

BACKGROUND PAPER FOR THE BUREAU OF REAL ESTATE APPRAISERS

**Joint Oversight Hearing, November 19, 2020 Assembly Committee
on Business and Professions and the Senate Committee on Business,
Professions, and Economic Development**

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE BUREAU OF REAL ESTATE APPRAISERS

BRIEF OVERVIEW OF THE BUREAU OF REAL ESTATE APPRAISERS

History and Function of the Bureau of Real Estate Appraisers

In 1989, Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) was adopted by the United States Congress mandating all states to license and certify real estate appraisers who appraise property for federally related transactions. 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), which established the Bureau of Real Estate Appraisers (Bureau). The Bureau licenses and regulates real estate appraisers in California. The Bureau is entirely funded by regulatory fees.

The Licensing Division of the Bureau is responsible for applicant compliance with the minimum requirements for licensure in accordance with criteria established by the federally mandated Appraisal Foundation and California law. The Licensing Division also registers Appraisal Management Companies (AMC) in compliance with California law.

The Enforcement Division of the Bureau investigates the background of applicants, licensees, and AMC registrants to ensure they meet the standards for licensure. The Enforcement Division also investigates complaints filed against licensed appraisers, registered AMCs, and takes enforcement and/or administrative actions against licensees when it is determined that a violation has occurred.

The Bureau is also responsible for the accreditation of educational courses and course providers for real estate appraiser licensing and certification.

All legislation affecting the board since the last sunset review. The Bureau does not sponsor legislation. Legislation affecting the Bureau since the last sunset review is listed below.

- Senate Bill 1196 (Hill, Chapter 800, Statutes of 2016) extended the Bureau's sunset date until January 1, 2021, and made some technical changes to the Business and Professions Code, including the requirement for an examination as part of a required course on State and Federal Laws and Regulations.
- Assembly Bill 1381 (Weber, Chapter 845, Statutes of 2016) required the Bureau to post on the internet the continuing education courses completed by renewing licensees.
- Senate Bill 547 (Hill, Chapter 429, Statutes of 2017) updated the Business and Professions Code

related to Appraisal Management Companies to comply with federal minimum standards.

- Senate Bill 70 (Bates, Chapter 928, Statutes of 2018) amended the Business and Professions Code to allow intended users on restricted appraisal reports under certain conditions. This amendment is effective from January 1, 2019, until January 1, 2020.
- AB 1018 (Frazier, Chapter 267, Statutes of 2019) would: 1) prohibit a home inspector from providing an opinion on the value of a property and 2) prohibit a licensed real estate appraiser from acting as a home inspector while performing a real estate appraisal.

Regulation changes approved by the board since the last sunset review. Includes the status of each regulatory change approved by the board:

- In 2017, the Bureau promulgated disciplinary guidelines with the addition of California Code of Regulations Title 10, section 3733.
- In 2018, the Bureau amended California Code of Regulations Title 10, section 3541 to change the word “continuous” to “cumulative” to clarify a break in experience is allowed when gaining experience to become licensed or to update a license. The Bureau also amended various forms.
- In 2019, the Bureau amended various sections of its regulations related to Appraisal Management Companies to comply with federal minimum standards. The Bureau also amended California Code of Regulations Title 10, section 3704 to prohibit Bureau investigators from conducting appraisal or appraisal reviews.

The board’s membership include voting privileges. The Bureau Chief was a voting member of the AARO Board of Directors from 2014-2017. The Bureau maintains its membership, supporting the mission and work of AARO, but is no longer a voting member.

- List committees, workshops, working groups, task forces, etc., on which board participates.

In September 2017, the Bureau Chief participated in an Appraiser Qualification Board focus group to assist with the evaluation of the proposed changes to the national Real Property Appraiser Qualification Criteria.

- How many meetings did board representative(s) attend?

The Bureau Chief attended one meeting on September 6, 2017, in Minneapolis, Minnesota.

- If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?

The national licensing exam is developed and authorized by the Appraiser Qualification Board, an independent board of The Appraisal Foundation under the provisions of Title XI of FIRREA. The Bureau contracts with an exam provider who administers and scores the national exam. The Bureau does not have a direct role in the exam’s development, scoring, analysis, or administration.

The Bureau’s mission is to:

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

James Martin was appointed Director of OREA in July of 2012 by Governor Brown. The Director is mandated to enforce the Appraisers Law. Mr. Martin was reappointed Bureau Chief in July 2013 with the reorganization of the Bureau within the DCA. In light of Mr. Martin’s retirement, Loretta Dillon, Deputy Bureau Chief, is filling in until an appointment is confirmed.

The Bureau does not have an advisory committee.

The Bureau is a member of the Association of Appraisal Regulatory Officials (AARO), a national organization whose membership includes approximately 48 states and territories.

Performance Measures and Customer Satisfaction Surveys

Quarterly and annual performance measure report for the board as published on the DCA website and at https://www.dca.ca.gov/publications/annual_reports.shtml.

The Bureau has a customer survey/feedback option on its website and on correspondence with the public, licensees, respondents, complainants, and educational providers. Each survey response is screened and routed to management staff for appropriate action. Everyone who submits a survey is notified of the outcome within three business days of submittal. Overall, the feedback is positive and when an issue is raised it is addressed with the appropriate supervisor.

The most recent survey, in July 2019, focused on the Bureau's primary functional areas, such as:

- Licensing and Registration
- Enforcement
- Laws and Regulations
- Organizational Effectiveness
- Communication, Customer Service and Outreach

The Bureau's external stakeholders were asked, "How would you rate the Bureau's effectiveness in this goal area?" The rating criteria were: very effective, effective, poor and very poor. Each functional area was defined as follows:

- Licensing and Registration:
 - * The Bureau promotes licensing standards for licensees and registration standards for Appraisal Management Companies to protect consumers and allow reasonable access to the profession.
- Enforcement:
 - * The Bureau protects the safety of consumers through the enforcement of the laws and regulations governing the practice of licensed Real Estate Appraisers and registered Appraisal Management Companies.
- Laws and Regulations
 - * The Bureau pursues statutes, regulations, policies, and procedures to strengthen and support the Bureau's mandate and mission.
- Organizational Effectiveness
 - * The Bureau standard is to maintain an excellent organization through proper Bureau governance, effective leadership, and responsible management, with a focus on retention and succession planning.
- Communication, Customer Service and Outreach
 - * The Bureau informs consumers, licensees, and stakeholders about the practice and regulation of the profession, while ensuring responsive customer service. The Bureau is addressing the negative ratings by increasing the frequency of its newsletters.

The Bureau received 1,153 external responses and 27 internal responses for a total of 1,180 responses on the survey. The responses are tallied in the following table.

Customer Service Survey:

Rating	Licensing and Registration	Enforcement	Laws and Regulations	Organizational Effectiveness	Communication, Customer Service and Outreach
Very Effective	15%	14%	16%	13%	14%
Effective	65%	67%	71%	72%	64%
Poor	14%	14%	10%	12%	18%
Very Poor	6%	5%	3%	3%	4%
Total	100%	100%	100%	100%	100%

Fiscal, Fund and Fee Analysis

The fund is not continuously appropriated. The Bureau’s 2018-19 Fund Condition shows a 5.7 month reserve. The 2019-20 expenditures are anticipated to be \$5.7 million. There is no reference to ‘Reserves’ in the Bureau of Real Estate Appraisers Practice Act of the California Business and Professions Code. According to the Bureau’s 2019-20 Fund Condition dated July 16, 2019, deficit is expected to occur in Fiscal Year 2021/2022. The Bureau anticipates the fee increase to be effective January 1, 2020. The license, registration, and permit fees are increasing to assist the Bureau in structurally balancing its budget. The Bureau will be solvent in 20/21, and the Bureau estimates that the solvency will be sustainable more than six years beyond 20/21.

Fund Condition						
(Dollars in Thousands)	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
Beginning Balance	7,732	8,712	9,742	7,238	5,730	3,023
Revenues and Transfers	2,597	3,015	2,887	3,798	3,543	3,516
Total Revenue	\$10,329	\$11,727	\$12,629	\$11,036	\$9,273	\$6,539
Budget Authority	5,770	5,675	5,831	6,304	5,740	5,912
Expenditures	5,311	5,583	5,391	5,961	6,250	6,331
Loans to General Fund	0	0	0	0	0	0
Accrued Interest, Loans to General Fund	615	598	0	155	0	0
Loans Repaid From General Fund	3,000	3,000	0	500	0	0
Fund Balance	\$8,633	\$9,742	\$7,238	\$5,730	\$3,023	\$208
Months in Reserve	18.6	21.7	14.6	11.0	5.7	.4

The Bureau's licensee population peaked in Fiscal Year 2006-2007 at 20,080 licensees, which resulted in surplus funds. As indicated by the table below, three loans were made to the General Fund. All loaned funds and interest have been paid to the Bureau. There is no outstanding balance due to the Bureau.

