

Audit Highlights



Highlights of Legislative Auditor report on the Department of Business and Industry, Real Estate Division issued on November 5, 2009.
Report # LA10-07.

Background

The Real Estate Division's mission is to safeguard and promote public interest in real estate transactions by developing an informed public and a professional real estate industry. The Division carries out the statutory duties of administration and enforcement of laws and regulations governing real estate licensees, appraisers of real estate, timeshare agents and representatives, property managers, community association managers, and inspectors of structures. In addition, the Division regulates the subdivision of land, timeshare development and sales, campground sales, and common-interest community associations.

The Division works closely with three commissions: the Commission of Appraisers of Real Estate (Appraisal Commission), Real Estate Commission, and Commission for Common-Interest Communities and Condominium Hotels. These bodies conduct disciplinary hearings, adopt regulations, approve education courses, and advise the Division.

The Division has offices in Carson City and Las Vegas. For fiscal year 2009, the agency was authorized for 57 positions. The Division administers four budget accounts, funded primarily through fees and a general fund appropriation. The agency received approximately \$8.9 million in revenues during fiscal year 2009 and expenditures totaled about \$4.7 million.

Purpose of Audit

The purpose of this audit was to evaluate the Division's financial and administrative practices, including whether activities were carried out in accordance with applicable state laws, regulations, policies, and procedures. This audit focused on the Division's financial and administrative activities for calendar year 2008, and included activities through May 2009 for certain areas.

Audit Recommendations

This audit report contains 12 recommendations to improve the Division's fiscal and administrative practices. Seven recommendations address improving accounts receivable oversight and controls over payments received. We also made a recommendation to improve monitoring of complaint caseloads. Finally, we recommended the Division comply with state IT security requirements, maintain accurate property and equipment records, and ensure employees are evaluated as required by state law.

The Division accepted the 12 audit recommendations.

Status of Recommendations

The Division's 60-day plan for corrective action is due on February 5, 2010. In addition, the six-month report on the status of audit recommendations is due on August 5, 2010.

Real Estate Division

Department of Business and Industry

Results in Brief

The Real Estate Division continues to have difficulty controlling certain financial and administrative activities. Although policies and procedures were developed to address weaknesses reported in our prior audits, the Division has been unable to sustain the implementation of controls related to accounts receivable and revenues. Specifically, the Division did not actively pursue the collection of fines, accounts receivable records were not adequate, and receivables were not properly reported to the State Controller. In addition, the Division continues to have problems depositing payments timely and verifying payments were deposited. Also, investigations of appraiser and real estate complaints were not completed timely. Finally, better controls are needed to ensure information technology vulnerabilities are reduced, and certain administrative activities are performed when required.

Principal Findings

The collection of disciplinary fines was not actively pursued by the commissions and Division staff. Of 19 large fines totaling \$808,620, the Division collected only \$40,600 (5%) on 2 fines. The commissions gave violators long periods of time before their fines were due. In addition, Division staff did not send past due collection letters for more than 9 months, on average, after violators failed to pay. The total elapsed time from the commissions' hearing to the date collection letters were sent averaged more than 1.5 years for the fines we tested. Furthermore, staff did not submit delinquent fines to the State Controller for outside collections. Similar problems regarding collection activities were reported in our 2000 audit of the Division.

The Division did not maintain adequate accounts receivable information that meets requirements established by the State Controller. Although staff recorded fines receivable information in two separate databases, neither database could provide required information such as individual account balances, the age of accounts, or the total receivables due. Our prior 2000 audit report cited similar problems with incomplete and inaccurate accounts receivable information.

The Division did not properly report accounts receivable to the State Controller or consider delinquent accounts for bad debt write off. For example, the Division incorrectly included about \$2 million in its June 30, 2008, accounts receivable report. It also failed to notify the State Controller of about \$2.6 million in receivables for the quarter ended December 31, 2008. In addition, old accounts totaling over \$1.6 million were included in the Division's active accounts receivable listing. When receivables are not correctly reported and uncollectible accounts are not written off, accurate information is not available regarding debts owed to the State.

Adequate controls have not been established over payments received. Control weaknesses include not depositing payments timely, and not verifying payments were properly deposited. For instance, 124 of 306 (41%) payments tested were not deposited timely. This includes 23 payments held more than 30 days. NRS requires agencies deposit revenues by Thursday of each week for all money received during the previous week. Our prior 2000 audit noted similar problems with untimely deposits.

The Division did not investigate appraiser complaints timely. Of 24 appraiser complaints tested, 10 cases remained open an average of 552 days as of May 2009. In addition, the Division took an average of 580 days to resolve and close 14 cases. Some of the complaint cases involved serious allegations of inflated appraisals that overvalued residential properties. The likelihood of foreclosure increases when a home is overvalued and the house is worth less than the loan. Complaints were not resolved timely because the Division had difficulty managing available resources for appraiser complaint investigations. These resources include three staff and outside contractors who perform appraisal case review services.

Real estate complaints were not always processed timely, especially when disciplinary action was required. Of 25 real estate complaints tested, 9 cases remained open, on average, for more than 1 year as of May 2009. Although staff completed most investigations timely, better monitoring is needed to identify cases that remain unresolved for excessive periods of time.

The Division collects and stores licensee social security numbers. According to management, the Division stores about 135,000 licensee social security numbers unencrypted in the database which is accessible to all employees. Collecting and storing unencrypted social security numbers increases the risk of identity theft. When agencies maintain this sensitive data, state IT security standards require they control access by the use of encryption software or other methods.