complaints are then investigated by the Bureau.

In addition, BPC § 11318 requires licensees, applicants for licensure, course providers, or applicants for course provider accreditation report the following events:

- The bringing of an indictment or information charging a felony.
- The conviction of a licensee, applicant for licensure, course provider, or applicant for course provider accreditation of any felony or misdemeanor.
- The cancellation, revocation, or suspension of a license, other authority to practice, or refusal to renew a license or other authority to practice as an occupational or professional licensee or course provider, by any other regulatory entity.
- The cancellation, revocation, or suspension of the right to practice before any governmental body or agency.
- The Bureau has received these reports without issue. If the Bureau subsequently finds out there was a conviction and were not notified, action may be taken against the licensee.

The Bureau's most used enforcement tool is its citation and fine authority, which accounts for the majority of its actions. Citations are typically issued for violations that do not involve fraud, gross ethical violations, or significant incompetence. The most frequent violations resulting in citations include misrepresentation of property characteristics, failure to report comparable sale details, inadequate support for reported adjustment amounts, improper site value methodology, and inaccurate reporting of replacement cost figures.

Over the past four years, the Bureau's average fine amount has been $1,856. Fines may be issued as high as $10,000, but the most common fines are between $1,000 and $3,000. Because there have been no appeals, there is no difference in fine amounts between pre- and post-appeal cases.

A significant majority of administrative citations are not contested through an informal process and instead, are resolved using BREA's statutory authority to settle such matters pursuant to BPC § 11315.5. Therefore, the Bureau typically does not hold informal conferences and does not have a Disciplinary Review Committee.

After the Bureau issues a final order that includes a fine or issues a citation and fine, it waits until the payment due date, which is typically 30 days from the effective date of the final order or citation. If the fine is not paid by the due date, the Bureau will issue up to three notices of overdue payment to the respondent before submitting the necessary documents to the Department to request the FTB to intercept the outstanding fine amount. The Bureau has a collection rate of 84%, which is much higher than many programs within the Department.

California is not a mandatory licensure state, which means individuals can appraise property without a license if the appraisal is not performed with an intended use for a federally-related real estate transaction. When licenses are required, several factors prevent unlicensed individuals from practicing, including lenders ensuring appraisers are licensed in order to comply with federal law. In addition, practicing without a license may result in criminal action and Bureau citations. As a result, the Bureau receives very few complaints about unlicensed activity, with only one complaint reported in FY 2022/23.

In the rare instance of a complaint involving unlicensed activity, the case is investigated and may result in a citation, a cease-and-desist letter, and/or referral to the district attorney's office. The Bureau received a total of six complaints involving unlicensed activities during the sunset period.

The Bureau uses the authority of BPC § 125.3 (a) to recover the reasonable costs of investigation and enforcement of a case. The Bureau submits cost certifications with each case that is referred to the AG detailing the expenditures the Bureau incurred in investigating and bringing the case, which the Deputy Attorney General (DAG) requests in the administrative hearing process. The licensee may choose to pay the amount in full or enter into a payment plan with the Bureau. If the licensee does not respond, the Bureau initiates the FTB intercept process.

If a license is revoked and the revocation is stayed and probation ordered, cost recovery is usually included as a term of probation. The Bureau is generally successful in collecting cost recovery from licensees who are on probation.
Over the last three years, the Bureau collected an average of 47% of the cost recovery ordered. Although the Bureau has had success utilizing the FTB intercept to increase collection rates for revocations, it is looking into using collection agencies in instances where a license is revoked and cost recovery is ordered.

The Bureau does not have legal authority to seek restitution through a disciplinary hearing. The Bureau is required to create an account intended to provide a form of financial redress for consumers harmed by improper appraisals, but the Recovery Account was never created (BPC § 11411). The recovery account is discussed further in Issue # 2.

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

The Bureau was last reviewed by the Legislature through sunset review in 2020. During the previous sunset review, eight issues were raised. In January 2025, the Bureau submitted its required sunset report to the Committees. In this report, the Bureau described actions it has taken since its prior review to address the recommendations made. The following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes made. For those which were not addressed and which may still be of concern to the Committees, they are addressed and more fully discussed under "Current Sunset Review Issues."

- **Executive level staffing has been updated**. After retirement of James Martin, previous Bureau Chief, Angela G. Jemmott was sworn in as the new Bureau Chief, effective March 2, 2022. John Hassler was hired as the Deputy Bureau Chief of Enforcement, effective March 14, 2022. Mujiburrahman Khateer was hired as the Deputy Bureau Chief of the Licensing and Administration Services Unit, effective December 27, 2023. Christina (Tinna) Morlatt was promoted to Deputy Bureau Chief of Enforcement on July 30, 2024.

- **Demographic information has been reviewed.** The Bureau conducted a demographic survey in June 2023 to help shape the Bureau's marketing and outreach efforts. The Bureau received approximately 2,500 surveys and found 77% of the participants were over the age of 50 and 65% of respondents were male. The full survey results can be found on pages 1-3 of the Bureau's 2023 Fall/Winter Newsletter, which is attached to the sunset report as Attachment C.

- **The Bureau is working to respond to new legislation.** The Bureau will be reviewing its posting and disclosure policy to address the requirements set forth by SB 1225 (Jones, Chapter 461, Statutes of 2024), which allows for licensees to petition to have their disciplinary history removed from the website if it is more than ten years old, and the licensee has shown evidence of rehabilitation (BPC § 11317.2). It also allows for immediate family members or heirs of deceased licensees the ability to petition on behalf of deceased licensee, irrespective of duration. To execute these provisions, the Bureau is creating an application and setting fees through the regulatory process. The Bureau also implemented AB 342 (Valencia, Chapter 200, Statutes of 2023), which authorizes the Bureau to request specific demographic data from licensees during initial licensing or renewal. The first survey is attached as Attachment C of this report.

