

HB

342

<target><bill>HB 342</bill><subject>HB
342</subject><comm>HFIN26</comm></target>

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 342
(H) Publish Date: 2/26/10

Identifier (file name): HB342-CED-CBPL-2-18-10 Dept. Affected: DCCED
Title: Extend Board of Real Estate Appraisers RDU: Corp, Bus, & Prof Licensing (117)
Component: Corp, Bus, & Prof Licensing
Sponsor: Representative T. Wilson
Requester: House Labor & Commerce Committee Component Number: 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| | Appropriation Required | Information | | | | | | |
|-------------------------------|---------------------------|-------------|-------------|-------------|-------------|-------------|-------------|------------|
| | | FY 2011 | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 | FY 2016 |
| OPERATING EXPENDITURES | | | | | | | | |
| Personal Services | 0.0 | 42.4 | 42.4 | 42.4 | 42.4 | 42.4 | 42.4 | 0.0 |
| Travel | 0.0 | 6.1 | 6.1 | 6.1 | 6.1 | 6.1 | 6.1 | 0.0 |
| Contractual | 0.0 | 50.6 | 50.6 | 50.6 | 50.6 | 50.6 | 50.6 | 0.0 |
| Supplies | 0.0 | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 0.0 |
| Equipment | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Land & Structures | | | | | | | | |
| Grants & Claims | | | | | | | | |
| Miscellaneous | | | | | | | | |
| TOTAL OPERATING | 0.0 | 99.7 | 99.7 | 99.7 | 99.7 | 99.7 | 99.7 | 0.0 |

| | | | | | | | | |
|-----------------------------|--|--|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | | | |
|-----------------------------|--|--|--|--|--|--|--|--|

| | | | | | | | |
|------------------------------------|--|------------|------------|------------|------------|------------|------------|
| CHANGE IN REVENUES (1156) | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|------------------------------------|--|------------|------------|------------|------------|------------|------------|

FUND SOURCE (Thousands of Dollars)

| | | | | | | | |
|--------------------------|------------|-------------|-------------|-------------|-------------|-------------|------------|
| 1002 Federal Receipts | | | | | | | |
| 1003 GF Match | | | | | | | |
| 1004 GF | | | | | | | |
| 1005 GF/Program Receipts | | | | | | | |
| 1037 GF/Mental Health | | | | | | | |
| Other: RSS (1156) | 0.0 | 99.7 | 99.7 | 99.7 | 99.7 | 99.7 | 0.0 |
| TOTAL | 0.0 | 99.7 | 99.7 | 99.7 | 99.7 | 99.7 | 0.0 |

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

| | | | | | | | |
|-----------|--|--|--|--|--|--|--|
| Full-time | | | | | | | |
| Part-time | | | | | | | |
| Temporary | | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

HB 342 extends the Board of Real Estate Appraisers to June 30, 2014. In accordance with AS 08.03.020 funding extends one year following the termination date allowing the Board to conclude its affairs. The FY2011 funding is included in the Operating Budget request and costs shown are an average of direct costs for a biennial licensing period.

Travel expenses represent transportation and per diem for the 5 member board and 1 staff to meet at least 2 times each year in accordance with AS 08.01.070.

The program is required to cover costs with licensing fees under AS 08.01.065, and revenue generated by board fees are anticipated to cover its full operating costs. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Division Operations Manager
Division: Corporations, Business & Professional Licensing
Approved by: Emil Notti, Commissioner
Commerce, Community, and Economic Development

Phone: (907) 465-2144
Date/Time: 2/18/2010 10:50AM
Date: 2/19/2010

FISCAL NOTE

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2010 LEGISLATIVE SESSION

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Note: Amounts do not include inflation unless otherwise noted below.

| | Appropriation Required | Information | | | | | | |
|-------------------------------|---------------------------|-------------|-------------|-------------|-------------|-------------|-------------|------------|
| | | FY 2011 | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 | FY 2016 |
| OPERATING EXPENDITURES | | | | | | | | |
| Personal Services | 0.0 | 42.4 | 42.4 | 42.4 | 42.4 | 42.4 | 42.4 | 0.0 |
| Travel | 0.0 | 6.1 | 6.1 | 6.1 | 6.1 | 6.1 | 6.1 | 0.0 |
| Contractual | 0.0 | 50.6 | 50.6 | 50.6 | 50.6 | 50.6 | 50.6 | 0.0 |
| Supplies | 0.0 | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 0.0 |
| Equipment | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Land & Structures | | | | | | | | |
| Grants & Claims | | | | | | | | |
| Miscellaneous | | | | | | | | |
| TOTAL OPERATING | 0.0 | 99.7 | 99.7 | 99.7 | 99.7 | 99.7 | 99.7 | 0.0 |

| | | | | | | | | |
|-----------------------------|--|--|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | | | |
|-----------------------------|--|--|--|--|--|--|--|--|

| | | | | | | | |
|------------------------------------|--|------------|------------|------------|------------|------------|------------|
| CHANGE IN REVENUES (1156) | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|------------------------------------|--|------------|------------|------------|------------|------------|------------|

