

ARKANSAS REAL ESTATE COMMISSION

Enabling Laws

Act 86 of 2016

A.C.A. §17-42-101 et seq.

A.C.A. §17-42-201 et seq.

A.C.A. §17-42-301 et seq.

A.C.A. §17-42-401 et seq.

A.C.A. §17-42-501 et seq.

A.C.A. §17-42-601 et seq.

A.C.A. §17-42-701 et seq.

A.C.A. §18-14-101 et seq.

A.C.A. §18-14-201 et seq.

A.C.A. §18-14-301 et seq.

A.C.A. §18-14-401 et seq.

A.C.A. §18-14-501 et seq.

A.C.A. §18-14-601 et seq.

A.C.A. §18-14-701 et seq.

History and Organization

Act 148 of 1929, as amended, created the Arkansas Real Estate Commission (AREC) for the purpose of regulating and licensing real estate brokers and salespersons in accordance with the real estate license law.

The mission of the Arkansas Real Estate Commission is to protect the public interest. That mission charges the Commission with the responsibility of administering the Real Estate License Law (A.C.A. §17-42-101 et seq.), the Real Estate Recovery Fund (A.C.A. §17-42-401 et seq.), the Real Estate Education Program (A.C.A. §17-42-501 et seq.), and the Time-Share Law (A.C.A. §18-14-101 et seq.).

The Real Estate Commission consists of five members appointed by the Governor for three year terms. Three of the commission members are real estate brokers or salespersons licensed by the commission. Of the two remaining commission members who may not be actively engaged or retired from the business of real estate, one serves as a consumer representative and one, who shall be sixty (60) years of age or older serves as an elderly representative. Responsibilities are discharged through a staff directed by an Executive Director who is employed by the Commission.

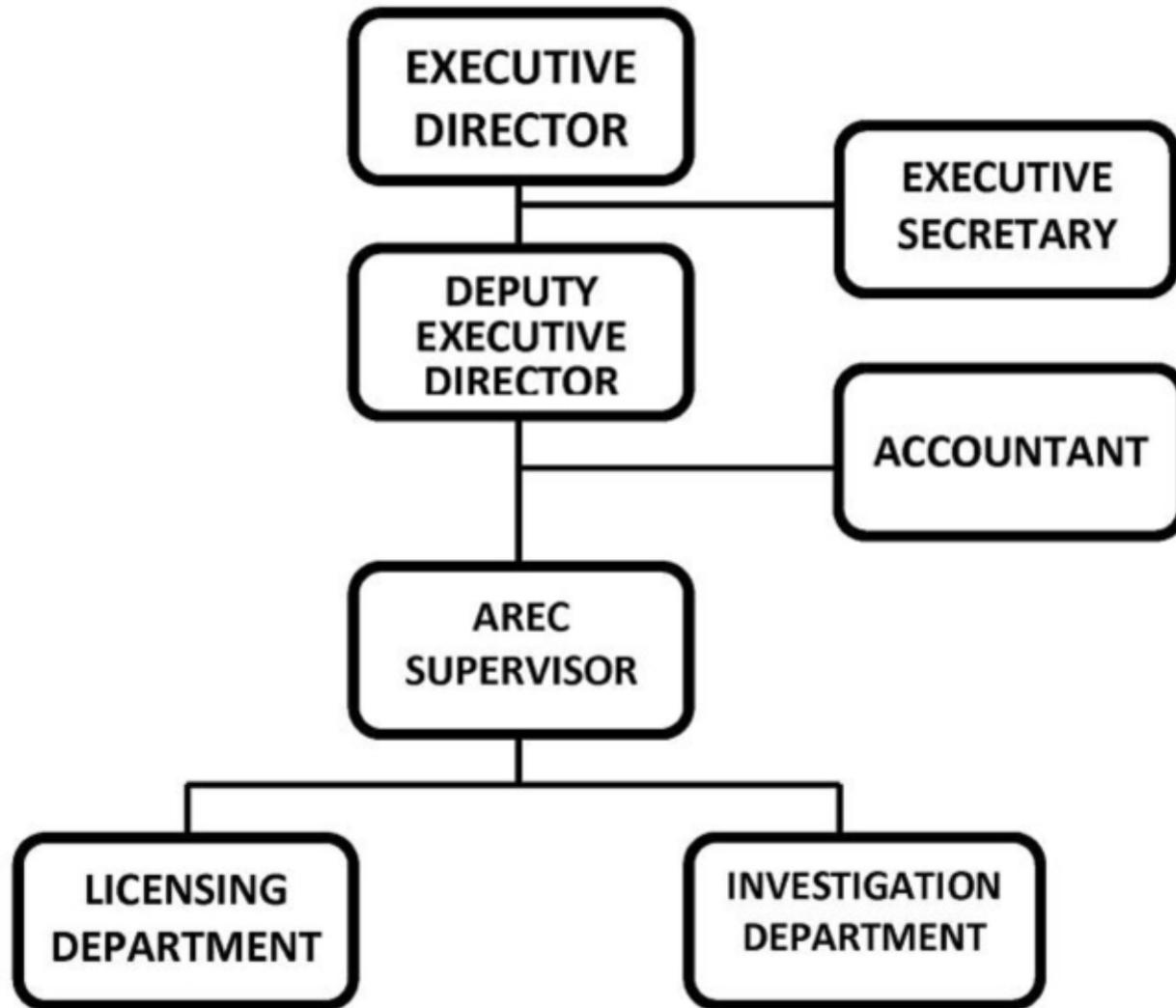
The Agency's primary activities include licensing real estate brokers, salespersons, and real estate educators; investigating complaints against persons or entities licensed by the commission and against unlicensed persons for conducting brokerage activities without proper licensure; conducting formal Disciplinary and Recovery Fund hearings; hearing appeals by applicants for licensure who have disqualifying background issues; and administering the registration of Time-Share plans.