- **Public information efforts are underway.** The Bureau reports that it is using its website to keep the public informed on a variety of updates including industry trends, Bureau activities, announcements, and guides. The Bureau is using its website to receive work samples, communicate updates and announcements via email notifications and social media posts, and receive complaints via online complaint registration. The Bureau also produces a twice-yearly newsletter and all issues are posted on the Bureau website. The Bureau's website contains sections for News and Announcements and Press Releases, where the public can access recent developments and up to date news. The Bureau holds events which remain accessible to the public on the Bureau's website indefinitely either on its main page or as archived. For example, a webcast for an Educational Roundtable – Addressing cultural competency and Elimination of Bias – is available on the Bureau's website.

- **Workforce development has been a focus.** Effective January 1, 2024, the Bureau implemented regulations allowing applicants to fulfill partial or complete experience requirements through the PAREA program as an alternative to the traditional trainee/supervisor model, which was a barrier for licensure due to the lack of supervisors. Additionally, the regulatory changes include provisions for awarding 100% experience credit through Practicum Program experience, aligning with federal criteria. Important cooperative partnerships have also been established in the development of the Community College System-based appraiser Practicum Program. The Bureau has strengthened strategic relationships with the California Labor and Workforce Development Agency, the Community Colleges Chancellor's Office, Workforce and Economic Development Division, and the Business Department of West Los Angeles Community College. These foundational partnerships are crucial for building a robust platform to attract additional strategic partners. The Practicum Program is anticipated to be ready for a Spring 2025 enrollment and could provide an alternative pathway for education and experience to facilitate career advancement in the appraisal industry. The Bureau reports this Program is also designed to facilitate access to the knowledge and experience needed for career development in the appraisal industry as well as address challenges faced by vulnerable communities, particularly regarding limited access to appraisal services.

- **<u>The Bureau is working to address training challenges.</u>** The limited number of supervisors willing to train new appraisers is a significant challenge. To address this, the Bureau reports it is actively working to streamline career progression for appraiser trainees and licensed appraisers. By establishing a central hub and fostering collaboration, the Bureau aims to develop a skilled pool of supervisors and encourage participation in programs like the Practicum Program and PAREA. This approach is intended to improve access to supervisory services and facilitate career advancement, helping to mitigate the shortage of available supervisors.

CURRENT SUNSET REVIEW ISSUES FOR THE BUREAU OF REAL ESTATE APPRAISERS

The following are unresolved issues pertaining to the Bureau or areas of concern that should be considered, along with background information for each issue. There are also recommendations Committee staff have made regarding particular issues or problem areas the Bureau needs to address. The Bureau and other interested parties have been provided with this Background Paper and the Bureau will respond to the issues presented and the recommendations of staff.

BUREAU ADMINISTRATIVE ISSUES

ISSUE #1: (ADVISORY COMMITTEE) Should the Bureau create an advisory committee that meets regularly?

Background: Many bureaus within the Department of Consumer Affairs have advisory committees (or councils) comprised of industry representatives and public members who are volunteers dedicated to assisting the bureau in an informal advisory capacity on policy matters and make non-binding recommendations to the Bureau Chief.

Members may represent industry by holding a current bureau license or through membership of an industry association, board, or other professional group. An advisory committee member may also be a public member, frequently one who has a background in consumer protection or other knowledge of the regulated industry. Advisory committees are not mandated by statute and are not subject to quorum requirements to hold meetings. However, committee members contribute invaluable insight and perspective to DCA bureaus by advising the Bureau Chief on market issues, trends, and business practices; discussing creative solutions to consumer and industry problems; guiding strategic planning; and otherwise making recommendations on a broad range of policy issues including consumer education and protection, industry outreach, budget, and regulatory compliance. Additionally, advisory committee meetings are typically webcast and open to the public, which provides the public with an opportunity to engage the bureau on issues of concern to them.

BREA is one of the few bureaus within DCA that does not have an advisory committee. The lack of advisory committee may present a missed opportunity to elicit information from those within industry and provide the public with information about the Bureau's operations, licensing requirements, enforcement activity, and fund condition. Regular data reporting during meetings also allows the Bureaus to identify trends and address issues at the beginning stages. However, since advisory committees are not mandated by statute, it is a choice the Department and Bureau make whether or not to create an advisory committee.

Staff Recommendation: ***The Bureau should inform the Committees whether it has considered the potential advantages of creating an advisory committee. If a decision has been made not to create a committee, the Bureau should advise the Committees of its rationale for not creating an advisory committee and holding regular meetings. Conversely, if the Bureau is interested in appointing an advisory committee and holding meetings, the Bureau should provide the Committees with its plan to appoint members and begin holding meetings, including a timeline for these activities.***

ISSUE #2: (REAL ESTATE APPRAISERS REGULATION FUND – RECOVERY ACCOUNT) Should the Bureau's Recovery Account mandate be eliminated considering recent findings and developments relating to discrimination in appraisals?

Background: BPC § 11410 establishes the Real Estate Appraisers Regulation Fund (Fund). This Fund is to be comprised of separate accounts intended to fund the costs of Bureau administration and an account intended for recovery. "Recovery" in this case refers to a final judgement from a court of competent jurisdiction or an arbitration award that has been confirmed and reduced to judgement that orders restitution payment to a consumer by a licensee defendant based upon the defendant's fraud, misrepresentation, or deceit, made with intent to defraud, or conversion of trust funds, arising directly out of any transaction performed under the scope of the defendant's license.