FUND SOURCE (Thousands of Dollars)

| | | | | | | | |
|--------------------------|------------|-------------|-------------|-------------|-------------|-------------|------------|
| 1002 Federal Receipts | | | | | | | |
| 1003 GF Match | | | | | | | |
| 1004 GF | | | | | | | |
| 1005 GF/Program Receipts | | | | | | | |
| 1037 GF/Mental Health | | | | | | | |
| Other: RSS (1156) | 0.0 | 99.7 | 99.7 | 99.7 | 99.7 | 99.7 | 0.0 |
| TOTAL | 0.0 | 99.7 | 99.7 | 99.7 | 99.7 | 99.7 | 0.0 |

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

| | | | | | | | |
|-----------|--|--|--|--|--|--|--|
| Full-time | | | | | | | |
| Part-time | | | | | | | |
| Temporary | | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

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The program is required to cover costs with licensing fees under AS 08.01.065, and revenue generated by board fees are anticipated to cover its full operating costs. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Division Operations Manager
 Division: Corporations, Business & Professional Licensing
 Approved by: Emil Notti, Commissioner
Commerce, Community, and Economic Development

Phone (907) 465-2144
 Date/Time 2/18/2010 10:50AM
 Date 2/19/2010



Division of Legislative Audit

Report Digest #08-20064-10



* Requires Acrobat Reader



SUMMARY OF: A Sunset Review on the Department of Commerce, Community, and Economic Development (DCCED), Board of Certified Real Estate Appraisers (BCREA), October 30, 2009

PURPOSE OF THE REPORT

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of BCREA. The purpose of this audit was to determine if there is a demonstrated public need for its continued existence and if the board has been operating in an effective manner. As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether BCREA's termination date should be extended. Currently, under AS 08.03.010(c)(20), BCREA will terminate on June 30, 2010. If the legislature does not extend the termination date for the board, BCREA will have one year from that date to conclude its administrative operations.

REPORT CONCLUSIONS

The use of state certified real estate appraisers will be a continuing requirement for Alaska's financial institutions to qualify for federal deposit insurance and to participate in selling mortgage loans to federal government-sponsored enterprises. Failure to maintain a real estate appraiser certification program that meets federal requirements could cause the financial institutions – and by extension, the citizens of the State – to lose the opportunity to participate in a number of federally sponsored real estate loan programs and the ability to obtain federal deposit insurance. In this context, we recommend that the legislature extend BCREA's termination date to June 30, 2014.

The recommended termination date is half of the 8 year maximum allowed in statute to recognize that DCCED and the board failed to address findings issued by the Appraisal Subcommittee (ASC). ASC identified two deficiencies that needed to be addressed in order to come into substantial compliance with Title XI of the 1989 Financial Institutions Reform, Recovery, and Enforcement Act. DCCED and BCREA have satisfactorily addressed only one of the two deficiencies.

FINDINGS AND RECOMMENDATIONS

1. BCREA and DCCED should take timely corrective action in response to ASC findings.
2. The division's professional licensing administrative officer should take steps to improve administrative support.
3. BCREA and staff within the Office of the Governor should work together to increase the pool of qualified applicants available for board appointments to ensure full representation.



* Requires Acrobat Reader





STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Office of the Commissioner

Sean Parnell, Governor
Emil Notti, Commissioner

RECEIVED
1/4/2010 E.N.

Ms. Pat Davidson
Legislative Auditor
Division of Legislative Audit
Legislative Budget and Audit Committee
P.O. Box 113300
Juneau, Alaska 99811-3300

Re: Preliminary Audit, Board of Certified Real Estate Appraisers

Dear Ms. Davidson:

Thank you for the opportunity to comment on your Preliminary Audit findings concerning the Board of Certified Real Estate Appraisers.

Recommendation No. 1

The Board of Certified Real Estate Appraisers (BCREA) and the Department of Commerce, Community, and Economic Development (DCCED) should take timely corrective action in response to Appraisal Subcommittee (ASC) findings.

The department concurs with your recommendation. Although the authority to take appropriate action against a licensee resides with the board, the department concurs that it lacked in assertiveness to stay on top of the findings of the ASC; and to constantly remind the board of the need to take appropriate action. The department will discuss the ASC findings with the board and help to seek immediate resolution of the issues.

Recommendation No. 2

The division's professional licensing administrative officer should take steps to improve administrative support.

As we have stated on many occasions, we could not agree more. The division has undergone a number of changes in key management positions and is now optimistic about improvements being made to its internal cost-accounting system and documentation of procedures.

Unfortunately, the current incumbents are also faced with clean up of the accounting inaccuracies created by former employees in recent past years. We are confident that progress is being made to clean up the inaccuracies and to reestablish credibility of the division's cost-accounting system. Procedures for accounting for revenues and expenditures and preparation of financial reports did exist before it went awry. Correcting past errors has been a priority since current and future financial analysis is dependent on using correct data.

Recommendation No. 3

P.O. Box 110800, Juneau, Alaska 99811-0800
Telephone: (907) 465-2500 Fax: (907) 465-5442 Text Telephone: (907) 465-5437
Email: questions@commerce.state.ak.us Website: http://www.commerce.state.ak.us/



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Sean Parnell, Governor
Emil Notti, Commissioner

Office of the Commissioner

BCREA and staff within the Office of the Governor should work together to increase the pool of qualified applicants available for board appointments to ensure full representation.

