

P00C
Business Regulation
 Department of Labor, Licensing, and Regulation

Operating Budget Data

(\$ in Thousands)

	<u>FY 09</u> <u>Actual</u>	<u>FY 10</u> <u>Working</u>	<u>FY 11</u> <u>Allowance</u>	<u>FY 10-11</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$8,898	\$8,419	\$8,772	\$353	4.2%
Contingent & Back of Bill Reductions	0	0	-116	-116	
Adjusted General Fund	\$8,898	\$8,419	\$8,656	\$237	2.8%
Special Fund	24,131	25,282	25,616	333	1.3%
Contingent & Back of Bill Reductions	0	0	-500	-500	
Adjusted Special Fund	\$24,131	\$25,282	\$25,116	-\$166	-0.7%
Federal Fund	4,500	3,972	4,658	686	17.3%
Contingent & Back of Bill Reductions	0	0	-124	-124	
Adjusted Federal Fund	\$4,500	\$3,972	\$4,534	\$562	14.1%
Reimbursable Fund	1,305	1,509	1,475	-34	-2.3%
Contingent & Back of Bill Reductions	0	0	-22	-22	
Adjusted Reimbursable Fund	\$1,305	\$1,509	\$1,453	-\$56	-3.7%
Adjusted Grand Total	\$38,833	\$39,182	\$39,759	\$577	1.5%

Note: For purposes of illustration, the Department of Legislative Services has estimated the distribution of selected across-the-board reductions. The actual allocations are to be developed by the Administration.

- The fiscal 2011 budget includes a fiscal 2010 general fund deficiency of \$300,000 for the Division of Financial Regulation. The deficiency would provide funds for salaries and benefits for financial examiners in the Mortgage Originator Program. Special fund revenue under the program was lower than expected.
- The fiscal 2011 allowance grows by 1.5% over the fiscal 2010 working appropriation. The growth is primarily due to a small increase in federal funds under the Maryland Occupational Safety and Health Administration.

Note: Numbers may not sum to total due to rounding.

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- A decline in special funds in the fiscal 2011 allowance is offset by an increase in general funds due primarily to an expected decline in fees collected by the Division of Financial Regulation.

Personnel Data

	<u>FY 09 Actual</u>	<u>FY 10 Working</u>	<u>FY 11 Allowance</u>	<u>FY 10-11 Change</u>
Regular Positions	406.45	372.45	365.85	-6.60
Contractual FTEs	<u>25.55</u>	<u>28.72</u>	<u>37.62</u>	<u>8.90</u>
Total Personnel	432.00	401.17	403.47	2.30

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	16.17	4.42%
Positions and Percentage Vacant as of 12/31/09	49.25	13.22%

- The allowance reflects 6.6 fewer full-time positions primarily within the Division of Financial Regulation. One position is abolished from the Division of Racing. Vacancies are fairly high at 13.22%, well above the amount required to meet turnover.
- Contractual staff increases by 8.9 full-time equivalents within the Division of Financial Regulation and the newly created Workplace Fraud Unit.

Analysis in Brief

Major Trends

Mortgage Complaints Increase; Processing Efficiency Declines: The Division of Financial Regulation strives to reach timely resolutions to complaints against the financial services industry. As the mortgage crisis continues, complaints about the industry become more complicated. As such, the division has lost efficiency in its resolution process.

Small Gain in Efficiency in Division of Occupational and Professional Licensing: For the third year, the division has failed to meet the complaint resolution standards regarding professional licenses. However, a slight improvement toward its goal was evidenced in fiscal 2009.

Issues

Changes in Mortgage Industry Affect Funding for Regulation: The crisis in the mortgage industry has reversed the significant growth that was seen in the number of licensed mortgage brokers and originators. As licensees decline, special fund revenue for the Division of Financial Regulation also declines. However, the workload for the division has yet to decline. As such, general funds are provided in the fiscal 2011 allowance to supplant the loss of special funds. **The department should comment on its plans for continued use of general funds for mortgage related regulation; expectations for special fund revenues; and the possibility of lowering expenses and staff if the mortgage crisis abates.**

Boiler Inspection Backlog Cited as an Audit Issue Since 1977: In a March 2009 audit, the Office of Legislative Audits again found that the Division of Labor and Industry has a significant backlog of overdue inspections of boilers and pressure vessels. However, in fiscal 2009, the division made progress on reducing the backlog. Departmental legislation introduced in the 2010 legislative session aims to build upon that progress. **The department should discuss the progress made to reduce the backlog of boiler inspections and the extent to which the proposed legislation would further this reduction.**