BPC § 11412 requires the Bureau, by January 1, 2002, to determine the number of complaint cases containing judicial findings of fraud that may be eligible for such a payment to inform regulations that would implement recovery payments similar to the recovery fund administered by the Department of Real Estate (DRE) as described by BPC § 10470 et seq. Further, BPC § 11412 (b) requires the Bureau to adopt regulations analogous to those adopted for the Real Estate Recovery Fund as administered by DRE by January 1, 2004.

The number of complaints should have informed the Bureau of whether the recovery account is necessary or should be eliminated. It is assumed a report had not been completed as the Bureau has not adopted regulations addressing recovery payments in regulation. However, the Bureau reported in its 2020 sunset report that only one claim has ever been received and the claimant did not seek recovery. In its current sunset report, the Bureau states there have not been any additional claims.

Having received only one claim may not be reflective of a well-behaving licentiate or an account that is unnecessary, but instead, may be a function of consumers not knowing the account exists. The former Office of Real Estate Appraisers (before the Governor's reorganization of 2012) and the Bureau have not complied with requirements to create the account. Consequently, the lack of claims is not surprising – consumers would not be aware that the opportunity to file a claim exists because the account was never created.

It is surprising, however, that the Bureau would suggest (a second time) to eliminate the Recovery Account requirements when the issue of biased appraisals, and the financial harm it has caused people of color, has been recently well-documented. The Bureau is making significant strides toward educating its licensees about eliminating bias in performing appraisals, and the Bureau is conducting outreach to marginalized communities whose members may become victim of discrimination (or bias) when requesting a property appraisal.

Housing lender Freddie Mac conducted a study, *Racial and Ethnic Valuation Gaps In Home Purchase Appraisals*, that followed up on multiple media accounts of bias in appraising. Based on 12 million appraisals for purchase transactions between January 1, 2015, and December 1, 2020, the study found that, "Appraisers' opinions of value are more likely to fall below the contract price in Black and Latino census tracts, and the extent of the gap increases as the percentage of Black or Latino people in the tract increases." Overall, the study found 12.5% of properties in black tracts received appraisals below the contract price compared to 7.4% for those in white tracts.[1] The effects of this practice are profound.

[1] If the minority share in a tract is below 50% according to the 2010 census data, the study classified the tract as white.

A subsequent Sacramento Observer article, *Real Estate Appraisal's Diversity Problem*, stated that nationally, 89% of all appraisers are white. This is an important detail because when appraisals are conducted by a person who is not familiar with the area, the potential for bias is more likely. However, license requirements include work experience, which has historically been difficult for those without family members in the industry to obtain and is a significant barrier to entry.

The article also highlighted the work of the Bureau and its Chief, Angela Jemmott, to address the lack of diversity among appraisers. These actions include approving Practical Application of Real Estate Appraisals (PAREA) in September 2023 to create another pathway to licensure in California. PAREA creates work experience opportunities, which are open to those who do not know people in the industry, thus reducing barriers to entry to underserved and underrepresented populations. In time, a more diverse licensee population is expected to bring parity among appraisals regardless of the demographic or neighborhood of the homeowner, but that will not eliminate the problem or address current discriminatory practices.

The Fair Appraisal Act, enacted by passage of AB 948 (Holden, Chapter 352, Statutes of 2021), requires every real property sale contract to include a notice informing the buyer of their right to an unbiased appraisal and how to file a complaint with the Bureau, effective July 1, 2022. This bill also requires the Bureau to update its complaint form, track demographic information related to these complaints, and report that information to the Legislature by July 1, 2024. Significantly, this bill also requires applicants to complete at least one hour of instruction in cultural competency, while continuing education must include training in cultural competency and bias elimination beginning January 1, 2023.

The Bureau revisited the unaddressed issue from its previous sunset review where it proposed BPC § 11411 and BPC § 11412 to be removed from statute because there has only been one claim filed. Eliminating the recovery account before the Bureau realizes the impacts of the Fair Appraisal Act or the Bureau's work to reduce bias in appraisals seems premature and may perpetuate the problems with biased appraisals by removing the possibility of financial redress for marginalized communities who may not know the Legislature intended for there to be a recovery account, especially because that account does not exist.

Staff Recommendation: ***The Bureau should provide the Committees with its plan and timeline to comply with BPC § 11411, which requires the Bureau to create a recovery account and fund the account with 5% of licensing revenue. The Bureau should begin informing complainants of the recovery account and criteria for eligibility. The Bureau should compile complaint data, as specified in BPC § 11412 (a), and report that data, along with the account balance and actions taken to inform consumers of the recovery account during its next sunset review. This information will inform the Committees as to whether a recovery account is feasible and should be continued or whether the account should be considered for discontinuation.***

ISSUE #3: (EMERGING TECHNOLOGY) Has the Bureau considered the impacts of emerging technology, such as AI, on BREA's operations and the real estate appraising profession?

Background: The rapid advancement of technology, and in particular, Artificial Intelligence (AI), has created opportunities to automate routine and common tasks that once relied on humans to complete. As AI has incorporated increasingly complex algorithms that allow machine learning, the possibility of replacing less routine or mundane tasks has become an option. Consequently, proliferation of AI could lead to disruptions to industries that rely on analyzing data, such as real estate appraisals.

