Audit Highlights

Highlights of performance audit report on the Real Estate Division issued on September 3, 2020.

Legislative Auditor report # LA20-17.

Background

The mission of the Real Estate Division (Division) is to protect the public and Nevada's real estate sectors by fairly and effectively regulating real estate professionals through licensure, registration, education, and enforcement. The Division shares authority with three Governor-appointed commissions. These commissions conduct disciplinary hearings, assess fines, adopt regulation changes, approve education courses, as well as hold other authorities to regulate the real estate marketplace.

The Division's main office is located in Las Vegas, with a secondary office located in Carson City. The Division administers five budget accounts, funded primarily through fees and a General Fund appropriation. In fiscal year 2019, the Division recorded over $14 million in revenues, and expenditures totaled over $7 million.

As of June 30, 2019, the Division had 51 filled positions.

Purpose of Audit

The purpose of this audit was to determine if controls over the collection of certain cash receipts and accounts receivable were adequate, and if the Division has adequate processes to ensure licensees comply with laws related to reporting requirements for broker trust accounts. This audit included a review of financial and administrative activities during fiscal year 2019, and accounts receivable information from prior years.

Audit Recommendations

This audit report contains six recommendations to improve oversight and controls over cash receipts, six recommendations to strengthen the Division's regulation of broker trust accounts, and two recommendations to improve collections of accounts receivable.

The Division accepted the 14 recommendations.

Recommendation Status

The Division's 60-day plan for corrective action is due on December 3, 2020. In addition, the 6-month report on the status of audit recommendations is due on June 3, 2021.

Real Estate Division

Department of Business and Industry

Summary

The Division's financial and administrative controls over revenues are inadequate. Specifically, there are limited system controls in the Division's database to prevent users from making changes to licensees' accounts to misappropriate cash, or to detect fraud once it has occurred. Furthermore, internal control procedures designed to compensate for the lack of system controls are not being adhered to by supervisors and staff. Additionally, the Division's procedures for processing refunds and reconciling revenues received and posted to real estate licensees' accounts and the state accounting system are inadequate. In fiscal year 2019, the Division collected over $8 million in licenses and fees, with 6% being cash collections. A lack of controls over revenues leaves the Division vulnerable to fraud and errors.

The Division has not provided effective oversight of broker trust fund accounts. Specifically, the Division only tracks submissions and assesses fines to a subset of the broker population, when all brokers are required to submit annual forms regarding their trust accounts or attest to the lack thereof. In addition, for the brokers who do submit trust account reconciliations, the Division's review of the documentation is inadequate and inconsistent. Inadequate records or failure to maintain control of trust funds can result in theft, commingling, or misuse of trust account funds.

The Division does not actively pursue collections of past due accounts and continues to have difficulty monitoring and submitting debt timely to the State Controller. Similar problems with collections were reported in our prior two audits in 2000 and 2009. Additionally, the Division's internal tracking spreadsheets are inaccurate, affecting collections on accounts and reporting of accounts receivable by the State Controller. In fiscal year 2019, the Division's three commissions levied nearly $3 million in fines, but only collected $130,000 of that amount (a 5% collection rate). If the Division does not actively pursue past due amounts early, the likelihood of collecting debt decreases with time.

Key Findings

Controls over voiding cash receipts and for making other adjustments to real estate licensees' accounts within the Division's database are inadequate. Specifically, there is no segregation of duties within the database; thereby, allowing employees to add or delete revenues from an account without any record of the edits to the account. In fiscal year 2019, 7% of all transactions processed in the Division's database were voided. (page 6)

The Division lacks controls to ensure refunds are posted timely to its database, and that only valid refunds are posted and issued. In fiscal year 2019, the average number of days between a refund check being issued from the state accounting system and the refund being entered into the Division's database was 140 days. The longest refund examined took 2,661 days to post in the Division's database, or nearly 7 years after the check was already issued. Without adequate controls over refunds, there is a higher risk of refunds being duplicated, or that credits in the system could be used to conceal theft. (page 9)

The Division's current practice only holds brokers that manage properties accountable for submitting trust account information annually. However, regulation requires all brokers to report trust account information, or attest that they do not manage trust accounts. Brokers that are property managers are less than half of the population within the State, but are the only ones held accountable for reporting by the Division. Brokers that are property managers and do not comply with reporting requirements may be fined thousands of dollars, while brokers that are not property managers are not fined nor requested to report. (page 11)

The Division's procedures for monitoring trust accounts are inadequate and ineffective. For 13 of 19 (68%) broker trust account reconciliations tested, we observed the information reported to the Division was incomplete or contained unallowed accounting entries. In addition, the Division does not have an effective process to track and verify all trust accounts are reported, and to help ensure brokers do not hide fraudulent activities. Without proper monitoring of trust accounts, individuals may be at risk from broker misconduct. (page 13)

Over the last 5 fiscal years (2015–2019), the Division submitted debt for collections with the State Controller, on average, 1.9 years after the debt became 60 days past due, with the longest in our testing taking 6.7 years. In addition, the Division has not maintained accurate accounts receivable information for reporting outstanding amounts to the State Controller. (page 18)