The department agrees with the recommendation.

The department concurs with the extension of the BCREA to June 30, 2014. Thank you for the opportunity to comment on your recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Emil Notti".

Emil Notti
Commissioner

P.O. Box 110800, Juneau, Alaska 99811-0800
Telephone: (907) 465-2500 Fax: (907) 465-5442 Text Telephone: (907) 465-5437
Email: questions@commerce.state.ak.us Website: <http://www.commerce.state.ak.us/>

Alaska State Legislature House of Representatives

Interim

3340 Badger Road
North Pole, AK 99705
(907) 488.0847 - Phone
(907) 488.4271 - Fax
Rep.Tammie.Wilson@legis.state.ak.us



Session

State Capitol
Juneau, AK 99801
Phone - (907) 465.4797
Fax - (907) 465.3884
Toll Free - (800) 860-4797

Representative Tammie Wilson

Sponsor Statement House Bill 342

An Act extending the termination date of the Board of Certified Real Estate Appraisers; and providing for an effective date.

HB 342 extends the termination date of the Board of Certified Real Estate Appraisers (BCREA). Per AS 08.03.010(c)(20), the board will sunset on June 30, 2010. HB 342 extends this date by four years, to June 30, 2014.

The BCREA is comprised of a five member board to establish: (1) examination specifications for certification as a real estate appraiser; (2) rules of professional conduct to establish and maintain a high standard of integrity in the real estate appraisal profession; and (3) regulations necessary to carry out the purposes of the statutes.

The conclusion of the Legislative Audit is a recommendation to extend the BCREA's termination date by four years. (Report Digest #08-20064-10)

I would appreciate your support for this bill.

STATE CAPITOL
PO Box 110001
Juneau, Alaska 99811-0001
907-465-3500
fax: 907-465-3532



550 West 7th Avenue # 1700
Anchorage, Alaska 99501
907- 269-7450
fax 907- 269-7463
www.gov.alaska.gov
Governor@alaska.gov

Office of Governor Sean Parnell
STATE OF ALASKA

RECEIVED
DEC 30 2009
LEGISLATIVE AUDIT

December 30, 2009

Ms. Kristin Dolquist, CPA
Audit Manager
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Dear Ms. Dolquist,

This letter is in response to your October 30, 2009 "CONFIDENTIAL" preliminary audit report on the Board of Certified Real Estate Appraisers (BCREA).

The Office of the Governor concurs with recommendation number three which states, "BCREA and staff within the Office of the Governor should work together to increase the pool of qualified applicants available for board appointments to ensure full representation." A board functions most effectively with full representation. Currently, the board is operating with full membership, and we are currently recruiting applicants for consideration for terms beginning March 1, 2010. I am committed to assisting the Governor in making a timely appointment to allow the board to function productively.

If you need additional information, please contact me at 907-465-3934.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Hooley".

Jason Hooley
Director
Boards and Commissions

cc: Michael Nizich, Chief of Staff, Office of the Governor

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
legaudit@legis.state.ak.us

December 7, 2009

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Certified Real Estate Appraisers (BCREA) and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF CERTIFIED REAL ESTATE APPRAISERS

October 30, 2009

08-20064-10

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). If not extended by the legislature, BCREA is required to terminate on June 30, 2010. Under AS 08.03.020, the board will have a one-year period to administratively conclude its affairs.

In our opinion, BCREA should continue to regulate the appraiser profession. The board is serving the public interest by promoting the competence and integrity of those who provide services to the public as certified general and residential appraisers. We recommend BCREA's termination date be extended to June 30, 2014.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.



Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Board of Certified Real Estate Appraisers (BCREA) to determine if the termination date for the board should be extended. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report as part of the oversight process in determining if BCREA should be reestablished. Currently, AS 08.03.010(c)(20) specifies that BCREA will terminate on June 30, 2010. If legislature does not extend the termination date for the board, BCREA will have one year from that date to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report are:

1. To determine if the board's termination date should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of real estate appraisers.

The assessment of BCREA's operations and performance was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

The major areas of our review were board proceedings, licensing, complaint investigations, and duplication of efforts. During the course of our examination we reviewed and evaluated the following:

- Applicable statutes and regulations to identify board duties and responsibilities and board member composition and qualifications. We also identified additions, deletions and changes to BCREA statutes and regulations.
- Files and documentation related to individuals certified as appraisers, including those who have been issued a courtesy license to practice within Alaska, to ensure appraisers were certified in accordance with regulatory requirements. We also reviewed documentation to evaluate compliance with continuing education requirements.
- Board meeting minutes, budget documents, and annual reports related to or issued by BCREA to gain an understanding of board proceedings and activities.

- Public notice documentation to ascertain whether public notice for BCREA meetings and proposed regulation changes were published as required by statute.
- Complaints related to certified appraisers or appraiser applicants to gain an understanding of the nature of complaints and timeliness of the investigative process. Complaints filed with the following organizations were reviewed: the Department of Commerce, Community and Economic Development's Division of Corporations, Business and Professional Licensing; the Human Rights Commission; the Office of the Ombudsman; the Office of Victims' Rights; and the Federal Equal Employment Opportunity Commission.
- Correspondence with the Appraisal Subcommittee, a national organization that monitors the regulation and oversight of real estate appraisers, to better understand BCREA's compliance with federal law and to determine the current status of prior findings.
- Newspaper articles pertinent to the appraiser industry to understand industry challenges.