On September 6, 2023, the Governor issued Executive Order (EO) N-12-23, to address challenges and opportunities arising from the advancement of AI, which the order references as generative artificial intelligence (GenAI). Among the reasons for the state to take action, the EO states (in part):

> GenAI can enhance human potential and creativity but must be deployed and regulated carefully to mitigate and guard against a new generation of risks; and
>
> [T]he State of California is committed to accuracy, reliability, and ethical outcomes when adopting GenAI technology, engaging and supporting historically vulnerable and marginalized communities, and serving its residents, workers, and businesses in a transparent, engaged, and equitable way; and
>
> [T]he State of California seeks to realize the potential benefits of GenAI for the good of all California residents, through the development and deployment of GenAI tools that improve the equitable and timely delivery of services, while balancing the benefits and risks of these new technologies…

The Governor's Executive Order includes direction for various state entities, including, "Legal counsel for all State agencies, departments, and boards subject to my authority shall consider and periodically evaluate for any potential impact of GenAI on regulatory issues under the respective agency, department, or board's authority and recommend necessary updates, where appropriate, as a result of this evolving technology."

In 2024, DRE commissioned a report to study the impacts of AI on the real estate industry and make recommendations to DRE. The report, *Agent-Next: PropTech and Future of Real Estate Information,* defines "Property Technology" (PropTech) as "the innovative integration of various information technology tools—including hardware, software, and data analytics—into the real estate sector." Among the aspects of the real estate industry reviewed was the impact of PropTech on property valuation. Although specific to tasks performed by real estate brokers, such as price setting, the study highlights potential issues that could apply to real estate appraisers.

Among the benefits of incorporating AI into real estate operations, the study recognizes the use of AI may, "enhance operational efficiency, lower expenses, and deliver enhanced customer experiences. Moreover, PropTech can democratize the real estate industry, reduce barriers to entry, and make it more accessible to a broader spectrum of individuals."

Conversely, the study identifies several potential negative impacts of AI, including:

- Algorithms based on biased or limited data that result in redlining practices that perpetuate existing inequalities;
- Reliance on automated decision-making processes that reduces human oversight; and
- Replacing human agents with digital platforms, causing unemployment for some licensees and a reduced license population.

Data analytics tools and platforms may result in efficiencies for industry and the public through equal access to information. However, the study predicts that PropTech's capability to recommend pricing through electronic estimate models has potential to replace the need for real estate brokers to provide this service.

The potential for AI to disrupt industry is compelling. However, the Bureau did not discuss this issue and the anticipated effect on real estate appraisers, whose job it is to analyze trends and assign market value. The implications of AI on BREA and its licensees, specifically whether AI models may: 1) impact the number of licensees by replacing in person appraisals, 2) change methods for completing appraisal work, whether appraisers should embrace emerging technology, and the rationale for why or why not, 3) require the Bureau to incorporate AI into its enforcement strategy, and 4) require legislation to protect consumers from misuse, fraud, bias, and other ethical concerns.

Staff Recommendation: ***The Bureau should inform the Committees of the potential impacts technology may have on the real estate appraisal industry and its declining license population. Is BREA equipped to investigate misuse of AI or other technology? The Bureau should discuss actions it has already taken, if any, to protect consumers, update regulations, and enable proper enforcement in cases using AI, while simultaneously keeping up with changes in real estate appraisal practices and moving the profession forward. Finally, the Bureau should inform the Committees of whether it needs legislative authority to address any concerns stemming from the use of AI in property valuation.***

ISSUE #4: (DISASTER AND EMERGENCY RESPONSE) Does the Bureau have the tools necessary to meet demands when an emergency or disaster is declared?

Background: California continues to experience severe weather events that result in damage to residential property. Disaster response is a priority for the state and is becoming more important to consumer protection each year as the impact of disasters – which can take years to recover from – compound. In 2023, the Governor closed 34 declared states of emergency that were issued between 2017 and 2022 in response to natural disasters.

Since 2023, the Governor has made multiple declarations, the most recent in response to a series of fires that destroyed more than 16,000 structures in southern California and is projected to be the most costly disaster in California history at $250-$275 billion. Insurance is not anticipated to cover all of the costs and those seeking to rebuild may need to apply for loans or sell their property, both of which may require a property appraisal.

The Governor issued EO N-7-25 on January 6, 2025, in which he cites having heard from individual homeowners, faith leaders, and business property owners who have received unsolicited offers to purchase their property, “which in many instances represent their life savings and family legacies, for amounts far less than fair market value prior to this emergency.” Lessons learned from recent disasters include knowledge that those who lose their home, business, or community due to a disaster are particularly vulnerable to predatory practices of those seeking to profit from victims’ uncertainty and desire to return to normal.

To curtail predatory activity, this EO prohibits making any unsolicited offer to purchase or otherwise acquire any interest in the real property for an amount less than the fair market value of the property or interest in the property to an owner of real property located in the affected areas for three months from the date of the order. The EO also orders DRE, in consultation with other agencies and departments, to determine the nature and scope of any unlawful, unfair, or fraudulent practices being used to take advantage of property owners. DRE is also required to notify the public of the nature of these practices, their rights under the law, relevant resources that may be available, and contact information for authorities to whom violations may be reported.

<u>Staff Recommendation</u>: ***The Bureau should inform the Committees of its licensees' role in disaster recovery. The Bureau should discuss actions it has taken, or plans to take, to ensure that consumers are protected from predatory buyers during the rebuilding/selling process after a disaster, including outreach, licensee notifications or education, etc. The Bureau should discuss whether it has worked, or is working with, DRE to collaborate on heightened consumer protection following a disaster? Finally, the Bureau should inform the Committees of whether it is prepared to take enforcement action (e.g. citations, disciplinary action, or criminal referrals) against those who are issuing undervalued appraisals after a disaster and of any amendments that may enhance that ability.***

<u>BUREAU BUDGET ISSUES</u>

<u>ISSUE #5</u>: (FUND CONDITION) Does the Bureau have enough resources to remain solvent for the foreseeable future?