The Licensing Section is responsible for reviewing applications of individuals who are applying to take the Arkansas real estate exam, issuing licenses to persons who enter the profession, monitoring educational compliance by real estate licensees and annually renewing licenses issued to real estate brokers and salespersons.

The Investigative Section is responsible for investigating complaints received from members of the public concerning alleged violations of the Real Estate License Law or Time-Share Law. Each complaint investigated is either dismissed, resolved by consent order or scheduled for a disciplinary hearing before the Commission.

The Education Section is responsible for reviewing applications of instructors and schools wishing to offer real estate education that fulfills the mandatory educational requirements for real estate licensees, issuing and renewing licenses, monitoring educational offerings and investigating complaints against instructors or schools licensed by the Commission.

The Commission is responsible for administering the Recovery Fund, which was established to pay damage claims to members of the public who have suffered monetary loss specifically attributable to real estate brokers and/or salespersons who have been found, in disciplinary actions before the Commission, to have violated the Real Estate License Law or Regulations. The Recovery Fund is also used for real estate educational purposes.



Agency Commentary

The mission of the Arkansas Real Estate Commission (AREC) is to protect the public interest, through the examination, licensing, and regulation of real estate brokers and salespersons, real estate educators and through administration of the Arkansas Time-Share Law. Funding for appropriation for the Arkansas Real Estate Commission is by cash funds generated through fees received from real estate licensees, real estate applicants for licensure, real estate educators and timeshare developers.

The budget requests contained herein affect (1) the Real Estate Operations appropriation which is supported by the commission's general cash fund deposited in the State Treasury, and (2) the Real Estate Recovery Fund appropriation which is funded by the commission's Recovery Fund cash fund deposited in the State Treasury. Funding for the biennial budget request will be provided from the two cash fund balances and fees to be collected during the biennium.

Base level is requested for the Real Estate Recovery Fund Program.

Requested changes in the General Cash Fund Program are as follows:

For the upcoming biennium and beyond, AREC is permanently forfeiting two of four "Extra Help" positions, thereby reducing the agency's annual appropriation by \$8,000 per year.