Loans to General Fund (GF) and Repayment Schedule with Interest			
Fiscal Year	Loan/Transfer	Amount	Interest
2002/03	To GF	\$ 1,000,000	
2003/04	To GF	\$ 2,000,000	
2008/09	To GF	\$ 16,600,000	
Total Loaned	To GF	\$ 19,600,000	
2009/10	From GF	\$ (5,000,000)	\$ 217,000
2013/14	From GF	\$ (8,100,000)	\$ 1,151,000
2015/16	From GF	\$ (3,000,000)	\$ 615,000
2016/17	From GF	\$ (3,000,000)	\$ 598,000
2018/19	From GF	\$ (500,000)	
Total Payment of Loaned Surplus		\$ (19,600,000)	
Interest Earned on Loaned Surplus			\$ 2,581,000

Expenditures by Program Component									(list dollars in thousands)
	FY 2015/16		FY 2016/17		FY 2017/18		FY 2018/19		
	Personne l Services	OE&E	Personne l Services	OE&E	Personne l Services	OE&E	Personne l Services	OE&E	
Enforcement	1,850	685	1,866	580	1,733	446	1,751	676	
Licensing	597	342	492	273	493	210	507	338	
Administration *	1,046	305	1,075	340	1,352	262	1,218	380	
DCA Pro Rata		470		520		569		684	
TOTALS	\$3,493	\$1,802	\$3,433	\$1,713	\$3,578	\$1,487	\$3,476	\$2,078	

*Administration includes actual costs for executive staff, board, administrative support, and fiscal services.

The license renewal cycle time is every two years. The fee authority is California Business and Professions Code, Division 4, Real Estate, Part 3, Licensing and Certification of Real Estate Appraisers, Chapter 7, Section 114004-11408 and the Code of Regulation, Title 10, Investment, Chapter 6.5, Real Estate Appraisers, Article 5, Fees, Section 3582.

Fee Schedule and Revenue		(list revenue dollars in thousands)					
Fee	Current Fee Amount	Statutory Limit	FY 2015/16 Revenue	FY 2016/17 Revenue	FY 2017/18 Revenue	FY 2018/19 Revenue	% of Total Revenue
(AT) Trainee Initial*	\$555	\$450	59	78	85	81	2.5%
(AL) Residential (Res.) Initial*	\$635	\$450	8	9	9	17	.38%
(AR/AG) Certified Res./Gen. Initial*	\$710	\$525	64	44	35	29	1.45%
AT Renewal*	\$485	\$450	64	44	46	85	2.01%
AL Renewal*	\$565	\$450	195	219	213	270	7.49%
AR/AG Renewal*	\$640	\$525	1,570	2,003	1,757	2,686	66.83%
AT Late Renewal*	\$610		7	21	9	15	.45%
AL Late Renewal*	\$690		31	34	24	20	.92%
AR/AG Late Renewal*	\$765		77	86	47	95	2.55%
Trainee Upgrade to AL*	\$265		8	11	12	14	.38%
AT Upgrade to AR/AG*	\$340		6	10	9	7	.28%
AL/AR Upgrade to AR/AG*	\$260		9	10	21	23	.55%
Reciprocal AL*	\$635		1	1	0	1	.03%
Reciprocal AR/AG*	\$710		4	21	32	40	.83%
DCSS Reinstatement	\$140		0	0	0	0	.01%
Dishonored Check	\$25		0	0	0	0	.01%
AMC Registration	\$1750		261	170	269	170	7.27%
AMC Controlling Person	\$80		6	9	10	7	.28%
AMC Misc. Changes	Varies		0	1	1	0	.04%
Temp. Practice Permits	\$80		23	25	23	25	.82%
Non-Taxable Sales of State Registry	\$55		0	1	0	0	.03%
One Year Subscription of CA State Registry	\$660		0	0	0	0	.01%
Petition for Equivalency	\$45		2	4	6	3	.15%
Misc. Changes, Dup. Lic. and Lic. History	Varies		7	6	5	5	.21%
Course Provider Accreditation (Accred.)	\$150		4	3	2	1	.10%
Basic Ed. Accred.	Varies		11	11	8	11	.35%
Continuing Ed. Accred.	Varies		36	27	15	11	.76%
Miscellaneous	Varies		1	0	0	0	.02%
Penalty Assessments (Fines)	Varies		72	48	105	74	2.52%
Penalty Assessments (Enf. Cost)	Varies		7	32	10	0	.43%
Penalty Assessments (Mon. Costs)	\$450		13	14	6	3	.32%

In 2006, amidst a booming licensee population and thus a booming budget, 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, despite the declining population, the Bureau was receiving repayments from the General Fund with interest and determined it was in the best interest of the licensee population to maintain the lower fees.

Effective July 1, 2018, the issuance fees were returned to the regulatory rates for trainees and residential appraisers of \$300 and certified appraisers of \$375. As of June 30, 2019, the licensee population has dropped to 10,069 from a peak of 20,080 in 2006-2007. Due to the continued decline, the Bureau performed a workload and cost analysis to determine the appropriate fee increase. The Bureau will be raising its fees with an effective date of January 1, 2020.

Budget Change Proposals (BCPs)								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Requested	\$ Approved	\$ Requested	\$ Approved
1111-002-BCP-2019-GB	19-20	Budget reduction in 2019-20 and on-going by eliminating 3 permanent positions to align resources with projected workload.	2 Senior Property Appraiser/ Invest. (5458) 1 Program Technician (9927)	2 Senior Property Appraiser/ Invest. (5458) 1 Program Technician (9927)	-333,000	-333,000	\$17,000	\$17,000

Staffing Issues

The Bureau is seeking to fill any future vacant Property Appraiser/Investigator positions with Certified General (AG) real estate appraiser licensees. The Bureau has cut three Investigator positions in the last two years and may cut more depending on future industry changes and workload challenges. Hiring Certified Residential (AR) appraisers' limits complaint investigations to residential real estate properties. With fewer investigators, it becomes difficult to distribute the workload when ARs are unable to investigate all type of properties.

The Bureau's strategy is to hire the AG real estate appraiser license level because these appraisers have the knowledge, experience and skills to perform investigations on all types of real estate properties (residential, non-residential and commercial).

The Bureau will continue to analyze workload to determine staffing needs, so it is imperative to hire at the AG license level to provide efficient utilization of staff when assigning projects. The main issue is AG licensees typically have higher earnings in the industry. As a result, the Property Appraiser/Investigator salary range is not sufficient to attract that level of licensee. Additionally, some Senior Level staff are performing the most difficult commercial and non-residential work but are not compensated for the highest level of difficulty and complexity.

The Bureau needs a deeper class or other incentive (pay differential) to recruit for vacant positions and to compensate current staff who are performing the most difficult and complex work.

The Bureau spends approximately \$10,000 annually on investigator development (approximately \$800 per investigator). The Bureau's investigators, on an ongoing basis, attend continuing education training, seminars, and conferences that provide information about the real estate appraisal industry trends relating to

a wide variety of real property issues, such as land rights, easements, eminent domain, and water rights. This training supports staff in being an expert witness as it relates to real property issues in court.

The Bureau's Enforcement work is highly technical and cannot be performed by anyone without the knowledge, experience and licensing relating to real estate appraisals. Investigators must be able to examine the real property appraisals to determine if ethical or Uniform Standards of Professional Appraisal Practice violations have occurred.

Appraisals incorporate a physical observation (measurements, pictures and notes of specific issues with improvements, land or commercial property) with data collection and comparables, all rights associated with property to determine the value of the property, which cannot be done by a layperson.

Federal oversight requires investigations be performed by people with knowledge about appraisal practice, and the states must document how such persons are so qualified. The Bureau hires licensed appraisers. California's Minimum Qualification for all Property Appraiser/Investigators states:
"Must hold in good standing a full license, residential certification or general certification, issued by the Office of Real Estate Appraisers (OREA). (Applicants who do not hold such a certification but meet the education and experience criteria for general certification will be admitted to the examination and may be appointed but must satisfactorily meet the requirement within six months. Failure to do so may be considered evidence of unsatisfactory progress and cause for rejection during the probationary period.)"

The investigators cannot perform their duties without being licensed (the hire is contingent on remaining licensed in good standing). It is mission critical that they receive the continuous education credit in order to meet their bi-annual licensing requirements. More important is the continuous updating of information and industry trends the continuous education brings to the Bureau. As a result, the Bureau can protect the public and staff can remain the top experts when investigating and testifying at hearings.

Licensing Program

Title 10 California Code of Regulations section 3570 provides a 90-day time limit on processing license applications. This requires the Bureau to provide the applicant written notice of whether their application is complete or deficient within 90 days. The law also requires that licenses be issued or denied within 90 days of the Bureau's receipt of the Request for Issuance form, which indicates that all requirements for licensure have been met including a background investigation and passage of the licensing examination. The Bureau currently meets these processing requirements.

Federal guidelines require applications to be processed within 90 days and the Bureau meets or exceeds this requirement for all license processing activities including: new applications, upgrade applications, renewal applications, educational course provider and course approval, and AMC registration. Online renewals have significantly reduced the turn-around time to five working days or less in many cases. There are no processing backlogs.