Additionally, we conducted interviews with staff within the Division of Corporations, Business and Professional Licensing; BCREA board members and Appraisal Subcommittee staff.

ORGANIZATION AND FUNCTION

Board of Certified Real Estate Appraisers (BCREA)

Alaska Statute 08.87.010 establishes BCREA as a five member board with four of the five members made up of the following: a certified general real estate appraiser, a certified residential real estate appraiser, a mortgage banking executive, and a person from the general public. The fifth board position is undesignated in statute and is commonly referred to as the "at large" position.

Alaska Statute 08.87.020 defines the board's authority, purpose, and scope of work. Under this statute BCREA establishes the following: (1) examination specifications for certification as a real estate appraiser; (2) rules of professional conduct to establish and maintain a high standard of integrity in the real estate appraisal profession; and (3) regulations necessary to carry out the purposes of the statutes.

BCREA certifies general real estate appraisers, residential real estate appraisers, and institutional appraisers.¹ The board also registers appraiser trainees and issues courtesy licenses to real estate appraisers who are certified or licensed in other states but are temporarily practicing in Alaska.

Qualifications for certification as a general and residential real estate appraiser include education related to real estate appraisal, experience in real property appraisal, and passing an examination endorsed by the board. The qualifications for receiving an institutional appraisal certificate

specify that the applicant be a full-time employee of a financial institution with offices in Alaska, and that the applicant meets education and testing requirements. The requirement to become a registered trainee includes 75 hours of instruction in courses related to real estate appraisal theory or practices from an organization approved by the board.

¹While BCREA has the authority to certify institutional appraisers, as of the date of this report, no individuals have applied for this certification.

BOARD OF CERTIFIED REAL ESTATE APPRAISERS

(As of June 30, 2009)

Steve MacSwain, General Real Estate Appraiser

— Chair

Gene Shaffer, Residential Real Estate Appraiser

— Vice Chair

William Larick, General Real Estate Appraiser

April Moore, Public Member

Richard Olmstead, Mortgage Banking Executive

Real estate appraisal certificates are renewed in the odd numbered fiscal years. In order to renew their certification, certified appraisers must complete a renewal application, provide evidence of continuing education, and remit a license fee. Individuals certified or licensed as appraisers in other jurisdictions can obtain a courtesy license to conduct appraisals in Alaska. Such licenses are issued for a single appraisal assignment, and individuals are limited to only one courtesy license every twelve months.

The Department of Commerce, Community and Economic Development (DCCED)

Alaska Statute 08.01.065 mandates that DCCED adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

DCCED's Division of Corporations, Business, and Professional Licensing provides administrative and investigative assistance to BCREA. This includes functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.087 empowers DCCED with the authority to act on its own initiative or in response to a complaint. The division may:

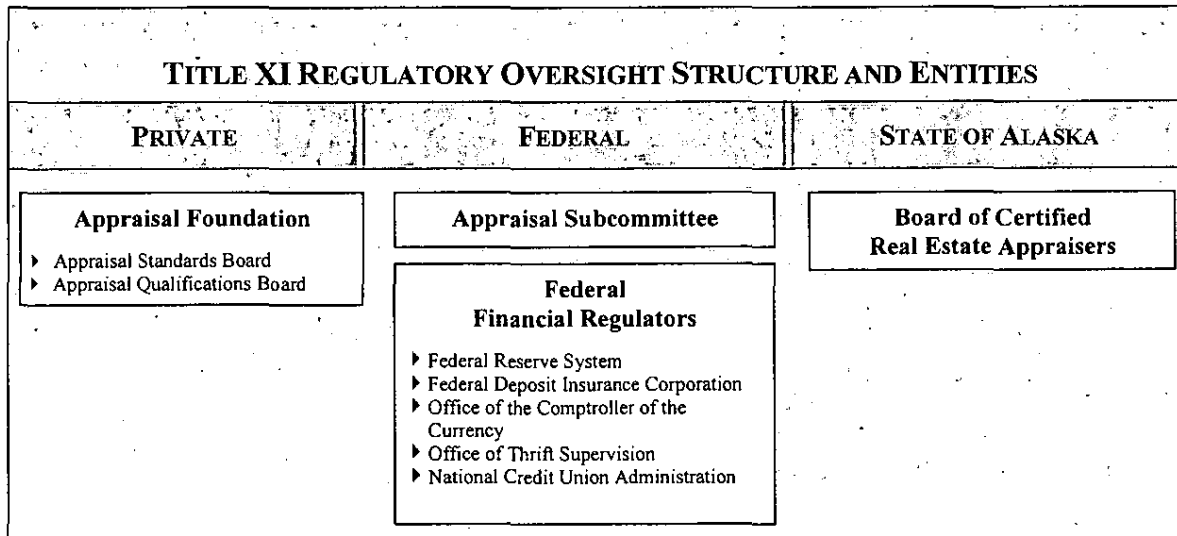
1. Conduct an investigation if it appears a person is engaged in, or is about to engage in, a prohibited professional practice.
2. Bring an action in superior court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