A reallocation request is made to transfer \$10,000 from Professional Fees (5060010) to Conference and Travel Expenses (5050009). In 2013, AREC added the licensing of real estate educators and schools without adding additional staff. For the AREC staff that assumed the duties associated with the real estate education licensing, opportunities to learn, train and gain experience from persons engaged in similar activities are held out-of-state. Much can be learned from their counterparts in other states who have long been involved in the real estate education. This reallocation request will allow AREC staff to attend functions where they can take advantage of these resources. The reason that the request is for the funds to be transferred from Professional Fees is partly due to savings realized by discontinuing to contract with an attorney to serve as our hearing officer.

Requested changes in the Capital Outlay include \$25,000 in each fiscal year for a new state vehicle in each year. AREC has two 2008 model vehicles that need to be replaced to ensure staff safety. AREC forfeited a third vehicle in FY2016 that we do not intend to replace. One area AREC cut back in as the housing sector declined was employee travel. Office visits by staff were reduced significantly. Consequently, for many years AREC has had less face to face contact with the real estate brokers and salespersons we license. As the housing sector begins to recover, AREC's increased revenue will enable staff to travel again to visit with our licensees, many times in a town hall format to discuss any concerns and difficulties they may be having.

2019). The first year would include costs associated with the design, development and implementation of software for a new licensing management system with improved functionality, process enhancement, data security and compliant backup capability. The second year cost would be to purchase permanent licenses for the anticipated number of concurrent users of the system. Once the implementation of the new licensing management system is complete, the current base level funding for IT support should be sufficient for the annual maintenance, support and hosting of the system including compliant back-up capability. AREC needs to upgrade its licensing management system to automate many processes that are currently done manually. Moving forward, all licensing functions from initial licensure to retiring a license should be automated and accomplished electronically through AREC's website. Brokers and Salespersons need to be able to monitor the status of their education, license status and annual renewal through their laptop computers, smart phones, iPads and other electronic devices that will inevitably become available. Consumers should also have better access to services offered by AREC as they engage in real estate transactions and utilize the services of those persons we license. AREC's addition of the licensing and regulation of real estate education in 2013 resulted in the need for a more complex licensing system. The current licensing management system does not have the capacity or sophistication to move AREC forward with these advancements.

As a cash fund agency, AREC is funded by the fees charged to persons licensed or registered with our agency. Consequently, declines in the economy, especially the housing sector, pose a significant impact to our revenue. The number of real estate licensees declined each year from 2009 to 2013. Because of these declines the agency experienced negative cash flows for fiscal years 2010 through 2013. For fiscal years 2014 and 2015 we experienced positive cash flows and project a positive cash flow for fiscal year 2016. This has resulted in an increase in the agency's cash fund balance that will enable us to feasibly pursue a new licensing management system that is sorely needed. This will enable AREC to significantly increase efficiency, quality and the number of automated functions and services available to consumers and real estate licensees.

Cutting expenses obviously became a priority while revenues declined. Even though it added pressure to existing staff, unfilled positions were left unfilled longer than usual to reduce payroll expenses. As employees retired or moved to other agencies, AREC took advantage of the opportunity to hire replacement staff at smaller salaries than their predecessors.

For FY2016, AREC discontinued contracting with an attorney to serve as the Hearing Officer at formal hearings before the commission. We have chosen instead to utilize persons from within state government for this service.

Information technology is not an area where agencies commonly consider cutting expenses. However, our current vendor of the AREC licensing management system was failing to meet our expectations. Consequently, we negotiated a less rigorous IT package that we felt the vendor could more likely perform. This reduced our IT expenses for our licensing management system almost in half. This is an area we hope to improve significantly in the upcoming biennium as we begin seeking a vendor that can more adequately meet the agency's information technology needs of the future.

We also reduced newsletter publications from quarterly to biannually. This, along with fewer mass mailings has enabled us to keep printing and postage expenses minimal. As part of a new licensing management system, AREC will move quickly toward e-communications with our licensees and hopefully eliminate most of our hardcopy mailings. We anticipate discontinuing paper licenses in favor of electronic licenses that will be accessible through the AREC website and on licensees' mobile devices. This will provide licensees an identification tool that will hopefully lead to greater safety for licensees and consumers.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS REAL ESTATE COMMISSION
FOR THE YEAR ENDED JUNE 30, 2015

| Findings | Recommendations |
|----------|-----------------|
| None | None |

State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2016

None

Employment Summary

| | Male | Female | Total | % |
|-------------------------|------|--------|-------|-------|
| White Employees | 2 | 9 | 11 | 73 % |
| Black Employees | 0 | 4 | 4 | 27 % |
| Other Racial Minorities | 0 | 0 | 0 | 0 % |
| Total Minorities | | | 4 | 27 % |
| Total Employees | | | 15 | 100 % |