The Bureau issues approximately 297 new licenses and approximately 4,891 license renewals annually. License upgrades have averaged 99 annually over the last four years. The Bureau issues approximately 13

new AMC registrations annually and approximately 92 renewals annually.

Licensee Population					
		FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Trainee	Active	719	738	661	775
	Delinquent	N/A	N/A	N/A	N/A
	Retired	N/A	N/A	N/A	N/A
	Out of State	N/A	N/A	N/A	N/A
	Out of Country	N/A	N/A	N/A	N/A
Residential	Active	1,438	1,447	1,226	1,208
	Delinquent	N/A	N/A	N/A	N/A
	Retired	N/A	N/A	N/A	N/A
	Out of State	3	3	2	2
	Out of Country	N/A	N/A	N/A	N/A
Certified Residential	Active	5,150	6,537	4,895	6,162
	Delinquent	N/A	N/A	N/A	N/A
	Retired	N/A	N/A	N/A	N/A
	Out of State	24	18	19	14
	Out of Country	N/A	N/A	N/A	N/A
Certified General	Active	2,508	3,555	2,575	3,393
	Delinquent	N/A	N/A	N/A	N/A
	Retired	N/A	N/A	N/A	N/A
	Out of State	54	51	46	39
	Out of Country	N/A	N/A	N/A	N/A

Note: 'Out of State' and 'Out of Country' are two mutually exclusive categories. A licensee should not be counted in both.

Four denials were issued over the past four years based on criminal history that was determined to be substantially related to the qualifications, functions, or duties of the profession. One denial was for an individual with seven driving under the influence convictions and a conviction for conspiracy to defraud the U.S. Department of Treasury. Another denial was for an individual convicted of cocaine distribution, reckless driving, and driving under the influence. Another denial was for nine separate convictions including disturbing the peace, assault with a deadly weapon, reckless driving, failing to appear at court, driving under the influence multiple times, and perjury. Another denial was for three counts of unlawful sexual intercourse with a minor.

Licensing Data by Type											
Application Type		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2016/17	(Exam)	387	218	11	218	46	N/A	N/A	20	43	N/A
	(License)	164	157	8	157	0	N/A	N/A	16	42	N/A
	(Renewal)	5436	5523	7	5523	26	N/A	N/A	N/A	N/A	N/A
FY 2017/18	(Exam)	454	233	11	233	33	N/A	N/A	11	44	N/A
	(License)	155	366	8	366	3	N/A	N/A	18	45	N/A
	(Renewal)	4407	4393	9	4393	19	N/A	N/A	N/A	N/A	N/A
FY 2018/19	(Exam)	388	247	10	247	41	N/A	N/A	8	48	N/A
	(License)	154	333	9	333	3	N/A	N/A	17	52	N/A
	(Renewal)	5051	5021	10	5021	32	N/A	N/A	N/A	N/A	N/A

Total Licensing Data			
	FY 2016/17	FY 2017/18	FY 2018/19
Initial Licensing Data:			
Initial License/Initial Exam Applications Received	134	76	71
Initial License/Initial Exam Applications Approved	95	71	75
Initial License/Initial Exam Applications Closed	1	4	2
License Issued	67	46	57
Initial License/Initial Exam Pending Application Data:			
Pending Applications (total at close of FY)	45	22	18
Pending Applications (outside of board control)*	N/A	N/A	N/A
Pending Applications (within the board control)*	N/A	N/A	N/A
Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):			
Average Days to Application Approval (All - Complete/Incomplete)	29.5	28.5	24.5
Average Days to Application Approval (incomplete applications)*	41	44	42
Average Days to Application Approval (complete applications)*	18	13	7
License Renewal Data:			
License Renewed	5523	4393	5021
Note: Table 7a is count of combined Initial and Upgrade applications that required an exam and 7b is only Initial applications that required an exam.			
* Optional. List if tracked by the board.			

The Bureau conducts criminal background investigations through the California Department of Justice and the Federal Bureau of Investigations. The Bureau also checks the Appraisal Subcommittee (ASC) National Registry for all out of state applicants. The Bureau has not denied a license over failure to disclose on an application.

The Bureau uses Live Scan to obtain electronic fingerprints or requires submittal of hardcopy fingerprint cards of all applicants. All current licensees have been finger printed. The Appraisal Subcommittee maintains a National Registry of licensed appraisers which includes disciplinary actions. The Bureau checks the National Registry prior to renewing a license. Applicants are required to provide certified copies of police reports and/or court documents related to the applicant's record. The Bureau follows up by acquiring an original set of documents directly from the arresting agency or the court of record in cases of significant violations or if incomplete records are submitted by the applicant.

Per Title XI, FIRREA (1989) and amended by the Dodd-Frank Act, the Bureau offers license reciprocity when an appraiser has a valid home state credential from a compliant state whose credentialing requirements meet or exceed those of California at the time of application. Licenses are issued without a repeat of the examination, but they must complete a California laws and regulations course with a test and pay the license fee prior to receiving a license. Out-of-country applicants must meet the same initial licensing requirements as in country applicants.

The Bureau does identify and track applicants who are veterans. To date, the Bureau has had one applicant offer military education towards meeting the licensing requirements and that education was accepted. Experience and training requirements dictated by the Appraisal Qualification Board are very specific and can only be met through working in the appraisal profession while under the supervision of a state certified appraiser.

The minimum education requirements for licensure are established by the Appraisal Qualification Board and implemented by the Bureau. The Bureau has the authority to approve military education within the guidelines set by the Appraisal Qualification Board. Because the Bureau has only had one request under this section, each

application is reviewed on a case-by-case basis to determine how military education, training, and experience may be used to meet the licensure requirements. Therefore, no regulatory changes are needed to comply with BCP § 35.

The Bureau has expedited 33 applications pursuant to BPC § 115.5 over the four-year period of Fiscal Years 2015/2016, 2016/2017, 2017/2018 and 2018/2019. In addition, the Bureau sends electronic “No Longer Interested” notifications to DOJ on a regular and ongoing basis. There is no backlog.

Examinations and Continued Education (CE)

Examination Data				
California Examination (include multiple language) if any:				
	License Type: Exam Title:	Licensed Residential	Certified Residential	Certified General
FY 2015/16	# of 1 st Time Candidates	28	39	51
	Pass %	68	79	73
FY 2016/17	# of 1 st Time Candidates	17	36	53
	Pass %	53	75	74
FY 2017/18	# of 1 st Time Candidates	31	63	53
	Pass %	63	75	68
FY 2018/19	# of 1 st time Candidates	49	78	34
	Pass %	51	58	59
Date of Last OA		2014	2014	2014
Name of OA Developer		The Appraisal Foundation, through the Appraisal Qualifications Board		
Target OA Date		N/A	N/A	N/A
National Examination (include multiple language) if any:				
	License Type License Type: Exam Title:	Licensed Residential	Certified Residential	Certified General
FY 2015/16*	# of 1 st Time Candidates	169	411	393
	Pass %	53	64	66
FY 2016/17*	# of 1 st Time Candidates	175	402	407
	Pass %	62	66	71
FY 2017/18*	# of 1 st Time Candidates	260	465	447
	Pass %	67	73	71
FY 2018/19*	# of 1 st time Candidates	325	735	399
	Pass %	62	68	71
Date of Last OA		2014	2014	2014
Name of OA Developer		The Appraisal Foundation, through the Appraisal Qualifications Board		
Target OA Date		N/A	N/A	N/A

The examination for each license category is a national examination developed by the Appraisal Qualifications Board of the Appraisal Foundation and administered to all license candidates nationwide. It is only offered in English. The pass rates for first time test takers averaged approximately 66% over the past four years. Retake pass rates averaged just over 32% over the past four years. Testing for all three licensure

categories is computerized; however, a pencil-and-paper option is still available. The examinations for all license categories are scheduled and administered at least five times weekly at 16 testing sites located throughout the state.

The Bureau's education program is driven by requirements set forth by the Appraisal Foundation through the Appraisal Qualification Board. The Appraisal Qualification Board establishes the minimum national education requirements for real property appraiser licensing. All states must implement these education requirements in order to comply and be eligible to be listed on the National Registry. This eligibility extends to appraisals performed for federally related transactions.

The legal requirements regarding course providers is consistent with the Appraisal Qualification Board requirements. The Bureau approves courses and course providers for both qualifying and continuing education. This coursework may be completed at private vocational schools, professional organizations, accredited community colleges or universities. The Bureau does not work directly with Bureau of Private Post-Secondary Education (BPPE) in the school approval process. However, the Bureau may accept courses offered at BPPE approved schools. BPPE courses must meet minimum Appraisal Qualification Board requirements.

Currently 72 course providers are on the Bureau's list of approved providers. Course providers are reviewed every four years or whenever there is a significant change in one or more aspects of the course providers ownership, management or operating policies. The Bureau can remove the approval of a course provider if it no longer meets or has violated Bureau requirements.