<u>Background</u>: The Bureau is wholly funded by license fees. Because the licensee population fluctuates with the state of the housing market, the Bureau continually faces budget management challenges. Currently, administrative costs are increasing while revenue is decreasing, which has led to structural imbalance and decreasing reserves, despite the Bureau's commitment to fiscal conservancy. At the close of FY 2023/24, the Bureau's reserve balance is down to 10.8 months of operating expenses from 11.9 months at the end of the previous fiscal year.

In anticipation of a structural deficit expected to occur in FY 2027/28, the Bureau has taken cost saving measures. These cost savings are reflected by its 11% year over year reduction in expenditures in FY 2023/24 compared to FY 2022/23. The Bureau is also actively considering several additional strategies to maintain the sustainability of its services and operations, including finding ways to increase the license population and further reducing administrative costs. Meanwhile, the pro rata paid to the Department has increased, without which, the Bureau's cost savings may have reached 13%.

According to the Department's Annual Department of Consumer Affairs Distributed Costs Report, the pro rata any program pays to the Department is based on methodology that includes the program's authorized position count, past year DCA workload, service center usage (services shared with other DCA programs, e.g. Human Resources), and direct costs to the program (e.g. the Division of Investigation (DOI) and the Office of Professional Examination Services (OPES).

Although the Bureau: 1) reduced its PYs to achieve cost savings, 2) the remaining PYs include IT and Legal staff, which would usually be paid by pro rata as part of the shared services variable, 3) the Bureau has not used DOI in its enforcement strategy, and 4) does not use OPES to conduct an occupational analysis or develop a state examination, the Bureau's pro rata has continued to increase. In fiscal years 2020/21 through 2022/23, pro rata averaged 12% of Bureau expenditures. The Bureau's previous sunset review showed pro rata payments to the Department averaged 11%. In FY 2023/24, pro rata increased to 15% and erased $95,000 of the Bureau's cost savings that year.

While the Bureau currently has no immediate plans to raise fees, it mentioned a fee increase as an option in its sunset report and the Department reported the same in its annual fund condition update as part of the Governor's proposed budget. Currently, fees to obtain an initial license from the Bureau are as follows:

Fee Type	Trainee	Residential	Certified Residential	Certified General	Appraisal Mgmt. Co.
Initial Application	$400	$400	$400	$400	$400
Initial License	$450	$450	$525	$525	$4,600
Background*	$70	$70	$70	$70	N/A
Federal Registration*	N/A	$80	$80	$80	N/A
State Registration	N/A	$25	$25	$25	N/A
Department of Child Support Services*	$10	$10	$10	$10	N/A
Total Fees	$930	$1,035	$1,110	$1,110	$5,000

* These fees are not set by the Bureau. The background fee is set by the Department of Justice; federal registration is set by the Appraisal Subcommittee; and the methodology for setting the Department of Child Support Services is unknown.

The Bureau is currently at its statutory maximums for application and license issuance fees and would require legislation before the Bureau could increase fees. Considering Bureau fees are the second highest in the Department for non-healing art service providers and the high fees likely contribute to a declining license population, a fee increase may be untenable if there are other options to solving the Bureau's fund concerns.

The Bureau's report states that it may consider federal grant opportunities. Considering the Bureau is charged with enforcing federal standards, licenses are only necessary for federally related transactions, and the Bureau must meet federal compliance standards, seeking federal funding is a clear and obvious strategy to remain solvent. In fact, when defining the scope of a real estate appraiser, BPC § 11320 states, "No person shall engage in *federally related* real estate appraisal activity governed by this part or assume or use the title of or any title designation or abbreviation as a licensed appraiser in this state without an active license as defined in Section 11302." Additionally, BPC § 11325 (b) requires, "Regulations adopted by the director pursuant to this section shall, at a minimum, *meet the standards established by federal financial institution regulatory agencies* as required by Section 1112 of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73." [Emphasis added.]

Staff Recommendation: ***The Bureau should inform the Committees of federal funding for which it may be eligible and its plan to seek out these sources of funding. Additionally, the Bureau should advise the Committees of is proposed fee increase and provide a projected fund condition should fees be increased. The Bureau should also inform the Committees of whether lowering the pro rata would be considered before increasing fees. Finally, the Bureau should provide a projected fund condition (with and without a recovery account compliant with BPC § 11411) were the Department's pro rata to be decreased to 10 percent.***

BUREAU LICENSING ISSUES

ISSUE #6: ***(DECLINING LICENSE POPULATION)*** **Can the Bureau sustain operations considering its aging and declining license population?**

Background: The Bureau's license population has steadily decreased since its peak of 20,080 in 2009.

Currently, the license population is half of what it was during the peak, with the population remaining fairly steady until fewer licensees renewed post-COVID.

License Population Pre-, During, and Post-COVID							
License Type	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	Decline*
Appraisal Mgmnt Company	244	227	227	225	220	205	-39
Certified General License	3,018	2,956	2,829	2,762	2,687	2,640	-378
Certified Residential License	5,333	5,187	5,027	4,936	4,756	4,518	-815
Residential License	1,053	982	952	934	879	804	-249
Temporary Practice Permit	323	374	365	384	318	283	-101
Trainee License	662	627	634	798	661	436	-362
Total	10,633	10,353	10,034	10,039	9,521	8,886	-1,747

* This column reflects the difference between 2024 populations and the highest value during the six year period.