BACKGROUND INFORMATION

An appraisal is a decision-making tool used to facilitate a real estate transaction. The primary role of appraisals in the loan underwriting process is to provide evidence that the collateral value of the property is sufficient to avoid losses on loans if the borrower was unable to repay the loan. Consumers often mistakenly assume that appraisals are intended to validate the purchase price of the property in question. In a loan transaction, the lender rather than the borrower engages the appraiser. This process usually occurs after the borrower has agreed to purchase the property. The primary intent of federal statutory appraisal reforms was to protect the federal deposit insurance funds – and by extension, mortgage lenders – from avoidable losses.

In 1986, the House Committee on Government Operations issued a report concluding that faulty and fraudulent appraisals contributed significantly to the losses that the federal government incurred during the savings and loan “*crisis*.”² In response to the *crisis*, Congress passed the 1989 Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA). Congress set out provisions in Title XI of FIRREA that were intended to ensure federally related transactions had appraisals that were (1) performed by real estate appraisers who met minimum qualification criteria, and (2) conducted in compliance with uniform standards.³

Title XI established a complex oversight structure for real estate appraisals and appraisers. The oversight structure involves private, federal, and state entities (shown in the table below).



²*Impact of Appraisal Problems on Real Estate Lending, Mortgage Insurance, and Investment in the Secondary Market*, H.Rep. 99-891 at 4-6 (Sept. 25, 1986), House Committee on Government Operations, 99th Congress, 2nd session.

³U.S. Code 3331 - 3351, Title XI, Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

The Appraisal Foundation

The Appraisal Foundation, a nonprofit educational organization composed of groups from the real estate industry, provides the organizational framework for the Appraisal Standards Board (ASB) and the Appraiser Qualifications Board (AQB) to carry out their responsibilities related to Title XI. The Appraisal Foundation was founded in 1987 by eight leading professional appraisal organizations in the United States to foster professionalism in real estate appraising. ASB and AQB establish minimum standards for developing and reporting an appraisal and the minimum criteria for certifying appraisers in connection with federally related transactions.

ASB is responsible for setting appraisal standards and is composed of six appraisers who are appointed for three-year terms by the Appraisal Foundation's board of trustees. ASB's minimum standards for appraisals are contained in the Uniform Standards of Professional Appraisal Practice. Under Title XI, these minimum standards apply to all federally related transactions. The standards cover the steps appraisers must take in developing appraisals and information the appraisal report must contain.

AQB is composed of five appraisers who are appointed for three-year terms by the Appraisal Foundation's board of trustees and establishes the minimum education, experience, and examination requirements for state certified real estate. Additionally, AQB performs a number of ancillary duties related to real property and personal property appraiser qualifications. The AQB's criteria covers four categories of appraisers: certified general, certified residential, licensed, and trainee. Each appraiser category contains specific education, experience, examination, and continuing education requirements.

The Appraisal Subcommittee

The Appraisal Subcommittee (ASC) was established by U.S. law as the principal federal agency responsible for monitoring the activities of the real estate appraisal industry oversight structure. ASC is responsible for:

- Monitoring and reviewing the practices, procedures, activities, and organizational structure of the Appraisal Foundation – including making grants in amounts that it deems appropriate to the Appraisal Foundation to help defray costs associated with its Title XI activities;
- Monitoring the requirements established by the states, territories, and the District of Columbia as well as monitoring their appraiser regulatory agencies for the certification and licensing of appraisers;
- Monitoring the requirements established by the federal financial institution regulators regarding appraisal standards for federally related transactions and determinations of

which federally related transactions will require the services of state licensed or state certified appraisers;

- Maintaining a national registry of state licensed and state certified appraisers who may perform appraisals in connection with federally related transactions; and
- Transmitting an annual report to Congress regarding the activities of ASC during the preceding year.

ASC has six board members and nine staff members. The respective board members are composed of the head of the Department of Housing and Urban Development's Federal Housing Administration and the heads of the following five financial institution regulatory agencies:

1. Board of Governors of the Federal Reserve System;
2. Federal Deposit Insurance Corporation;
3. Office of the Comptroller of the Currency;
4. Office of Thrift Supervision; and
5. National Credit Union Administration.

State Oversight – the Board of Certified Real Estate Appraisers (BCREA)

Under Title XI, states may establish their own agencies to certify and license appraisers. In 1990, the Alaska State Legislature created BCREA in response to the 1989 FIRREA. Although BCREA is responsible for the certification of appraisers, ASC has a role in ensuring Alaska's qualifications satisfy Title XI objectives. Federal agencies and federal financial institutions may not accept appraisals from BCREA certified appraisers if the subcommittee issues a written finding that:

- BCREA has failed to recognize and enforce the standards, requirements, and procedures of Title XI;
- BCREA does not have enough authority to carry out its functions under Title XI; or
- BCREA does not make decisions on appraisal standards and qualifications or supervise appraiser practices in a method that carries out the purposes of Title XI.⁴

Additionally, BCREA is required to provide ASC with the names of those appraisers who become certified or licensed in accordance with Title XI.