The Bureau can accept an international course provider. International course providers must meet all the same requirements as other course providers approved by the Bureau. For instance, online/distance education courses must have approval from the International Distance Education Certification Center (IDECC) and meet the minimum Appraisal Qualification Board requirements.

The term of a California real estate appraiser's license is two years. All licensed appraisers must meet minimum continuing education requirements before renewing their license. A total of 56 hours of continuing education is required during the four-year continuing education cycle including the following mandatory courses for all license categories:

- 7-hour National Uniform Standards of Professional Appraisal Practice course-required every two years.
- 4-hour Bureau approved course entitled "Federal and State Laws and Regulations". The Bureau added an examination requirement to this course as per SB 1196 in 2017.

Continuing education courses or seminars must cover appraisal related topics, including subjects such as: land use planning, appraisal computer applications, cost estimating, and green building appraisals.

The Bureau reviews each course completion certificate upon receipt for compliance with continuing education requirements. As a result, the Bureau has not worked with the Department to receive primary source verification of CE completion through the Department's cloud.

Bureau staff reviews each completion certificate for course name and approval number, number of hours, method of instruction, completion date, and a penalty of perjury statement with signature of instructor/verifier. As such, subsequent audit of licensee continuing education is not necessary.

If CE hours cannot be verified upon application receipt, a deficiency letter is issued, and the applicant is allowed to supplement the application with additional documentation. If CE hours still cannot be verified, CE hours are not awarded and the application for license renewal remains deficient until CE hours can be

verified or until the application is denied. Expired licensees continue to have a two-year grace period for renewal after expiration during which time a renewal can still be completed after submitting evidence of the required education.

CE audits are not performed because verification of CE completion is done for each and every applicant for renewal. Failure to submit required evidence of CE results in denial of the application so there are no licensees who failed to complete their CE.

Course providers must submit course descriptions including: method of instruction, timed course outline, textbooks, proposed advertising, promotional material, examinations and instructor bio. Course material must cover appraisal-related subjects consistent with Appraisal Qualifications Board requirements. Since the last Sunset Review, the Bureau has reviewed and approved approximately 995 courses. The Bureau approves CE course providers and CE courses. Courses may also be pre-approved by the Appraisal Qualifications Board. The Bureau reviews course approval applications for compliance with the Bureau's approval policy and consistency with Appraisal Qualifications Board requirements.

For Fiscal Year 2017-2018, the Bureau received 17 applications for course provider accreditation, and all were approved. During the same time frame the Bureau received 164 applications for the approval of specific courses approval. The Bureau works directly with all course providers to assure courses meet minimum Bureau standards. As a result, all courses were approved.

The Bureau does not formally audit CE providers unless there is a flag/event that triggers the Bureau to conduct a formal audit. Continuing education provider accreditation is valid for four years. Continuing education providers must resubmit an entirely new application which is reviewed by the Bureau. During the four-year accreditation period, course providers must notify the Bureau of any material change to the education offering, ownership or operating policies.

The Bureau's full-time education coordinator is tasked with monitoring CE provider performance and compliance with Bureau requirements through feedback from students, instructors and providers. Bureau staff investigators are also debriefed after attendance at continuing education course offerings to provide the education coordinator information on the content and quality of the courses. If necessary, the education coordinator can request a formal audit or attendance in a course by a staff investigator.

The Bureau's new Strategic Plan includes a commitment to study the feasibility of implementing a process to gather information on the effectiveness of CE, including a performance-based assessment.

Enforcement Program

The primary program goal for enforcement is timely, effective, and consistent processing of complaints in a manner that is equitable and well-documented. Appraisal Subcommittee Policy Statement seven requires resolution of complaints filed against appraisers within one year of the complaint filing date. In the majority of cases, the Bureau is meeting these expectations. However, there are a small number of very complex multiple property cases that do not meet the Bureau's one-year timeline. To improve performance, the Bureau attends settlement conferences, seeks the earliest possible hearing date, and works with investigators to reduce investigation time.

Another focus of the enforcement program is ensuring only qualified applicants are granted licenses. All applicants must complete a certain number of hours of appraisal experience in order to qualify for a license. Investigators ensure the appraisal work submitted meets the minimum standard stated in the Uniform Standards of Professional Appraisal Practice. This results in only those appraisers who have demonstrated

an ability to comply with Uniform Standards of Professional Appraisal Practice are granted a license.

The volume of complaints increases and decreases with significant changes in market trends, including lending volumes and property values. During the real estate boom from 2003 to 2007, complaints were down in volume; during the downturn from 2008 to 2012 complaints went up precipitously. Now that the market has recovered, complaints are declining.

The Bureau continually works to improve any potential barriers by: maintaining an adequate number of qualified enforcement staff, working with the Office of the Attorney General to ensure better understanding of technical appraisal issues, ensure the timely drafting of pleadings and request earliest hearing date, and request settlement conferences on cases not requiring a mandatory conference.

Enforcement Statistics		(unit values are in days)		
	FY 2016/17	FY 2017/18	FY 2018/19	
COMPLAINT				
Intake				
Received	341	288	216	
Closed	336	304	214	
Referred to INV	341	285	216	
Average Time to Close	2	5	4	
Pending (close of FY)	3	3	1	
Source of Complaint				
Public	179	146	105	
Licensee/Professional Groups	140	114	86	
Governmental Agencies	13	12	15	
Other	9	16	10	
Conviction / Arrest	N/A	N/A	N/A	
CONV Received	N/A	N/A	N/A	
CONV Closed	N/A	N/A	N/A	
Average Time to Close	N/A	N/A	N/A	
CONV Pending (close of FY)	N/A	N/A	N/A	
LICENSE DENIAL				
License Applications Denied	9	3	3	
SOIs Filed	0	0	3	
SOIs Withdrawn	0	0	0	
SOIs Dismissed	0	0	0	
SOIs Declined	0	0	0	
Average Days SOI	N/A	N/A	144	
ACCUSATION				
Accusations Filed	16	7	9	
Accusations Withdrawn	0	0	0	
Accusations Dismissed	0	0	0	
Accusations Declined	0	0	0	
Average Days Accusations	65	37	70	
Pending (close of FY)	9	4	3	
DISCIPLINE				
Disciplinary Actions				
Proposed/Default Decisions	8	3	5	
Stipulations	18	17	10	
Average Days to Complete	404	323	529	
AG Cases Initiated	11	6	12	

AG Cases Pending (close of FY)	13	8	7
Disciplinary Outcomes			
Revocation	15	2	6
Voluntary Surrender	5	5	8
Suspension	0	0	0
Probation with Suspension	2	0	1
Probation	16	13	4
Probationary License Issued	N/A	N/A	N/A
Other	0	0	0
Enforcement Statistics (continued) (unit values are in days)			
	FY 2016/17	FY 2017/18	FY 2018/19
PROBATION			
New Probationers	20	13	4
Probations Successfully Completed	15	18	15
Probationers (close of FY)	42	47	47
Petitions to Revoke Probation	2	3	0
Probations Revoked	0	1	0
Probations Modified	0	0	0
Probations Extended	0	0	0
Probationers Subject to Drug Testing	0	0	0
Drug Tests Ordered	0	0	0
Positive Drug Tests	0	0	0
Petition for Reinstatement Granted	0	0	0
DIVERSION			
New Participants	N/A	N/A	N/A
Successful Completions	N/A	N/A	N/A
Participants (close of FY)	N/A	N/A	N/A
Terminations	N/A	N/A	N/A
Terminations for Public Threat	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A
INVESTIGATION			
All Investigations	341	285	217
First Assigned	336	304	214
Closed	120	123	180
Average days to close	128	111	96
Pending (close of FY)	3	3	1
Desk Investigations			
Closed	336	304	214
Average days to close	120	123	180
Pending (close of FY)	128	111	96
Non-Sworn Investigation	N/A	N/A	N/A
Closed	N/A	N/A	N/A
Average days to close	N/A	N/A	N/A
Pending (close of FY)	N/A	N/A	N/A
Sworn Investigation	N/A	N/A	N/A
Closed	N/A	N/A	N/A
Average days to close	N/A	N/A	N/A
Pending (close of FY)	N/A	N/A	N/A
COMPLIANCE ACTION			
ISO & TRO Issued	1	0	0
PC 23 Orders Requested	1	1	1

Other Suspension Orders	N/A	N/A	N/A
Public Letter of Reprimand	N/A	N/A	N/A
Cease & Desist/Warning	N/A	N/A	N/A
Referred for Diversion	N/A	N/A	N/A
Compel Examination	N/A	N/A	N/A

CITATION AND FINE			
Citations Issued	42	66	42
Average Days to Complete	259	322	272
Amount of Fines Assessed	\$40,000	\$66,000	\$46,000
Reduced, Withdrawn, Dismissed	0	0	0
Amount Collected	\$48,765	\$105,878	\$74,831
CRIMINAL ACTION			
Referred for Criminal Prosecution	0	3	2

Enforcement Aging						
	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
0 - 1 Year	3	5	1	4	13	21.7
1 - 2 Years	11	14	7	4	36	60.0
2 - 3 Years	5	0	2	3	10	16.7
3 - 4 Years	0	0	0	1	1	1.6
Over 4 Years	0	0	0	0	0	0
Total Attorney General Cases Closed	19	19	10	12	60	100.0
Investigations (Average %)						
Closed Within:						
90 Days	132	209	164	99	604	51.7
91 - 180 Days	58	36	22	25	141	12.1
181 - 1 Year	84	67	75	70	296	25.3
1 - 2 Years	26	27	42	19	114	9.8
2 - 3 Years	7	0	1	3	11	.9
Over 3 Years	0	0	2	1	3	.2
Total Investigation Cases Closed	307	339	306	217	1169	100.0

Due to the stabilization of the market, the number of complaints and investigations has decreased. The number of actions filed has decreased primarily because of the Bureau's focus on settling cases.