Since the Bureau issues two-year licenses, evidence of COVID's effect on the license population is delayed to in 2022/23 and FY 2023/24. It is not clear how the license data will trend moving forward, but that will likely depend on how federal policy changes impact the housing market.

The Bureau conducted a survey of its licenses and of those who responded, 77% (1827 out of 2,309) are 50 years of age or older and 49% of respondents have held their license for 25 years or longer. These statistics speak to the longevity of those in the industry, but as the licensee population ages and begins retiring, younger applicants must replace the older generation. However, entry into the profession is arduous and costly, which may deter new applicants.

Currently, to obtain a trainee license, an applicant must have completed 150 hours of instruction in specified courses plus additional California-specific coursework within five years preceding the date of application. Trainees must also find an appraiser willing to train them so they can complete 1,000 hours of experience in no less than 6 months. The training requirement has proven to be a significant barrier, especially for those who do not have a relationship with an appraiser willing to supervise. The Bureau recently implemented PAREA to connect trainees with supervisors, which will decrease the impact of the supervisor barrier if effective.

In addition to a stagnant housing market, real estate appraisers are only required to be licensed to conduct an appraisal for federally related transactions, defined by BPC § 11302 (t) as, "any real estate-related financial transaction that a federal financial institutions regulatory agency engages in, contracts for or regulates and that requires the services of a state licensed real estate appraiser regulated by this part. This term also includes any transaction identified as such by a federal financial institutions regulatory agency." Appraisal activity that does not require a licensed appraiser include, but are not limited to the following:

- Assessing property value for tax purposes or a tax appeal
- Conducting an assessment as part of an insurance claim
- Preparing the property for development or redevelopment
- Due diligence ahead of an enterprise merger or acquisition

- Assessing property value as part of a divorce settlement or probate
- Eminent domain cases

Although the above is not a comprehensive list, the list demonstrates appraisal activity not captured by the Bureau's jurisdiction. Several states regulate the above type of appraisals, others only require licensure for FTRs like California, and others are "mandatory" states that require a license while including some exemptions. In spite of the Bureau's actions to make an appraiser license more obtainable, the cost of obtaining a license may serve as a disincentive, especially considering the substantial amount of appraisal activity that does not require a license.

Most of California's licensing programs, particularly those under the DCA umbrella, set minimum standards for its licenses. Unfortunately, the Bureau must comply with federal standards because only FTRs fall within the Bureau's jurisdiction, i.e. the Bureau cannot propose changes intended to reduce barriers to licensure to this Legislature while also remaining compliant with federal requirements. Consideration should be given to whether there is a credible consumer protection value add if California were to expand license requirements to other types of appraisal activity.

Staff Recommendation: ***The Bureau should discuss strategies for increasing its license population, especially in the younger demographics. The Bureau should also inform the Committees whether expanding licensure requirements to non-FTR appraisals would be feasible and the impact it would have on consumers, the Bureau, and industry. The Bureau should inform the Committees of whether expanding the Bureau's jurisdiction would result in lowered fees for existing licensees and to what degree. Finally, if the Bureau recommends expansion, the Bureau should discuss whether there are valid exemptions and the rationale for those determinations.***

ISSUE #7: (INCONSISTENCIES BETWEEN STATUTE AND REGULATIONS) Does the Bureau's Practice Act authorize all of its regulations and policies?

Background: Clarity in law is integral to gaining compliance from those engaging in activity authorized through licensure. Conversely, disagreement between statute and regulations, or lack of statutory authority to adopt regulations (although approved by the Office of Administrative Law), can create a confusing regulatory system in which licensees are expected to comply. This point is made evident by reviewing fees authorized, versus fees charged, by the Bureau. A cursory review of Bureau fees provides several conflicts between statute and the implementing regulations enacted under the authority statute provides.

Among the Bureau's license fees, there is a "renewal application fee," of $400. This is a departure from all other programs within the Department that only charge a single "renewal" fee. A distinct Bureau process is understandable considering the Bureau was previously a separate entity and not within the Department until the Governor's reorganization in 2012. However, the Bureau's statute only refers to "[i]nitial application fees" (BPC § 11400) and a renewal fee (BPC § 11405). It does not authorize a fee for a renewal application to be charged in addition to the renewal issuance fee.

Despite lacking authorization in statute to charge the fee, Bureau regulations establish an, "Application Review" fee for new, renewal, upgrade, reciprocal, reinstatement, Certificate of Registration, and Certificate of Registration renewal applications of $400 (10 CCR Section 3582 (b)(1)). Further, among the authorizing statutes listed in the regulation, none mention an application fee for upgrade, reciprocity, or Certificate of Registration renewal. Statute does references a fee for reinstatement that must be paid after a disciplinary proceeding (BPC § 11409 (e)), but does not authorize an actual fee to be charged or set a maximum. Additionally, statute only references a Certificate of Registration in the context of cost recovery after discipline, but as a licensing fee.

According to the Department's Annual Report, the Bureau is also the only program within DCA to charge a fee for, "Child Support Review fee for new, reciprocal, reinstatement, and controlling person applications," (10 CCR § 3582 (b)(1)) of $10. However, there is no statute that authorizes this fee. All other programs within the Department receive services related to compliance with child support orders in exchange for pro rata payments. This begs the question of why Bureau applicants, even those without child support orders, must carry this burden as a separate charge.