Newly Created Workplace Fraud Unit: The intentional misclassification of employees as independent contractors creates a situation where taxes are underpaid and employees are not covered by workers' compensation or unemployment insurance. Chapter 188 of 2009 requires the Commissioner of Labor and Industry to investigate certain industries to determine compliance with employee classification requirements. **The department should brief the budget committees on the newly created Workplace Fraud Unit and the extent to which efforts will result in an increase in insured employees and an increase in State revenues.**

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Recommended Actions

	<u>Funds</u>	<u>Positions</u>
1. Delete 3 long-term vacant positions under the Division of Racing.	\$ 51,927	3.0
2. Reduce horse racing impact aid to the fiscal 2010 cost containment level.	602,800	
Total Reductions	\$ 654,727	3.0

P00C
Business Regulation
Department of Labor, Licensing, and Regulation

Operating Budget Analysis

Program Description

The Department of Labor, Licensing, and Regulation (DLLR) includes many of the State's agencies and boards responsible for licensing and regulating various businesses, professions, and trades. The department also administers a variety of federally funded employment service programs. This analysis focuses on the department's business regulation divisions.

- **The Division of Labor and Industry** is responsible for safety inspections of boilers, elevators, amusement rides, and railroads. It also enforces certain protective labor laws and administers the Maryland Occupational Safety and Health Act. Its mission is to protect the health, safety, and employment rights of Maryland citizens.
- **The Division of Occupational and Professional Licensing** licenses, regulates, and monitors 22 different professions and trades through boards and commissions. All but 7 boards are supported by the general fund. Its mission is to ensure that practitioners of occupations and professions regulated by the agency are qualified, competent, and compliant with State laws, regulations, and standards so that the provision of their commercial services is conducive to the health, safety, and welfare of Maryland consumers.
- **The Division of Racing** regulates thoroughbred and harness racing at tracks across the State. Responsibilities include assigning racing days, regulating wagering on races, collecting the wagering tax, licensing all racetrack employees, and operating a testing laboratory. The division also pays the salaries and stipends of all racetrack employees who are appointed by the State Racing Commission.
- **The Division of Financial Regulation** regulates commercial banks, trust companies, credit unions, mortgage lenders and originators, collection agencies, and consumer loan companies. Its mission is to protect financial services consumers, ensure appropriate licensing, and maintain safety and soundness in Maryland's financial services industry.

A separate analysis discusses the department's Division of Workforce Development and Adult Learning; Division of Unemployment Insurance; and administrative units.

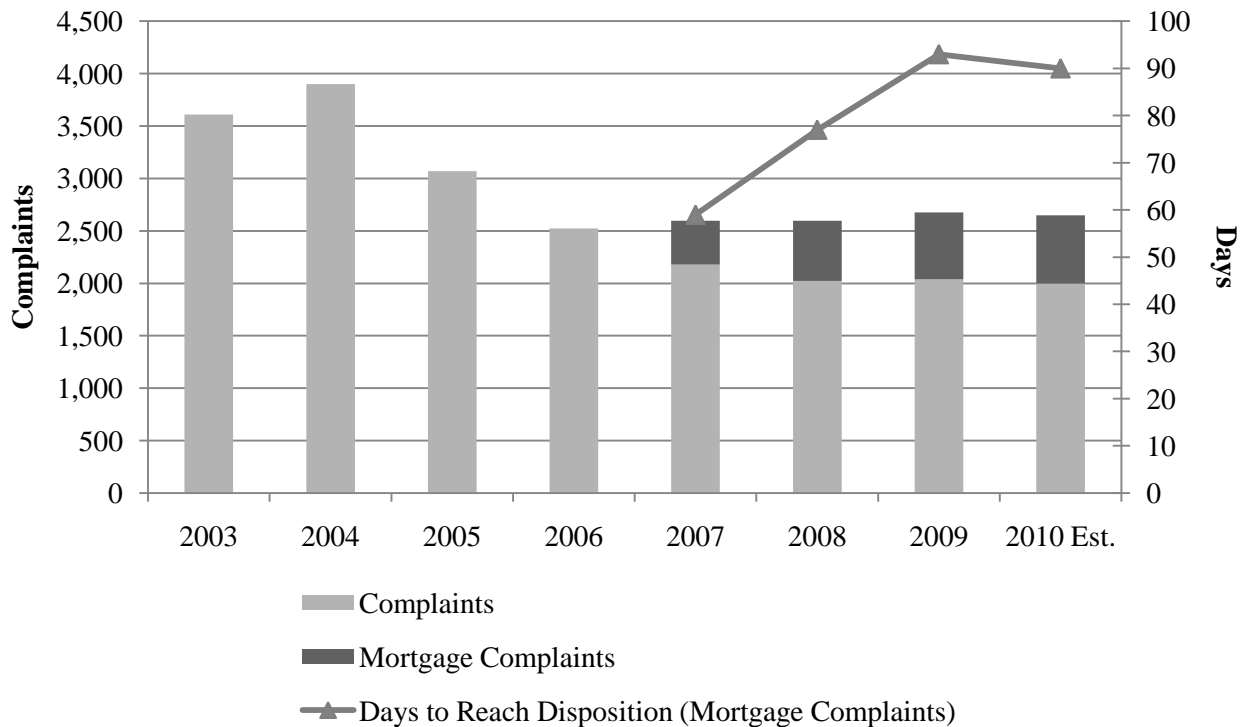
Performance Analysis: Managing for Results