The Bureau's complaint prioritization policy is based on the mission of protection of the public. Priority is elevated based on the extent to which a complaint demonstrates a threat to the public, such as fraud and forgery. Cases are screened to identify priority. First priority cases are where the subject of the new complaint is currently the object of another investigation already in progress, pending disposition, or complaints that provide evidence of systematic fraud or other danger to the public. Cases are otherwise investigated in the order received. The Bureau is not a health care agency so the *DCA's Prioritization Guidelines for Health Care Agencies* is not applicable.

The Bureau does not have a mandatory reporting requirement for civil settlements.

There is a mandatory complaint reporting requirement: 15 U.S.C.A. Section 1639e(e) requires any mortgage

lender, mortgage broker, mortgage banker, real estate broker, appraisal management company or employee thereof, 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, of is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency. The Bureau has not had issues receiving these reports.

During the last four years, the Bureau has settled 53 cases (each case settled may include multiple complaints) pre-accusations. As these were settled, none went to hearing. During the last four years, the Bureau has resolved 30 accusations. Of those, 13 settled before a hearing, nine had a hearing, and eight did not contest the accusation and defaulted. 80 percent of cases settled and did not go to a hearing.

There is no statute of limitations, but appraisers are required to maintain records for five years.

California Business and Professions Code section 11320 states in part: “no person shall engage in a 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 first obtaining a license as defined in Section 11302.” Lenders are required by Title XI of FIRREA to ensure that appraisals are performed by licensed appraisers, with the appropriate license level, when the loan is a federally related transaction. In the rare case that a complaint is received regarding unlicensed activity, the case is investigated and may be resolved with a citation, a cease and desist letter and/or referral to the district attorney’s office.

California is not a mandatory licensure state. This means individuals can appraise property without a license if the property they appraise is not involved in federally related real estate appraisal activity. Of the subset of appraisers who are required to be licensed, those involved in federally related real estate appraisal activity, there are a couple factors that prevent unlicensed individuals from practicing without a license. Lenders who facilitate federally related real estate appraisal activity ensure the appraisers are licensed in order for the transaction to comply with federal law. Also, practicing without a license subjects an appraiser to criminal action and Bureau citation. As a result, the Bureau receives very few complaints for unlicensed activity. The Bureau received one complaint for unlicensed activity in Fiscal Year 2018/2019.

Cite and Fine

The Bureau routinely uses cite and fine authority. Business and Professions Code section 11315(e) allows maximum fines of \$10,000 per violation. However, citation fines typically range from \$500 to \$3,000. There have been no changes since the last review.

Cite and fine authority is the most common action taken by the Bureau encompassing the majority of its actions. Citations are typically used for violations that do not involve fraud, gross ethical abuses or significant lack of competency. The most common violations found in citations include misrepresentation of a property characteristic and inappropriate use of sales data.

The Bureau does not usually hold informal conferences outside of investigations, nor does it have a Disciplinary Review Committee. There have been no appeals during the last four Fiscal Years.

The most common violations yielding a citation relate to Standard Rule 1 and 2 of the Uniform Standards of Professional Appraisal Practice. Uniform Standards of Professional Appraisal Practice is a document that sets forth the minimum standards used in the industry and are imbedded in both federal and state law. The purpose of Uniform Standards of Professional Appraisal Practice is to establish requirements for appraisers

that promote a high level of public protection and result in appraisal services that are meaningful and not misleading.

Generally, these are minor to moderate competency or ethics violations, including:

- Failure to implement an adequate scope of work;
- Not correctly employing recognized methods and techniques;
- Use of insufficient or inappropriate market data;
- Failing to report accurate physical or locational characteristics;
- Producing reports with errors or omissions which result in an appraisal report that is not credible or is in some way misleading.

The average fine amount is \$1,500. There is no difference between pre and post-appeal fine amount.

After the Bureau has received a final order with a fine, the Bureau waits until the amount is due. This is typically upon the effective date of the decision or 30 days thereafter. If the amount is not paid, the Bureau sends a notice of overdue payment to the respondent. The Bureau will send the licensee three notices before referring the matter for collection with the Franchise Tax Board (FTB). The Bureau submits the required documents to Department for the FTB request to intercept the fine amount. According to BPC section 11409(c)(2) the Bureau includes a request for costs in every accusation and statement of issues. The Bureau also prohibits licensees who owe costs from renewing their licenses until the amount is paid.

All cases seeking revocation or probation seek cost recovery. Surrenders are very rare, but when accepted by the Bureau they are often conditional on payment of cost recovery. Most cases settle, and the Bureau and respondent typically agree to have respondent pay a monetary amount in addition to any probationary terms that may be applicable. Typically, the amount is negotiated as a fine and cost recovery. The amount varies from case to case, but fines are usually \$10,000 and cost recovery varies, but is most typically between \$5,000 and \$15,000. Cases that do not settle and go to hearing usually contain an order for partial or full cost recovery. The amount of recovery for cases that go to hearing varies greatly from a few thousand to tens of thousands of dollars depending on the complexity and length of the hearing. The Bureau currently has eight cost awards totaling \$47,000, that have not been paid in the FTB collection process, two of those within the last two years. The FTB collection order runs indefinitely so it is unknown which cost awards are uncollectable.

The Bureau does not seek cost recovery for citations because the respondents are ordered to pay a fine. Citations involve lower level violations that typically do not consume a large amount of investigator time. It is more cost effective to not seek cost recovery because respondents typically want to litigate cost awards. Therefore, removing the litigation trigger allows investigators to move to the next case and not get overburdened with citation hearings.

After the Bureau has received a final order awarding the Bureau their cost, the Bureau waits until the amount is due. This is typically upon the effective date of the decision or 30 days thereafter. If the amount is not paid, the Bureau sends a notice of overdue payment to the respondent. The Bureau will send the licensee three notices before referring the matter for collection with the FTB. The Bureau submits the required documents to the Department for the FTB request to intercept the amount of cost recovery ordered.

The Bureau does not have legal authority to seek restitution.

Cost Recovery (list dollars in thousands)				
	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Total Enforcement Expenditures	\$2,535	\$2,446	\$2,179	\$2,427
Potential Cases for Recovery *	6	8	5	9
Cases Recovery Ordered	4	5	1	1
Amount of Cost Recovery Ordered	\$26.0	\$34.4	\$7.2	\$24.7
Amount Collected**	\$98.5	\$98.8	\$126.2	\$79.2
* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act. **Amount collected includes: fines, cost of enforcement and cost of monitoring.				

Restitution (list dollars in thousands)				
	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Amount Ordered	N/A	N/A	N/A	N/A
Amount Collected	N/A	N/A	N/A	N/A

Public Information Policies

The Bureau uses its newsletter and other important announcements on its website to communicate with stakeholders. The Bureau does not hold public meetings so there are no meeting materials or minutes to publicly post.

The Bureau's complaint disclosure policy is consistent with DCA's Recommended Minimum Standards for Consumer Complaint Disclosure. The Bureau posts accusations and disciplinary actions consistent with DCA's Web Site Posting of Accusations and Disciplinary Actions. The Bureau provides the ability to perform licensee lookups via its website. The lookup contains: the name, license number, company, phone address, license level, license status, license history, continuing education history, effective dates of all licensees and published disciplinary actions, if any. In addition, the Bureau provides all publicly available documents to the public upon request.

The Bureau maintains a continuously updated webpage with information and links to all consumer and licensee material. The Bureau posts and emails a biannual newsletter containing articles, statistics and updates, as well as a list of major enforcement actions taken during the previous six months.

Online Practice Issues

The internet is used for communication between clients and appraisers, such as receiving requests for appraisal reports, transmission of completed appraisal reports. Additionally, the internet is used to conduct research for data regarding the appraisals. The appraiser client relationship is well regulated, as is the reporting process, so the use of online services for normal business activities is common. The Bureau sees no need for further regulation regarding the use of the internet for appraisal business.

Workforce Development and Job Creation

The Bureau promoted the idea of developing an alternative to the trainee/supervisor model, which limits workforce development. The Appraisal Qualification Board has taken up this issue to resolve the issue on a national level with the development of Practical Applications of Real Estate Appraisal (PAREA) to provide an alternative to the trainee/supervisor model.