Statute gives the Director of the Department significant latitude to set fees. Statute authorizes fees for approval of basic education and continuing education courses or their equivalent that are sufficient to cover the costs incurred by the bureau in processing applications for course approvals and petitions for equivalency (BPC § 11406), but does not set a maximum. The same code authorizes a similar fee for costs incurred by the bureau in processing applications for course approvals and petitions for equivalency. Statute also authorizes the Director to set fees through regulation to be imposed on appraisal management companies to cover the costs incurred by administering the practice act concerning appraisal management companies (BPC § 11406.5). However, the actual fees to be charged are not specified.

Staff Recommendation: ***The Bureau should conduct a thorough review of its regulations to identify those for which there is no authorizing statute and inform the Committees of those conflicts. The Bureau should propose language to seek proper statutory authority to carry out established practices and/or a plan to submit adopt regulations to comply with its statutory authority for each conflict. Additionally, the Bureau should conduct a fee study to determine which fees should be charged and the appropriate amount of each fee. The Bureau should submit the fee study during the Bureau's next sunset review or prior to seeking increased fee authority, whichever occurs first.***

BUREAU ENFORCEMENT ISSUES

ISSUE #8: (ENFORCEMENT STAFF RECRUITING) Can the Bureau justify requiring its enforcement staff to obtain and maintain a current license in good standing?

Background: The Bureau revisited an issue that was introduced in its previous sunset report, but not addressed by the last sunset bill, SB 1474 (Committee on Business, Professions, and Economic Development, Chapter 312, Statutes of 2020). The Bureau states its Property Appraiser/Investigators are often discredited by those under investigation when the respondent claims the investigator completed an appraisal or appraisal review and failed to comply with Uniform Standards of Professional Appraisal Practice themselves.

To address this issue, the Bureau proposes amending statute to explicitly state that Bureau investigators do not conduct appraisals or appraisal reviews and are exempt from the USPAP, stating it would reduce the time and resources spent educating courts on the Bureau's processes and prevent respondents from accusing the Bureau investigator's competence as an appraiser in their defense strategy.

While the Bureau proposes exempting Bureau investigators from the Uniform Standards and prohibiting investigators from conducting appraisals, it may want to reconsider the minimum qualifications for its Property Appraiser Investigators, which require the staff member to hold a valid and current license. Consequently, investigators must meet all education, training, continuing education, and fee payment requirements of a licensee. The Bureau attributes enforcement recruiting challenges to these minimum qualifications that are not justified by the pay – the educational requirements are higher and salaries are lower for investigators than for those of real estate appraisers working in private industry.

While the Bureau meets federal case aging standards, Bureau statistics shows investigation closure timelines increased from 183 days in FY 2020/21 to 225 days in FY 2023/24. During the same time, the number of complaints decreased from 314 to 223. Longer investigation times are to be expected considering the Bureau had a number of vacant enforcement positions, but the Bureau has recently taken steps to reduce the impact of its enforcement vacancies, including hiring:

- A retired annuitant dedicated to assessing and managing enforcement workload and work sample reviews;
- Two investigators in June 2023 using the Temporary Authorization Utilization appointment;
- A retired annuitant to provide temporary legal counsel in 2022; and
- A consulting firm to assist with initial investigations and training development in January 2024.

In additional to the above actions, the Bureau is encouraged to consider recruiting applicants from the much larger Special Investigator (SI), Associate Governmental Program Analyst (AGPA), and Staff Services Analyst (SSA) hiring pools to reduce its investigative timelines and reduce costs.

Staff Recommendation: ***The Bureau should inform the Committees whether requiring its Property Appraiser Investigators to be licensed as an appraiser would still be required if the investigators are required to not complete appraisals. Has the Bureau considered also changing its minimum qualifications to increase the number of eligible applicants? Alternatively, has the Bureau considered recruiting alternate classifications? If looking into utilizing different classifications, the Bureau should inform the Committees of its timeline to implement, how it plans to address existing Property Appraiser Investigator positions, and whether the Bureau could achieve cost savings by hiring SIs, AGPAs, or SSAs over Property Appraiser Investigators.***

ISSUE #9: (APPRAISAL MANAGEMENT COMPANY ENFORCEMENT) Should the Bureau Have Stronger Enforcement Authority over AMCS?

Background: In the Bureau's previous sunset review, BREA stated that difficulty working for AMCs is a reason for the Bureau's declining license population. Specifically, the complaints received against AMCs primarily come from licensees who accuse the company of labor code violations, such as non-payment and low payment, as well as being blacklisted or having unreasonable requirements being placed on them to complete assignments. Although not addressed by the sunset report, the Bureau reports this issue is still prevalent.

Anecdotal reports state that some AMCs charge their appraisers "uploading fees," which is a fee to submit work assigned to the appraiser by the AMC. AMCs also engage in splitting the fee when an appraiser is working with a trainee. Thus, the appraiser must complete more work only to receive less pay. This practice likely contributes to the difficulty in finding a willing supervisor unless the trainee

knows the appraiser. Considering finding supervision is a substantial barrier, this practice should be reviewed for validity and to find ways to promote compliance with labor laws.
Certainly, the Bureau is not the enforcement entity for violations of the Labor Code. However, the Bureau's regulations establish criteria for the purpose of determining whether a crime, professional misconduct, or act is deemed to be substantially related to the qualifications, functions, or duties of a licensee when considering the denial, suspension, or revocation of a license. Those criteria include, "Crimes or Acts involving the use of fraud, deceit or dishonesty for profit or gain," "Taking, appropriating or retaining the funds or property of another," and "Evasion of a lawful debt or obligation, including but not limited to tax obligations…" (10 CCR § 3722). The substantially related criteria do not specify whether those acts are to be committed against a consumer or another licensee and as written, may be applicable to an AMCs unwillingness to properly pay its appraisers.