⁴12 USC § 3347(a), (b) (2000).

REPORT CONCLUSIONS

The Board of Certified Real Estate Appraisers (BCREA) has been given the responsibility in AS 08.87.020 to:

(1) Establish the examination specifications for certification as a general real estate appraiser, as a residential real estate appraiser, and as an institution appraiser; (2) adopt rules of professional conduct to establish and maintain a high standard of integrity in the profession; and, (3) adopt regulations necessary to carry out the purpose of [the appraiser statutes]...

The use of state certified real estate appraisers will be a continuing requirement for Alaska's financial institutions to qualify for federal deposit insurance and to participate in selling mortgage loans to federal government-sponsored enterprises.⁵ Failure to maintain a real estate appraiser certification program that meets federal requirements could cause the financial institutions – and by extension, the citizens of the State – to lose the opportunity to participate in a number of federally sponsored real estate loan programs and lose the ability to obtain federal deposit insurance. In this context, we recommend that the legislature extend BCREA's termination date to June 30, 2014.

In accordance with AS 08.03.010(c)(20), BCREA is scheduled for termination on June 30, 2010. If no action is taken by the legislature, the board will have one year in which to administratively conclude its affairs. We recommend the board's termination date be extended for four years, to June 30, 2014. The recommended termination date is half of the eight-year maximum allowed in statute to recognize that the Department of Commerce, Community, and Economic Development (DCCED) and the board failed to address findings issued by the Appraisal Subcommittee⁶ (ASC). Except for this deficiency, the board is operating effectively and should continue to regulate the appraiser profession.

The ASC review of BCREA and DCCED concluded that improvements were needed.

In August 2007, BCREA was the subject of an ASC review. ASC identified two concerns that needed to be addressed in order to come into substantial compliance with Title XI of the 1989 Financial Institutions Reform, Recovery, and Enforcement Act. DCCED and BCREA have satisfactorily addressed the concerns except for the following:

⁵Government-sponsored enterprises include such entities as the Federal Home Loan Mortgage Corporation (generally referred to as "Freddie Mac") and the Federal National Mortgage Association (generally referred to as "Fannie Mae").

⁶ASC was established by U.S. law as the principal federal agency responsible for monitoring the activities of the other components of the real estate appraisal industry oversight structure including state appraiser certifying/licensing boards.

DCCED and the board failed to ensure that applicants for appraiser credentials met Appraiser Qualifications Board's⁷ (AQB) experience and education criteria. Specifically, DCCED and BCREA

1. Failed to ensure that two of 42 certified applicants met AQB's minimum time period requirements during which experience must be earned.
2. Failed to ensure that one of 42 applicants for certification met AQB's minimum experience hour requirements.

This deficiency is discussed in Recommendation No. 1.

⁷AQB establishes the minimum education, experience, and examination requirements for state certified real estate appraisers

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board of Certified Real Estate Appraisers (BCREA) and the Department of Commerce, Community, and Economic Development (DCCED) should take timely corrective action in response to Appraisal Subcommittee (ASC) findings.

ASC conducted a monitoring inspection of Alaska's real estate appraiser regulatory program in 2007. As part of the assessment, ASC reviewed 42 applications for certification. Of the 42 applications reviewed, three certificates (seven percent) were issued to applicants that failed to meet Appraiser Qualifications Board's (AQB) experience or education criteria. The inspection cited an inadequate application review process as the reason for the deficiencies. ASC directed DCCED and the board to contact the improperly certified appraisers and request further documentation. If the appraisers continue to fail to meet requirements, DCCED and the board were directed to downgrade the certification credentials within 90 days. DCCED and BCREA must resolve the finding in order to come into compliance with the Title XI of the 1989 Financial Institutions Reform, Recovery, and Enforcement Act, as amended.

DCCED's Division of Corporations, Business and Professional Licensing sent out letters to the three applicants notifying them of the deficiency detected through the ASC review. The division requested each appraiser submit additional documentation showing the appraisers met certification requirements. Only one of the three appraisers responded. BCREA failed to downgrade certification credentials for the two appraisers still out of compliance. Until proper documentation is submitted, the two appraisers affected are not qualified to practice as certified appraisers in accordance with federal law.

As discussed under the Background Information section of this audit, ASC is the entity responsible for monitoring the State certification process for compliance with federal law. Federal agencies and federal financial institutions may not accept appraisals from BCREA certified appraisers if ASC finds that:

- BCREA has failed to recognize and enforce the standards, requirements, and procedures of Title XI;
- BCREA does not have enough authority to carry out its functions under Title XI;
or
- BCREA does not make decisions on appraisal standards and qualifications or supervise appraiser practices in a method that carries out the purposes of Title XI.

We recommend that the board and DCCED take timely corrective action in response to ASC findings – including the downgrade of certificates that do not meet AQB experience or education criteria.

Recommendation No. 2

The division's professional licensing administrative officer should take steps to improve administrative support.