The Bureau coordinates with approved course providers regularly regarding changes to the minimum education requirements. The Bureau's website includes a Course Provider Handbook for use by current and potential course providers specifying licensing course requirements for both qualifying and continuing education.

In regards to barriers to licensure and/or employment the board believes exist there are a limited number of supervisors willing to train new appraisers. The Bureau is working with the Appraisal Qualification Board to remedy this problem with PAREA.

Changing real estate market conditions and lending requirements dictate the demand for appraisal services. Since the 2008 market downturn the volume of real estate transactions has declined, and the lender requirements have changed. As a result, the number of licensed appraisers in California has dropped by approximately 50% and is still declining. There are several reasons for the decline, including: (1) difficulty entering the profession due to lack of supervisors and increased licensing requirements; (2) decrease in requests for appraisals due to other products being utilized and a reduction in the amount of properties requiring an appraisal; (3) many appraisers see a stagnation in wages that discourages new appraisers and causes current appraisers to retire; and (4) many appraisers find working for AMCs difficult. There are no appraiser workforce shortages in California currently.

The Bureau is anticipating the supply of appraiser to balance in the future, but at this time, the Bureau has not seen evidence of a shortage of appraisers.

PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS

This is the second review of BREA. The last review was in 2015, at which time 15 issues were raised. Below are actions which have been taken over the last four years to address a number of these. In December 2019, the Bureau submitted its required sunset report to these Committees. In the report, the Bureau described actions it has taken since its prior review to address the recommendations of the Committees. For those which were not addressed and which may still be of concern, they are addressed and more fully discussed under "Current Sunset Review Issues." Items completed or pending based on recommendations from the Committees include the following:

ISSUE #1: (STRATEGIC PLAN) Is the BREA able to meet the goals and objectives of its Five-Year Strategic Plan developed in 2014?

The Bureau met all its strategic goals and objectives by 2018. All vacant positions have been filled and staff rotations and cross training is an ongoing process.

ISSUE #2: (PUBLIC INTERACTION WITH THE BUREAU) Should a Real Estate Appraiser Advisory Committee be established with a public member majority to advise the Bureau Chief and give policy input to the BREA, the Administration, and the Legislature?

The Bureau welcomes public input. The Bureau Chief travels the state talking to members of the public and licensees about the Bureau, which provides a forum for public feedback about the Bureau's operations. The Bureau also includes a link to a survey on all communication leaving the Bureau. These responses are reviewed by the appropriate manager (licensing or enforcement). The Bureau provides two staff members to field public inquires, calls and emails for both the Licensing and Enforcement Division. The Bureau does not have a position as to whether an advisory committee should be established.

ISSUE #3: (BREA INFORMATION TECHNOLOGY) BREA has its own system to support its

regulatory activities. How does the DCA support the Bureau's system?

The Bureau supports its own IT system and efforts. The Bureau coordinates with the Department on reporting consistent performance measures. The Bureau has continued the ongoing process of making enhancements to the REALE system. Among recent enhancements are the Online Complaint system and new search features. The Bureau plans to continue to maintain and enhance the REALE system.

ISSUE #4: (RELATIONSHIP WITH DCA FOLLOWING THE 2012 REORGANIZATION AND TRANSFER TO THE DCA) Has DCA provided adequate resources and management to BRE?

DCA's functions and role have improved since the last sunset review although there are a few areas that still need improvement, which DCA is currently working to address. Because the Bureau is a program within the Department, there are more administrative requirements compared to when the Bureau was an Office reporting directly to Agency. Access to current accounting information has been made more challenging after the transition to Fi\$Cal. In addition, the timeframe for the approval of regulations has increased. DCA is committed to addressing these issues and the Bureau has avenues to address any concerns. DCA's budget office is working on issues with Fi\$Cal to ensure sharing of accurate, up-to-date accounting information. Also, the creation of a Regulations Unit within the Legal Affairs Division of DCA, which was created in July 2019, will decrease regulation processing timelines and enable DCA to meet the Bureau's demands for regulations.

ISSUE #5: (PRO RATA) What services does BRE receive for its share of pro rata?

The primary services the Bureau receives are: budget, fiscal, contracts (purchasing, services, training), Cal Card, human resources, regulation approval, legislation, some legal, information technology, media relations, publications. The costs for these services are detailed in DCA's July 1, 2019, letter to the legislature explaining how DCA calculates the pro-rata calculations for the various services received.

ISSUE #6: (LICENSEE EDUCATION) Are there improvements that could be made to the licensee education program?

The Business and Professions Code section 11340(a)(2) requires an initial licensee complete a minimum of four hours of federal and California appraisal related statutory and regulatory law prior to receiving a license. The course requires an examination which is scored by the course provider.

ISSUE #7: (LIMITED ENGLISH PROFICIENT APPLICANTS) What can BRE do to improve access to licensing materials and exams for limited English proficient (LEP) applicants?

Though the Bureau supports licensing appraisers that speak languages other than English to serve California's diverse population, the business of real estate and real estate appraisals is conducted in English. Financial loan contracts, local government filings, appraisals, and other related real estate documents are required to be in English under federal law. Given this constraint, and that the Bureau is bound to closely follow federal law in its licensing practices, it is imperative that licensees are English language proficient.

However, the Bureau and DCA have several methods available to help Limited English proficiency consumers. The Bureau has an employee that can assist consumers in Spanish and is looking into a translation service for its website and applications. In 2018, DCA conducted a foreign language survey of the Bureau and found no deficiencies.

The Department offers a language line for Bureau staff to speak with a translator. The Department can also assist with public outreach by coordinating the translation of materials through a private translation company.

ISSUE # 8: (DECREASE IN LICENSEE POPULATION) The number of licensed real estate appraisers has steadily decreased. What adjustments has BRE made because of the decrease in licensee population?

The appraiser licensee population is significantly affected by the volume of mortgage originations, and overall activity in the real estate market. Bureau revenue follows this downward trend as the number of licensees

declines. Over the past few years, the licensee population decline has slowed, but continues. The Bureau implemented cost-saving measures and is in the process of increasing fees to ensure the Bureau can continue to meet its statutory obligation of public protection.

ISSUE # 9: (REPORTING REQUIREMENTS) Should BRE licensees be required to report to the BRE upon arrest?

Business and Professions Code section 11318 requires licensees, applicants for licensure, course providers, or applicants for course provider accreditation to notify the Bureau upon the bringing of an indictment or information charging a felony against them. Therefore, the Bureau may not be aware of misdemeanor arrests unless they result in a conviction at which point it must be disclosed. The Bureau supports requiring notification of misdemeanor arrests though, it is not as critical as being notified of felony arrests as is currently required.

ISSUE # 10: (REPORTING REQUIREMENTS) Should court clerks be required to report to BRE when a judgment is entered against a BRE licensee for a crime or personal injury, or when a felony charge is filed against a BRE licensee?

The Bureau maintains no position on this potential policy change.

ISSUE # 11: (FORCES INFLUENCING VALUE) What is the Bureau doing to maintain independence and lawful relationships between loan officers, AMCs, and appraisers?

California implemented an AMC registration requirement in 2009, far in advance of the federal requirement of June 2018. The revised AMC law has improved the AMC program but there is still work to be done.

The Bureau receives complaints against AMCs, mainly from licensees complaining of non-payment, low payment, being blacklisted, or having unreasonable requirements being placed on them to complete assignments (such as short turnarounds). The Bureau recently required terms of payment be included on all AMC engagement letters. This is to ensure appraisers know the terms prior to accepting an assignment and have legal recourse if the AMC has breached the agreement. However, the issue of low payment, being blacklisted, and having unreasonable requirements is more difficult to regulate. One possible solution is to require a licensee be a controlling person of an AMC. This will provide appraiser knowledge to each AMC. This is necessary because many AMCs do not have an appraiser as a controlling person.

While complainants are vocal about their complaints against AMCs, the number of complaints against AMCs make up less than 10% of overall complaint volume. When complaints involve AMCs exercising undue influence over appraisers or other violations of law, those complaints are taken seriously and investigated.

The Bureau is not aware of kickbacks or gifts between AMCs and lenders since the Bureau only has authority over the appraiser's relationship with AMCs and not the relationship the AMCs have with lenders. That oversight falls to federal regulators and is not within the purview of the Bureau.

The Bureau cannot substantiate whether appraisers are forced out of the profession because of unfair practices by AMCs. The Bureau is aware some licensees complain about low AMC fees and claim they are getting out of the profession as a result. The proliferation of AMCs has had an impact on the distribution of work and on the delivery process of appraisal reports. AMC appraisal work does make up a majority of the residential appraisal work in the market, so the AMC's business practices do have an impact on appraisers, which is why complaints of violations of the law are investigated by the Bureau. However, complaint of low payment is not a violation of the law.