Publications

A.C.A. 25-1-201 et seq.

| Name | Statutory Authorization | Required for | | # of Copies | Reason(s) for Continued Publication and Distribution | Unbound Black & White Copies Produced During the Last Two Years | Cost of Unbound Copies Produced During the Last Two Years |
|--------------------------------------|---------------------------|--------------|------------------|-------------|--|---|---|
| | | Governor | General Assembly | | | | |
| AR Real Estate Commission Newsletter | ACA 17-42-404 & 17-42-203 | N | N | 24,000 | Education & enforcement: Articles about real estate practice, law, regulations & hearings help licensees comply with AREC requirements, which protects the public. | 0 | 0.00 |

Department Appropriation Summary

Historical Data

Agency Request and Executive Recommendation

| Appropriation | 2015-2016 | | 2016-2017 | | 2016-2017 | | 2017-2018 | | | | | | 2018-2019 | | | | | |
|------------------------------|------------------|-----------|------------------|-----------|------------------|-----------|------------------|-----------|------------------|-----------|------------------|-----------|------------------|-----------|------------------|-----------|------------------|-----------|
| | Actual | Pos | Budget | Pos | Authorized | Pos | Base Level | Pos | Agency | Pos | Executive | Pos | Base Level | Pos | Agency | Pos | Executive | Pos |
| 853 Real Estate – Operations | 1,112,776 | 15 | 1,258,342 | 15 | 1,280,872 | 15 | 1,262,086 | 15 | 1,778,370 | 15 | 1,778,370 | 15 | 1,263,696 | 15 | 1,429,980 | 15 | 1,429,980 | 15 |
| 952 Real Estate Recovery | 74,872 | 0 | 352,500 | 0 | 352,500 | 0 | 352,500 | 0 | 352,500 | 0 | 352,500 | 0 | 352,500 | 0 | 352,500 | 0 | 352,500 | 0 |
| Total | 1,187,648 | 15 | 1,610,842 | 15 | 1,633,372 | 15 | 1,614,586 | 15 | 2,130,870 | 15 | 2,130,870 | 15 | 1,616,196 | 15 | 1,782,480 | 15 | 1,782,480 | 15 |

| Funding Sources | | % | | % | | % | | % | | % | | % | | % | | % | | % |
|--------------------------------|------------------|--------------|------------------|--------------|--|---|------------------|--------------|------------------|--------------|------------------|--------------|------------------|--------------|------------------|--------------|------------------|--------------|
| Fund Balance 4000005 | 1,889,953 | 59.9 | 1,969,507 | 59.4 | | | 1,702,665 | 55.9 | 1,702,665 | 55.9 | 1,702,665 | 55.9 | 1,432,079 | 51.6 | 915,795 | 40.5 | 915,795 | 40.5 |
| Cash Fund 4000045 | 1,267,202 | 40.1 | 1,344,000 | 40.6 | | | 1,344,000 | 44.1 | 1,344,000 | 44.1 | 1,344,000 | 44.1 | 1,344,000 | 48.4 | 1,344,000 | 59.5 | 1,344,000 | 59.5 |
| Total Funds | 3,157,155 | 100.0 | 3,313,507 | 100.0 | | | 3,046,665 | 100.0 | 3,046,665 | 100.0 | 3,046,665 | 100.0 | 2,776,079 | 100.0 | 2,259,795 | 100.0 | 2,259,795 | 100.0 |
| Excess Appropriation/(Funding) | (1,969,507) | | (1,702,665) | | | | (1,432,079) | | (915,795) | | (915,795) | | (1,159,883) | | (477,315) | | (477,315) | |
| Grand Total | 1,187,648 | | 1,610,842 | | | | 1,614,586 | | 2,130,870 | | 2,130,870 | | 1,616,196 | | 1,782,480 | | 1,782,480 | |