Staff Recommendation: ***The Bureau should inform the Committees of how many complaints are filed against AMCs by appraiser licensees for payment issues. The Bureau should inform the Committees of how it handles these complaints, e.g. does the Bureau refer the licensee complainant to the Division of Labor Standards Enforcement (DLSE), does it close these complaints as non-jurisdictional, etc.? The Bureau should seek a legal opinion about whether substantial relationship criteria can be applied to these acts and inform the Committees of the opinion and rationale for its determination. Finally, the Bureau should inform the Committees of any amendments it needs to enhance its enforcement authority over AMCs..***

TECHNICAL CHANGES

ISSUE #10: (TECHNICAL CHANGES MAY IMPROVE EFFECTIVENESS OF THE ACT AND BUREAU OPERATIONS.) There are amendments to the Act that are technical in nature but may improve Bureau operations and the enforcement of the Act.

Background: There may be a number of non-substantive and technical changes to the real estate appraisers practice act that are needed to correct deficiencies or other inconsistencies in the law. Because of numerous statutory changes and implementation delays, code sections can become confusing, contain provisions that are no longer applicable, make references to outdated report requirements, and cross-reference code sections that are no longer relevant. The Bureau's sunset review is an appropriate time to review, recommend, and make necessary statutory changes.

Staff Recommendation: ***The Committees may wish to amend the Act to include technical clarifications.***

CONTINUED REGULATION OF THE PROFESSION BY THE BUREAU OF REAL ESTATE APPRAISERS

ISSUE #11: (CONTINUED REGULATION BY BREA) Should a Bureau within the Department of Consumer Affairs continue licensing and regulating Real Estate Appraisers and Appraisal Management Companies?

Background: The welfare of consumers is best preserved under the presence of a strong licensing and regulatory structure to oversee the real estate appraisal industry that can sustain its existence through license fees and other forms of revenue. Since its last sunset review, the Bureau has implemented significant policy changes that improve the Bureau's effectiveness in protecting consumers, taken steps to achieve cost savings, and become a leader in the nation in addressing equitable and fair appraisals. At the same time, the Bureau is experiencing a decline in its license population, increasing pro rata, and a decline in reserves that calls into question the Bureau's ability to sustain itself. In spite of these looming issues, the Bureau did not submit any new issues for consideration by the Legislature. Thus, the Legislature must consider whether the Bureau's structure as a program within the Department of Consumer Affairs is in the best interest of consumers.

The Department charges pro rata in exchange for providing centralized services to programs that fall within its umbrella. However, the Bureau does not utilize some services provided by the Department that other programs do because it has its own infrastructure. For example, the Bureau supports its own IT system by dedicating several positions – a system engineer, two software engineers – to system development and maintenance. Additionally, the Bureau recently hired its own attorney, who is housed in the Department's Legal Division, but is paid by the Bureau in addition to its annual pro rata to the Department. Despite the Bureau using its own resources for these services, its pro rata continues to rise. In fact, because the Department's pro rata is partially based on authorized PYs, the pro rata may be lower if the Bureau did not have these positions in their PY count.

Despite these challenges, the Bureau continues to serve as an example nationwide of how to implement licensee education addressing bias. In addition to accomplishments already discussed, Chief Jemmott presented at the Appraisal Diversity Collaborations with Other Agencies Initiative (ADI) on April 1, 2023. The ADI is designed to educate and provide the necessary resources to a diverse group of aspiring appraisers and the event was sponsored by Fannie Mae, Freddie Mac, and the National Urban League. Topics included ways to find a supervisor, networking strategies, how to get involved in state and national associations, diversity and inclusion, appraisal reporting, and the positive intangibles of an appraiser.

Additionally, on May 19, 2023, Chief Jemmott testified in Washington, D.C., at the Appraisal Subcommittee's second hearing on appraisal bias. The hearing explored the appraisal regulatory system focusing on appraisal standards, appraiser qualification criteria and barriers to entry, and appraisal practice. The hearing's purpose was to better understand the current challenges and explore opportunities to improve the appraisal profession while combatting bias and promoting fair appraisals for all.

The Bureau's position as a leader on the national level calls into question whether it makes sense for the Bureau to be buried under multiple levels of bureaucracy or whether it would be appropriate to return the Bureau to its former place as an office within an Agency. The Bureau, as an administrator of federal laws and standards, should be responsive when called upon without unnecessary layers of request approval, work review, and other impediments and delays.

Governor Newsom released his proposed FY 2025/26 state budget summary on January 10, 2024. The proposed budget creates a California Housing and Homeless Agency and a California Consumer Protection Agency using the formal governmental reorganization process. To accomplish a reorganization, the Governor must submit a proposed plan to the Little Hoover Commission for review 30 days before submitting the plan to the Legislature.

The potential of an Agency reorganization while the Bureau is undergoing sunset review presents the Committees with a unique opportunity to consider whether the Bureau should remain under the DCA umbrella before the plan is submitted to the Legislature. The Legislature, Bureau, administration, stakeholders, and others should give strong consideration to whether the Bureau should reside as a bureau in the Department of Consumer Affairs, a bureau or division in another department, an office with an Agency, or another structure.

<u>Staff Recommendation</u>: ***The continued licensing and regulation of real estate appraisers and appraisal management companies is necessary to protect the interests of the public, including ensuring that these professionals comply with federal law and are able to do their job on federal transactions. However, strong consideration should be given to the Bureau's most advantageous placement and structure, which would allow optimal administration of the real estate appraisers practice act, improve consumer protection, and allow the Bureau to continue in its role as leader on a national level. The Bureau should also continue to advocate for a well-trained workforce that contributes to the equitable and fair treatment of the public.***