ISSUE # 12: (STANDARDS OF CONDUCT) Should appraisers be able to use any standard of valuation practice for use in conducting non-federally related transaction?

Currently, all licensees must meet the standards set forth in the Uniform Standards of Professional Appraisal Practice for all their work. The Uniform Standards are the only federally created and approved standard. Federal law requires all appraisals prepared for federally related transactions follow the minimum Uniform

Standards' requirements. Therefore, the issue is whether to allow alternative standards of practice for non-federally related appraisals in California.

Although the Bureau does not have a position on this proposal, the impacts on the profession, the Bureau, and consumers could be significant. The Bureau's priority would be to make sure that whatever standard might be adopted would not put consumers at risk. The Bureau's mission is to protect the public, so any proposed appraisal standard would need to be carefully evaluated to ensure the public is adequately protected. In addition, the Bureau would incur administrative costs due to the necessity of creating regulations, and ongoing training to make sure investigative staff is adequately trained in any newly adopted standards.

ISSUE # 13: (FEDERAL OVERSIGHT) Has BREA corrected the issues raised by the Appraisal Subcommittee's 2014 Compliance Review?

The Bureau has resolved the issues noted in the ASC's 2016 review.

ISSUE # 14: (FEDERAL-STATE CONSISTENCY) Has the Bureau analyzed where California Appraisers' Law complies with federal regulations and where it needs to be updated?

Senate Bill 547 (Hill, Chapter 429, Statutes of 2017) updated the Business and Professions Code to conform to the new federal regulations related to AMCs.

ISSUE # 15: (SHOULD THE BUREAU BE CONTINUED?) Should the licensing and regulation of appraisers and AMCs be continued and be regulated by the Bureau?

The Bureau agrees with the staff recommendation that the Bureau's operations and the Appraisers Law be reviewed again in four years by the respective policy committees of the Senate and Assembly. Recommend that appraisers and AMCs continue to be regulated by the Bureau in order to protect the interests of licensees and the public.

CURRENT SUNSET REVIEW ISSUES FOR THE BUREAU OF REAL ESTATE APPRAISERS

The following are unresolved issues pertaining to the Bureau, or those which were not previously addressed, and other areas of concern for the Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business and Professions (Committees) to consider, along with background information concerning the particular issue. There are also recommendations the Committees' staff have made regarding particular issues or problem areas which need to be addressed. The Bureau and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

ISSUE #1: The Real Estate Appraisers' Licensing and Certification Law contains a provision in Business and Professions Code section 11411, requiring the establishment of a separate account called a recovery account.

Background: The Real Estate Appraisers' Licensing and Certification Law contains a provision in Business and Professions Code section 11411, requiring the establishment of a separate account called a recovery account. Business and Professions Code section 11411 also directs the former Office of Real Estate Appraisers (Office) to direct 5 percent of licensing fees and for the fund to be continuously appropriated beginning January 1, 2003. The Director of the former Office was also tasked, in statute, with the responsibility of determining

whether or not a recovery account was necessary by January 1, 2002, and to establish regulations creating such an account by January 1, 2004. The fund was never established, and licensing fees were never directed to a separate account. According to records, only one potential claimant has ever contacted the Bureau in the intervening years regarding this account, and that potential claimant never sought payment. The Bureau requests the Recovery Account be removed from the law.

Staff Recommendation: *According to records, only one potential claimant has ever contacted the Bureau in the intervening years regarding this account, and that potential claimant never sought payment. Staff recommends that the Recovery Account be removed from the law.*

ISSUE #2: Should court clerks be required to report to BREa when a judgment is entered against a BREa licensee for a crime or personal injury, or when a felony charge is filed against a BREa licensee?

Background: Four denials were issued over the past four years based on criminal history that was determined to be substantially related to the qualifications, functions, or duties of the profession. One denial was for an individual with seven driving under the influence convictions and a conviction for conspiracy to defraud the U.S. Department of Treasury. Another denial was for an individual convicted of cocaine distribution, reckless driving, and driving under the influence. Another denial was for nine separate convictions including disturbing the peace, assault with a deadly weapon, reckless driving, failing to appear at court, driving under the influence multiple times, and perjury. Another denial was for three counts of unlawful sexual intercourse with a minor.

Staff Recommendation: *The law should potentially be amended to require that the clerk of the court provide notice to BREa, if there is a judgment for a crime committed in excess of \$30,000, for which the licensee is responsible due to negligence, error or omission in practice, or his or her rendering unauthorized professional services. The law should further be amended to require the clerk of the court to report any filings of charges of a felony against a real estate appraiser to the BREa.*

ISSUE #3: What changes, if any, might benefit the Bureau and its regulated profession to better support licensee compliance with federal law (such as with Uniform Standards for Professional Appraisal Practice (USPAP))?

Background: The Uniform Standards of Professional Appraisal Practice (USPAP) is the generally recognized ethical and performance standards for the appraisal profession in the United States. USPAP was adopted by Congress in 1989, and contains standards for all types of appraisal services, including real estate, personal property, business and mass appraisal. Compliance is required for state-licensed and state-certified appraisers involved in federally-related real estate transactions. USPAP is updated every two years so that appraisers have the information they need to deliver unbiased and thoughtful opinions of value

To become a real property appraiser in the United States, appraisers must take the 15-Hour National USPAP Course (or its equivalent). Additionally, real property appraisers must take the 7-Hour National USPAP Update Course (or its equivalent) once every two calendar years. Please visit our Q&A webpage to review USPAP Q&As, and visit our store to purchase USPAP or Student Manual. Additionally, the Foundation, in partnership with the US Department of Justice, is publisher of the Uniform Appraisal Standards for Federal Land Acquisitions, commonly known as the "Yellow Book."

Staff Recommendation: *In accordance with Senate Bill 547 (Hill, Chapter 429, Statutes of 2017) updated the Business and Professions Code related to Appraisal Management Companies to comply with federal minimum standards, we recommend that the Bureau provide an update of compliance to this Statute.*

ISSUE #4: Bureau Property Appraiser/Investigators (investigators) determine whether a licensee's appraisal report complies with the minimum standard stated in the Uniform Standards of Professional Appraisal Practice. Investigators do not conduct appraisal or appraisal reviews. However, those being investigated often attempt to discredit investigators by claiming the investigator completed an appraisal or appraisal review and failed to comply with Uniform Standards of Professional Appraisal Practice themselves. What can be done to remedy this issue?

Background: The primary program goal for enforcement is timely, effective, and consistent processing of complaints in a manner that is equitable and well-documented. Appraisal Subcommittee Policy Statement seven requires resolution of complaints filed against appraisers within one year of the complaint filing date. In the majority of cases, the Bureau is meeting these expectations. However, there are a small number of very complex multiple property cases that do not meet the Bureau's one-year timeline. To improve performance, the Bureau attends settlement conferences, seeks the earliest possible hearing date, and works with investigators to reduce investigation time.

Another focus of the enforcement program is ensuring only qualified applicants are granted licenses. All applicants must complete a certain number of hours of appraisal experience in order to qualify for a license. Investigators ensure the appraisal work submitted meets the minimum standard stated in the Uniform Standards of Professional Appraisal Practice. This results in only those appraisers who have demonstrated an ability to comply with Uniform Standards of Professional Appraisal Practice are granted a license.

Staff Recommendation: *This deflection is a distraction that costs the Bureau time and money as the Bureau must educate each court individually that Bureau investigators conduct investigations to determine Uniform Standards of Professional Appraisal Practice compliance not appraisal or appraisal reviews. Amending Business and Professions Code to clarify investigators do not conduct appraisal or appraisal reviews and are exempt from Uniform Standards of Professional Appraisal Practice could potentially solve this issue.*

ISSUE #5: Though there is a national exam for real estate appraisers, are there areas of concern around any California specific courses or curriculum that is required. For example, a Bureau approved CE course every four years.

Background: The term of a California real estate appraiser's license is two years. All licensed appraisers must meet minimum continuing education requirements before renewing their license. A total of 56 hours of continuing education is required during the four-year continuing education cycle including the following mandatory courses for all license categories:

- 7-hour National Uniform Standards of Professional Appraisal Practice course-required every two years.
- 4-hour Bureau approved course entitled "Federal and State Laws and Regulations". The Bureau added an examination requirement to this course as per SB 1196 in 2017.

Continuing education courses or seminars must cover appraisal related topics, including subjects such as: land use planning, appraisal computer applications, cost estimating, and green building appraisals.

Staff Recommendation: The Bureau approves CE course providers and CE courses. Courses may also be pre-approved by the Appraisal Qualifications Board. The Bureau reviews course approval applications for compliance with the Bureau's approval policy and consistency with Appraisal Qualifications Board requirements. Are there CE courses that relate specifically to California? Is this something that could be developed and subsequently approved by the Appraisal Qualifications Board?

ISSUE #6: Are there continued justification for fee increases? What might justify recent fee increases? Are there more services the Bureau receives through DCA now? Is there more workload? Is there a dwindling licensee population? Staffing, enforcement, or investigation issues? Are there potential organizational efficiencies that could lead to a reduced need for greater fee revenue?