Unqualified staff and a lack of documented procedures led to several deficiencies in division administrative support. Specifically:

- Seven of 11 BCREA meetings were not posted on the State's online public notice system. One meeting was not posted in either the online public notice system or the *Anchorage Daily News*.
- Support for the FY 05 and FY 06 fee analyses was not maintained.
- FY 06 and FY 07 annual reports contained errors in license statistics.
- Allocation rates for indirect costs were inaccurate for FY 05 through FY 08.
- Fines of \$3,000 in FY 03 and \$2,500 in FY 07 were inappropriately recorded as BCREA revenue.
- Indirect costs for the division were treated inconsistently between fiscal periods.

The division's professional licensing section is responsible for performing various administrative tasks to support board activities. Per AS 08.01.050, duties include collecting and recording fees; maintaining records and files; compiling and maintaining a current register of licensees; arranging for printing and advertising; and providing inspection, enforcement, and investigative services to occupational boards. The division is also responsible for annually reviewing fee levels of the occupational boards to determine whether the regulatory costs of an occupation are approximately equal to fee collections for that occupation. Alaska Statute 08.01.070 requires BCREA to submit an annual performance report to DCCED stating the board's accomplishments, activities, and needs. Professional licensing's policy is to produce a single annual report incorporating both board and division information requirements.

The deficiencies in administrative support were caused by a key administrative staff member that was unqualified and untrained for the position. This was further exacerbated by a lack of accounting and reporting procedures. Staff turnover caused the oversight in posting public notices.

Inadequate administrative support hampers BCREA's ability to fulfill its responsibilities and may provide policymakers with misleading information. Failure to publish notice of public meetings violates statute and may keep interested persons from providing valuable input into

the regulation process. We recommend professional licensing's administrative officer take steps to improve administrative support.

Recommendation No. 3

BCREA and staff within the Office of the Governor should work together to increase the pool of qualified applicants available for board appointments to ensure full representation.

In FY 05 and FY 06, the board position of mortgage banker was vacant for over nine months. In FY 08, the board position of residential appraiser was vacant for over seven months. Vacancies were due to a lack of applicants.

Alaska Statute 08.87.010 requires BCREA be composed of five members. Four of the five members must consist of the following: a certified general real estate appraiser; a certified residential real estate appraiser; an executive in a mortgage banking entity, and a member of the general public. BCREA cannot fully serve its purpose or the public interest with extended vacancies in board positions. Full representation provides balance and prevents undue bias toward the profession being regulated.

We recommend that BCREA and staff within the Office of the Governor work together to increase the number of qualified applicants available for appointments to the board to ensure full representation.

ANALYSIS OF PUBLIC NEED

The following analyses of board activities relate to the public need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive but to address those areas we were able to cover within the scope of our review.

Determine the extent to which the board, commission, or program has operated in the public interest.

As reflected in the Background Information section of this report, the impetus for establishing the Board of Certified Real Estate Appraisers (BCREA) was the federal law passed by Congress responding to the savings and loan crisis of the 1980s. Accordingly, most of the regulatory and statutory requirements that BCREA responds to is set by organizations and entities established by, or affiliated with, the federal government. As part of that federal oversight, the board's regulations and activities are periodically reviewed by the federal Appraisal Subcommittee (ASC).

ASC reported two findings in their 2007 review of BCREA's activities. To date, BCREA and the Department of Commerce, Community, and Economic Development (DCCED) have adequately addressed only one of the two findings (discussed in Recommendation No. 1). Except for this deficiency, the board adequately served the public by certifying applicants that comply with requirements; amending regulations to improve regulation of the profession; maintaining on its website a list of approved, denied, and expired initial certification courses; and enforcing certification statutes and regulations.

Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

The board's revenue is from certification, licensing, and renewal fees. Renewals are conducted on a biennial basis with fees due during odd-numbered fiscal years. This creates a two-year cycle in the board's revenues, with the board receiving most of its revenues during odd-numbered fiscal years. We reviewed the internal records of DCCED's Division of Corporations, Business and Professional Licensing and compiled a summary schedule of BCREA revenues and expenditures. We did not audit this information, but present the summary schedule on the following page for general information purposes.

Alaska Statute 08.01.065(c) requires "...that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation." As shown in the summary schedule, BCREA operated at a deficit in FY 06 due to the costs associated with two investigations and related legal proceedings. BCREA fees were increased in FY 07 from \$550 to \$1,050 to ensure revenues covered the cost of the investigations. This led to a

large surplus of \$85,500 at the end of FY 08. Fees were again dramatically reduced from \$1,050 to \$300 in FY 09 to reduce the surplus.