Agency Position Usage Report

| FY2014 - 2015 | | | | | | FY2015 - 2016 | | | | | | FY2016 - 2017 | | | | | |
|-------------------|----------|----------|-------|------------|------------------------|-------------------|----------|----------|-------|------------|------------------------|-------------------|----------|----------|-------|------------|------------------------|
| Authorized in Act | Budgeted | | | Unbudgeted | % of Authorized Unused | Authorized in Act | Budgeted | | | Unbudgeted | % of Authorized Unused | Authorized in Act | Budgeted | | | Unbudgeted | % of Authorized Unused |
| | Filled | Unfilled | Total | Total | | | Filled | Unfilled | Total | Total | | | Filled | Unfilled | Total | Total | |
| 15 | 13 | 2 | 15 | 0 | 13.33 % | 15 | 14 | 1 | 15 | 0 | 6.67 % | 15 | 14 | 1 | 15 | 0 | 6.67 % |

Analysis of Budget Request

Appropriation: 853 - Real Estate – Operations

Funding Sources: NRE - Real Estate - Cash in Treasury

The Arkansas Real Estate Commission (AREC) is funded from the receipt of fees it charges for originating and renewing the licenses of real estate brokers and salespersons.

Base Level Regular Salaries and Personal Services Matching include the continuation of the previously authorized 2017 Salaries and Career Service Payments for eligible employees. Personal Services Matching includes the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases. The Base Level request for Regular Salaries includes board member stipend payments. The Base Level salary of unclassified positions reflects the FY17 line item maximum plus the previously authorized 2016 1% Cost of Living Adjustment authorized by Act 1007 (3 (B)) of 2015.

The Base Level request is for appropriation of \$1,262,086 in FY18 and \$1,263,696 in FY19.

The Agency's Change Level request is for appropriation of \$516,284 in FY18 and \$166,284 in FY19, and includes the following:

- Extra Help and Personal Services Matching decrease of (\$8,716) each year for the forfeiture of two Extra Help positions.
- Conference and Travel Expenses increase of \$10,000 due to a reallocation from Professional Fees in order to allow staff to obtain information and train with counterparts from other states who have long been involved in real estate education.
- Professional Fees decrease of (\$10,000) to a reallocate to Conference and Travel Expenses due to the discontinuation of an attorney contract that served as the Agency's hearing officer.
- Capital Outlay of \$25,000 each year for the purchase of one new vehicle each fiscal year.
- Capital Outlay of \$500,000 in FY18 and \$150,000 in FY19 for the purchase of a new licensing management system in FY18 and its completion costs in FY19.

The Technology related requests are documented in the Agency's Information Technology (IT) Plan (pages 19-22).

The Executive Recommendation provides for the Agency Request, including Capital Outlay to replace aging, high mileage vehicles in accordance with A.C.A. §22-8-201 et seq., Automobile and Pickup Truck Acquisition Act, which establishes guidelines for automobile replacement. Expenditure of appropriation is contingent upon available funding.