Background: In November of 2019, the Bureau advised licensees that it was necessary to raise fees beginning January 1, 2020 in order for the Bureau to meet its mandates. The fees made substantial increases in the fees charged by BREA, including an “Application Review” fee from \$150 to \$400, and an “Issuance Fee” from \$375 to the statutory level of \$525 found in BPC § 11405.

The Appraiser Licensing Law does not contain any statutory authority for a renewal application fee. The law refers to “[i]nitial application fees” (§ 11400), and to a renewal fee (§ 11405), but it does not authorize an application review.

The Bureau's fee regulation CCR Section 3582 (attached both the 2019 regulation and the 2020 regulation) appears to be the only place renewal application fee is mentioned. In the Authority Cited and Reference for the Section 3582 of the regulations, none of the B&P Code sections cited refer to a renewal application fee or give authority for a renewal application fee. The Licensing Handbook posted on the BREA website, gives the Renewal Process but does not refer to separate renewal application fees and renewal fees -- but says that to renew the licensee must pay “all appropriate fees.”

Section 3681, the regulation which details the renewal process incorporates the Renewal Application (REA 3012) by reference. That is the form they are charging \$150 (now \$400) to review. The form is straightforward and should not be complicated to review. The only complications would be if there is: (1) A change of name, (2) Criminal convictions, or (3) Continuing Education issues. None of these are extraordinary for a licensing bureau to review for renewal.

The Bureau increased Appraiser licensing, Appraiser Management Company registration, and course provider fees effective January 1, 2020. All this being said, we understanding that the Bureau’s budget is funded solely through fees charged to licensees, registrants, and course providers. It appears that the prior fee structure no longer supported the Bureau’s ability to complete its public protection mission due to the continued decline in the licensee population. Approximately 70 percent of the Bureau’s licensee population is over the age of 50, indicating a continued decline of the Bureau’s population as individuals begin to retire from practice.

In 2018, the Legislative Analyst’s Office (LAO) noted that the former California Bureau of Real Estate (CalBRE) was moved out of the DCA and reconstituted as the Department of Real Estate (DRE) after concerns were expressed that CalBRE was contributing more pro rata charges to the DCA than it was receiving in overhead services from the department. Specifically, the LAO suggested that “CalBRE was overpaying for DCA services” based on the fact that CalBRE had been scheduled to pay \$5.7 million in pro rata but its removal from the DCA resulted in only a \$1.3 million reduction in the DCA’s budget. The LAO proposed that this discrepancy was likely due to CalBRE utilizing fewer DCA services, as it had retained many of its own

resources from when it was previously constituted as a separate department.

It is arguable that as the committees review the need for a fee increase for real estate appraisers, the potential similarities between the Bureau and CalBRE/DRE should be considered. Like CalBRE, the Bureau was previously a standalone office and remains in possession of many of its own resources, including technology solutions for its licensing program. It may be presumed that if the desire of the Legislature were to mitigate the need for a large fee increase for the Bureau's licensees, it should contemplate exploring similar organizational restructuring.

Staff Recommendation: *We would like to see the justification for fee increases including what Statutory authority is there for BREA's \$400 Application Review Fee for License Renewal. Are there more services the Bureau receives through DCA now? Should potential efficiencies secured through a structural reorganization of the Bureau be considered in light of similar precedents?*

BREA should be prepared to explain to the Committees the impact of the drop in the number of licensees upon its operations, including the impact upon revenues and licensing staff, and any efforts made by the BREA to redirect staff to other areas of BREA's regulatory programs. Additionally, given the shrinking licensee population, does the Bureau believe the upcoming fee increase will sustain its regulatory functions?

ISSUE #7: In response to COVID-19 what has the Bureau done to adjust to pandemic and how it effects your profession?

Background: COVID-19 dramatically changed the way people live, work, and interact in the world. For safety reasons, DRE reduced the number of applicant exam sites in the early part of the year. It then increased the number of exam sites in the latter half of the year to offer more exams for licensing applicants. Additionally, DRE implemented an emergency telework policy. As of early November 2020 has 87% of its staff working remotely. Finally, DRE is accepting and using more electronic documents and signatures to support their licensees during this time.

Additionally, the Governor has issued a series of waivers to assist professions during the COVID-19 pandemic. Most recently, Governor Newsom issued an Executive Order on October 28, 2020 extending an existing Executive Order that extends the deadlines for the payment of real estate license application and renewal fees and continuing education requirements for licensees.

Staff Recommendation: *The Bureau should provide an update to the following:*

In response to COVID-19, has the board implemented teleworking policies for employees and staff? How have those measures impacted board operations? If so, how? In response to COVID-19, has the board utilized any existing state of emergency statutes? If so, which ones, and why?

Pursuant to the Governor's Executive Orders N-40-20 and N-75-20, has the board worked on any waiver requests with the Department? Of the above requests, how many were approved? How many are pending? How many were denied? What was the reason for the outcome of each request?

In response to COVID-19, has the board taken any other steps or implemented any other policies regarding licensees or consumers?

Has the board recognized any necessary statutory revisions, updates or changes to address COVID-19 or any

future State of Emergency Declarations?

ISSUE #8: What efficiency concerns exist within BREA? What might justify recent fee increases (more services the Bureau receives through DCA, increased workload, fewer licensees, or other issues)? What structural issues might contribute to efficiency concerns?

Background: Licensing and certification of real estate appraisers began in California pursuant to a federal mandate contained in the Financial Institutions Reform and Recovery Enforcement Act (FIRREA), designed to respond to the savings and loan crisis in the 1980's. Under FIRREA, all states are required to create a licensing and certification program for real estate appraisers performing appraisals in "federally-related transactions"—essentially, transactions contracted for by federally regulated financial institutions which require the services of an appraiser. Under California law, appraisals of non-federally related transactions may be performed by anyone, with no license or certificate required, and without adherence to any professional appraisal standards.

Since the enactment of FIRREA, the growth in demand for appraisal services has tended toward non-federally-related transactions, which are outside of BREA's jurisdiction. According to BREA, the number of licensed and certified appraisers in California peaked in fiscal year 2006-2007 at just over 20,000, while in November 2019 the licensee population stood at less than 10,000. In Fall of 2020, DCA shared that approximately 70 percent of the Bureau's licensee population is over the age of 50. Services such as expert witness testimony in litigation, property tax appeals, business valuations, and real estate portfolio review require no license or certificate and are outside of the regulatory authority of the Bureau of Real Estate Appraisers when performed by non-licensees. Therefore, BREA regulates a diminishing share of professionals who work or offer services in the appraisal market. This diminishing share is growing given the use of technology to value real estate.

Additionally, on July 1, 2013, the Office of Real Estate Appraisers (OREA) became the California Bureau of Real Estate Appraisers (BREA) under DCA, following the approval of Governor Brown's Reorganization Plan. DCA's functions and role have improved since the last sunset review, although there are still areas DCA is working to improve. Because the Bureau is a program within the Department, there are more administrative requirements compared to when the Bureau was an Office reporting directly to Agency.

Finally, access to current accounting information for the BREA is more challenging since the transition to Fi\$Cal. The timeframe for the approval of regulations has also increased. Fees have also increased since the transition. DCA reports its budget office is working on the issues with Fi\$Cal. BREA/DCA also reports that the creation of a Regulations Unit within the Legal Affairs Division of DCA in July 2019 will decrease regulation processing timelines and enable DCA to meet the Bureau's demands for regulations.

Staff Recommendation: BREA should assess areas where it might lack efficiency. What accounts for recent fee increases? What does a diminishing licensee population mean for BREA, especially with the rise of technology in the space? Are there larger structural and organizational issues that need to be addressed? Why has the timeframe for approval of regulations increased? Will a new unit within DCA help to facilitate resolution of those problems, or potentially increase those problems in the future?

ISSUE # 9: (CONTINUED REGULATION BY THE BUREAU) Should the licensing and regulation of Appraisers and Appraisal Management Companies (AMC) be continued and be regulated by the current Bureau?

Background: Regulating the Bureau is in the interest of California consumers. The welfare of consumers is

best protected when there is a well-regulated appraisal profession. BREa should be continued with the recommendation for continued review by the Committees.

However, as noted in Issue #8, fee increases, increased time to approve regulations, a more challenging time accessing current accounting information, and a decreasing licensing population are all difficulties BREa faces today. The reasons behind these issues and what changes might better support BREa and its licensees merit careful consideration. In another case, the former Bureau of Real Estate faced efficiency and cost concerns that led the Bureau to become a department under the Business, Consumer Services, and Housing Agency (BCSH). Now, the Department of Real Estate notes increased cost savings and higher efficiency standards. While this may or may not be the solution best suited for BREa, it is worth exploring why these issues developed and if a change in organizational structure might better permit BREa to carry out its vitally important functions of oversight and support of licensees and the protection of consumers.

Staff Recommendation: *The regulation of the Bureau should be continued, to be reviewed again on a future date to be determined.*