| State of Alaska Board of Certified Real Estate Appraisers Schedule of Revenues and Expenditures FY 03 - FY 09 (Unaudited) | | | | | | | |
|---|-----------|----------|-----------|------------|-----------|----------|----------|
| | FY 03 | FY 04 | FY 05 | FY 06 | FY 07 | FY 08 | FY 09 |
| Revenue | \$119,200 | \$40,400 | \$116,500 | \$24,100 | \$200,000 | \$98,300 | \$85,200 |
| Direct Expenses: | | | | | | | |
| Personal Services | 20,000 | 26,100 | 33,300 | 46,100 | 42,600 | 32,100 | 49,700 |
| Travel | 1,000 | 1,400 | 1,800 | 5,700 | 3,800 | 5,100 | 7,000 |
| Contractual | 7,100 | 5,300 | 25,600 | 70,700 | 12,100 | 71,500 | 29,600 |
| Supplies | 200 | 0 | 100 | 100 | 400 | 1,000 | 100 |
| Total Direct Expenses | 28,300 | 32,800 | 60,800 | 122,600 | 58,900 | 109,700 | 86,400 |
| Indirect Expenses | 8,600 | 10,500 | 10,300 | 7,200 | 15,000 | 13,900 | 15,700 |
| Total Expenses | 36,900 | 43,300 | 71,100 | 129,800 | 73,900 | 123,600 | 102,100 |
| Annual Surplus (Deficit) | 82,300 | (2,900) | 45,400 | (105,700) | 126,100 | (25,300) | (16,900) |
| Beginning Cumulative: | | | | | | | |
| Surplus (Deficit) | (34,400) | 47,900 | 45,000 | 90,400 | (15,300) | 110,800 | 85,500 |
| Ending Cumulative: | | | | | | | |
| Surplus (Deficit) | \$47,900 | \$45,000 | \$90,400 | (\$15,300) | \$110,800 | \$85,500 | \$68,600 |

Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The board continues to promote changes to statutes and regulations as deemed necessary to better regulate the profession. The most significant change during FY 03 through FY 09 was the amendment to 12 AAC 70.115 – Education Requirements for Real Estate Appraiser Certification. This amendment was promulgated by the Appraiser Qualifications Board (AQB). The effect of the change is to significantly raise the education requirements for certification beginning January 1, 2008.

Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

Board meeting dates, times and locations are required by statute to be posted on the State's online public notice system. The board also publishes meeting dates in the *Anchorage Daily News*. Public notice was not posted to the online notification system for seven of the 11 BCREA board meetings from FY 03 through FY 09 (discussed in Recommendation No. 2). Public participation was encouraged by the board and a public comment period was set aside in the agenda for every regular board meeting. During FY 04 through FY 09, interested persons offered comments at five board meetings.

Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

Notice of proposed regulation changes were posted on the State's online public notice system and in the *Anchorage Daily News*. Detailed instructions for submitting public comment were included in the posting. The board reviewed and considered public comment before adopting new regulations.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

During the period FY 04 through February of FY 09, the division's investigative unit investigated 22 complaints and 51 cases related to appraisers or appraiser applicants. Of the 22 complaints, nine were not in violation; five were resolved through the licensing application process; seven were re-opened as cases; and one complaint was incomplete.

Of the 51 cases opened, six remained open as of February FY 09. Of the closed cases, twenty-two resulted in licensing action, 13 resulted in no action, four were closed with an advisement letter, and the remaining six cases were closed for other reasons such as compliance or referral to another agency. In general, we found the complaints and cases were investigated appropriately and in a reasonable amount of time.

There were no BCREA complaints filed with the Office of Victim's Rights, Human Rights Commission or the State's Office of the Ombudsman.

Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.

From FY 03 through FY 09, the board approved and certified 195 new appraisers and issued 170 courtesy licenses. We found no instances where the board issued a certificate or license to an unqualified candidate, nor did we find an instance where a qualified candidate was denied certification or licensure. The 2007 ASC review found three instances where appraisers were certified but had not met AQB's experience and education criteria (discussed in Recommendation No. 1).

The table below summarizes the number of new certificates issued each year for the period FY 03 through FY 09.

| Types of Certificates | Newly Issued Certificates (Exclusive of Renewals) | | | | | | | Total Certificates as of June 30, 2009 |
|-----------------------|--|-------|-------|-------|-------|-------|-------|--|
| | FY 03 | FY 04 | FY 05 | FY 06 | FY 07 | FY 08 | FY 09 | |
| General | 5 | 7 | 7 | 11 | 11 | 13 | 5 | 97 |
| Residential | 4 | 10 | 8 | 10 | 15 | 26 | 4 | 117 |
| Trainee | 13 | 6 | 7 | 20 | 6 | 3 | 4 | 7 |
| Courtesy | 16 | 18 | 26 | 24 | 31 | 33 | 22 | 22 |

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

We found no evidence that the board did not comply with state personnel practices, including affirmative action.

Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Compliance with federal regulations is critical to the board's success in serving the public interest. ASC identified instances of noncompliance that have not been adequately addressed by division staff or BCREA (discussed in Recommendation No. 1).

As discussed in Recommendation No. 2, administrative support provided by the division's professional licensing section was not accurate, comprehensive or consistent. The administrative staff should provide the necessary and required information so that the board can perform its functions and serve the interest of the public effectively and efficiently.

As discussed in Recommendation No. 3, BCREA and staff within the Office of the Governor should work to increase the pool of qualified applicants available for board appointments to ensure full representation.

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

Except for deficiencies already discussed, BCREA successfully met its goals and objectives in an efficient manner.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

National appraiser organizations work in positive conjunction with the board. The most prominent organization is the Appraisal Institute (AI). AI awards appraisers with professional designations which require adherence to AI's code of ethics, continuing education, and work experience requirements. AI is also the main provider of education courses. We found AI enhances rather than duplicates BCREA efforts. We also found that BCREA's activities are not duplicated by another government agency or the private sector.