Appropriation Summary

Appropriation: 853 - Real Estate – Operations

Funding Sources: NRE - Real Estate - Cash in Treasury

Historical Data

Agency Request and Executive Recommendation

| Commitment Item | Historical Data | | | 2017-2018 | | | 2018-2019 | | |
|--------------------------------------|---------------------|---------------------|-------------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| | 2015-2016 Actual | 2016-2017 Budget | 2016-2017 Authorized | Base Level | Agency | Executive | Base Level | Agency | Executive |
| Regular Salaries 5010000 | 532,337 | 574,833 | 597,819 | 575,433 | 575,433 | 575,433 | 576,733 | 576,733 | 576,733 |
| #Positions | 15 | 15 | 15 | 15 | 15 | 15 | 15 | 15 | 15 |
| Extra Help 5010001 | 3,568 | 16,000 | 16,000 | 16,000 | 8,000 | 8,000 | 16,000 | 8,000 | 8,000 |
| #Extra Help | 2 | 4 | 4 | 4 | 2 | 2 | 4 | 2 | 2 |
| Personal Services Matching 5010003 | 199,486 | 210,174 | 209,718 | 213,318 | 212,602 | 212,602 | 213,628 | 212,912 | 212,912 |
| Operating Expenses 5020002 | 350,755 | 397,744 | 397,744 | 397,744 | 397,744 | 397,744 | 397,744 | 397,744 | 397,744 |
| Conference & Travel Expenses 5050009 | 16,175 | 16,662 | 16,662 | 16,662 | 26,662 | 26,662 | 16,662 | 26,662 | 26,662 |
| Professional Fees 5060010 | 8,647 | 32,929 | 32,929 | 32,929 | 22,929 | 22,929 | 32,929 | 22,929 | 22,929 |
| Data Processing 5090012 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Refunds/Reimbursements 5110014 | 1,808 | 10,000 | 10,000 | 10,000 | 10,000 | 10,000 | 10,000 | 10,000 | 10,000 |
| Capital Outlay 5120011 | 0 | 0 | 0 | 0 | 525,000 | 525,000 | 0 | 175,000 | 175,000 |
| Total | 1,112,776 | 1,258,342 | 1,280,872 | 1,262,086 | 1,778,370 | 1,778,370 | 1,263,696 | 1,429,980 | 1,429,980 |

| Funding Sources | | | | | | | | | |
|--------------------------------|------------------|------------------|--|------------------|------------------|------------------|------------------|------------------|------------------|
| Fund Balance 4000005 | 1,185,436 | 1,300,433 | | 1,347,091 | 1,347,091 | 1,347,091 | 1,390,005 | 873,721 | 873,721 |
| Cash Fund 4000045 | 1,227,773 | 1,305,000 | | 1,305,000 | 1,305,000 | 1,305,000 | 1,305,000 | 1,305,000 | 1,305,000 |
| Total Funding | 2,413,209 | 2,605,433 | | 2,652,091 | 2,652,091 | 2,652,091 | 2,695,005 | 2,178,721 | 2,178,721 |
| Excess Appropriation/(Funding) | (1,300,433) | (1,347,091) | | (1,390,005) | (873,721) | (873,721) | (1,431,309) | (748,741) | (748,741) |
| Grand Total | 1,112,776 | 1,258,342 | | 1,262,086 | 1,778,370 | 1,778,370 | 1,263,696 | 1,429,980 | 1,429,980 |

FY17 Budget amount in Personal Services Matching exceeds the authorized amount due to matching rate adjustments during the 2015-2017 Biennium.

Expenditure of appropriation is contingent upon available funding.

Change Level by Appropriation

Appropriation: 853 - Real Estate – Operations
Funding Sources: NRE - Real Estate - Cash in Treasury

Agency Request

| Change Level | | 2017-2018 | Pos | Cumulative | % of BL | 2018-2019 | Pos | Cumulative | % of BL |
|--------------|---------------------|------------------|-----------|------------------|--------------|------------------|-----------|------------------|--------------|
| BL | Base Level | 1,262,086 | 15 | 1,262,086 | 100.0 | 1,263,696 | 15 | 1,263,696 | 100.0 |
| C02 | New Program | 25,000 | 0 | 1,287,086 | 102.0 | 25,000 | 0 | 1,288,696 | 102.0 |
| C03 | Discontinue Program | (8,716) | 0 | 1,278,370 | 101.3 | (8,716) | 0 | 1,279,980 | 101.3 |
| C04 | Reallocation | 0 | 0 | 1,278,370 | 101.3 | 0 | 0 | 1,279,980 | 101.3 |
| C08 | Technology | 500,000 | 0 | 1,778,370 | 140.9 | 150,000 | 0 | 1,429,980 | 113.2 |