Mortgage Complaints Increase; Processing Efficiency Declines

The Division of Financial Regulation strives to protect financial services customers, ensure appropriate licensing, and maintain soundness in the State’s financial services industry. The recent mortgage crisis has changed the banking regulatory landscape. As such, the division’s responsibilities have grown, necessitating increased performance monitoring. Beginning in fiscal 2007, the department began to distinguish between consumer complaints regarding mortgage and non-mortgage issues.

The division has a goal to reach disposition on 100% of mortgage complaints and inquiries within 90 days. As shown in **Exhibit 1**, the division failed to meet this goal in fiscal 2009. The average number of days to reach disposition increased from 77 days in fiscal 2008 to 93 days in fiscal 2009.

Exhibit 1
Financial Regulation
Complaint Resolution
Fiscal 2003-2010



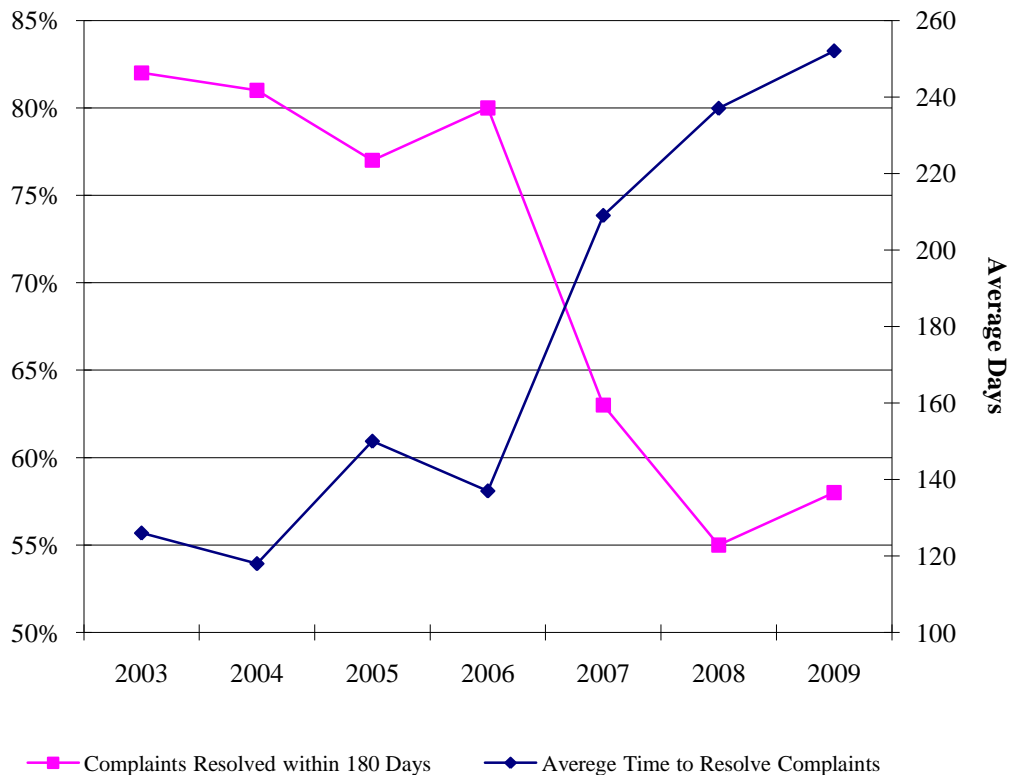
Note: Data for fiscal 2003-2006 includes both mortgage and non-mortgage complaints

Source: Department of Labor, Licensing, and Regulation

Small Gain in Efficiency in the Division of Occupational and Professional Licensing

Similar to the Division of Financial Regulation, the Division of Occupational and Professional Licensing handles calls and complaints from consumers against those licensed by the department or against those individuals or companies that should be licensed by the department. For the third year, the division failed to meet its goal of closing at least 70.0% of its complaints within 180 days of receipt. As shown in **Exhibit 2**, the division resolved only 54.8% of complaints within its desired time frame in fiscal 2008. Although the number of days to reach resolution continues to climb, a slight improvement was evidenced in fiscal 2009. The division was able to come to resolution on 58.0% of complaints within 180 days.