Executive Recommendation

| Change Level | | 2017-2018 | Pos | Cumulative | % of BL | 2018-2019 | Pos | Cumulative | % of BL |
|--------------|---------------------|------------------|-----------|------------------|--------------|------------------|-----------|------------------|--------------|
| BL | Base Level | 1,262,086 | 15 | 1,262,086 | 100.0 | 1,263,696 | 15 | 1,263,696 | 100.0 |
| C02 | New Program | 25,000 | 0 | 1,287,086 | 102.0 | 25,000 | 0 | 1,288,696 | 102.0 |
| C03 | Discontinue Program | (8,716) | 0 | 1,278,370 | 101.3 | (8,716) | 0 | 1,279,980 | 101.3 |
| C04 | Reallocation | 0 | 0 | 1,278,370 | 101.3 | 0 | 0 | 1,279,980 | 101.3 |
| C08 | Technology | 500,000 | 0 | 1,778,370 | 140.9 | 150,000 | 0 | 1,429,980 | 113.2 |

Justification

| | |
|-----|--|
| C02 | Requested appropriation in Capital Outlay for the purchase of 1 new vehicle each fiscal year of the biennium. |
| C03 | Decrease in the Extra Help and Personal Services Matching appropriations in coordination with the forfeiture of 2 Extra Help positions. |
| C04 | Reallocation from Professional Fees to Conference and Travel Expenses to more accurately reflect expenditures. Savings in Professional Fees are due to discontinuation of contracting services with an attorney to serve as the Agency's hearing officer. The increase in Conference and Travel Expenses would allow staff to obtain information and train with counterparts from other states who have long been involved in real estate education. |
| C08 | Requested appropriation in Capital Outlay for the purchase of a new licensing management system. |

Analysis of Budget Request

Appropriation: 952 - Real Estate Recovery

Funding Sources: NRE - Real Estate - Cash in Treasury

The Arkansas Real Estate Commission's Recovery Fund cash appropriation is supported by a one-time fee of \$25 charged to each new license applicant and also includes interest earned from investing the Fund's balances. If damages are assessed against any licensee who is insolvent, the Commission covers the claim from fees collected in this fund. Earned interest is applied toward support of the Commission's educational efforts to keep its licensees and the general public informed of changes in regulations, market conditions, and illegal practices.

The Agency's Base Level and total request is for appropriation of \$352,500 each year of the 2017-2019 Biennium.

The Executive Recommendation provides for the Agency Request. Expenditure of appropriation is contingent upon available funding.

Appropriation Summary

Appropriation: 952 - Real Estate Recovery

Funding Sources: NRE - Real Estate - Cash in Treasury

Historical Data

Agency Request and Executive Recommendation

| Commitment Item | | Historical Data | | | Agency Request and Executive Recommendation | | | Agency Request and Executive Recommendation | | |
|--------------------------------|---------|---------------------|---------------------|-------------------------|---|----------------|----------------|---|----------------|----------------|
| | | 2015-2016 Actual | 2016-2017 Budget | 2016-2017 Authorized | 2017-2018 | | | 2018-2019 | | |
| | | | | | Base Level | Agency | Executive | Base Level | Agency | Executive |
| Damage Payment | 5900046 | 74,872 | 250,000 | 250,000 | 250,000 | 250,000 | 250,000 | 250,000 | 250,000 | 250,000 |
| Education | 5900047 | 0 | 102,500 | 102,500 | 102,500 | 102,500 | 102,500 | 102,500 | 102,500 | 102,500 |
| Total | | 74,872 | 352,500 | 352,500 | 352,500 | 352,500 | 352,500 | 352,500 | 352,500 | 352,500 |
| Funding Sources | | | | | | | | | | |
| Fund Balance | 4000005 | 704,517 | 669,074 | | 355,574 | 355,574 | 355,574 | 42,074 | 42,074 | 42,074 |
| Cash Fund | 4000045 | 39,429 | 39,000 | | 39,000 | 39,000 | 39,000 | 39,000 | 39,000 | 39,000 |
| Total Funding | | 743,946 | 708,074 | | 394,574 | 394,574 | 394,574 | 81,074 | 81,074 | 81,074 |
| Excess Appropriation/(Funding) | | (669,074) | (355,574) | | (42,074) | (42,074) | (42,074) | 271,426 | 271,426 | 271,426 |
| Grand Total | | 74,872 | 352,500 | | 352,500 | 352,500 | 352,500 | 352,500 | 352,500 | 352,500 |

Expenditure of appropriation is contingent upon available funding.