Exhibit 2
Occupational and Professional Licensing
Complaint Resolution
Fiscal 2003-2009



Source: Governor's Budget Books, Fiscal 2006-2010

The division's performance has been affected by the decline of investigative and administrative staff in recent years due to cost containment. However, the division is working on alternative methods to provide for more efficient and cost effective means of resolution. It is working with the Office of the Attorney General to make greater use of consent agreements and other settlement mechanisms. The Home Improvement Commission, which fields the greatest number of complaints, has implemented a pilot program in fiscal 2009 for referring certain complaints to formal mediation. Furthermore, all boards and commissions are compiling complaint data, allowing the division to track complaints and establish reliable benchmarks to evaluate complaint management. **The department should comment on plans to build upon the gains in efficiency.**

Fiscal 2010 Actions

Proposed Deficiency

The fiscal 2011 budget includes a fiscal 2010 general fund deficiency of \$300,000 for the Division of Financial Regulation. The deficiency would provide funds for salaries and benefits for financial examiners in the Mortgage Originator Program. The need for this deficiency is discussed in further detail under Issue 1 of this analysis.

Impact of Cost Containment

The fiscal 2010 cost containment initiative reduced the department's business regulation original appropriation by over \$1.9 million. The majority of the reduction is due to savings related to position reductions and to the employee furlough. Most of the position and salary reductions occurred within the Financial Regulation and Occupational and Professional Licensing Divisions. General fund savings were also realized as the department transferred several general funded positions to the newly created Workplace Fraud Unit and other special funded programs. Also, the department relinquished over \$84,000 in general funds due to fewer than expected racing days and over \$61,000 in general funds to eliminate routine inspections under the boards of barbers and cosmetologists. Finally, horse racing impact aid was halved for fiscal 2010. The Budget and Reconciliation and Financing Act (BRFA) of 2010 includes a provision to transfer these special funds to the general fund.

Proposed Budget

After across-the-board reductions, the fiscal 2011 allowance grows by approximately \$577,000, or 1.5%, from the fiscal 2010 working allowance. Many programs are flat funded, although the Maryland Occupational Safety and Health Administration and Safety Inspection experience small increases in funds. **Exhibit 3** shows the specific changes in the allowance.

**Exhibit 3
Proposed Budget
DLLR – Business Regulation
(\$ in Thousands)**

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
2010 Working Appropriation	\$8,419	\$25,282	\$3,972	\$1,509	\$39,182
2011 Allowance	<u>8,772</u>	<u>25,616</u>	<u>4,658</u>	<u>1,475</u>	<u>40,521</u>
Amount Change	\$353	\$333	\$686	-\$34	\$1,339
Percent Change	4.2%	1.3%	17.3%	-2.3%	3.4%
 Contingent Reduction	 -\$116	 -\$500	 -\$124	 -\$22	 -\$762
Adjusted Change	\$237	-\$166	\$562	-\$56	\$577
Adjusted Percent Change	2.8%	-0.7%	14.1%	-3.7%	1.5%

Where It Goes:

Personnel Expenses

Abolished positions	-\$392
Salary adjustment largely due to 2010 furlough and safety inspector salary increase	1,400
Employee and retiree health insurance (net of Section 19).....	84
Workers' compensation premium assessment (net of Sections 21 and 23)	-78
Turnover adjustments	-116
Fiscal 2011 furlough.....	-645
Other fringe benefit adjustments	90

Other Changes

Fiscal 2010 cost containment adjustment.....	327
Increase in horse racing impact aid from fiscal 2010 cost containment level	603
Increase in contractual staff primarily for Workplace Fraud Unit and Financial Regulation	633
Increase in MOSH enforcement efforts based on increase in federal funds.....	333
Increase in funds to promote apprenticeship programs	141
Decline in travel, communication, equipment departmentwide	-263
Administrative hearings' costs decline.....	-1,417
Overhead costs for professional boards and commissions	-171
Other.....	48

Total **\$577**

MOSH: Maryland Occupational Safety and Health

Note: Numbers may not sum to total due to rounding.

Impact of Cost Containment

The fiscal 2011 budget reflects several across-the-board actions to be allocated by the Administration. This includes a combination of employee furloughs and government shut-down days similar to the plan adopted in fiscal 2010; a reduction in overtime based on accident leave management; streamlining of State operations; hiring freeze and attrition savings; a change in the injured workers' settlement policy and administrative costs; and a savings in health insurance to reflect a balance in that account. For purposes of illustration, the Department of Legislative Services has estimated the distribution of selected actions relating to employee furloughs, health insurance, and Injured Workers' Insurance Fund.

Personnel

The fiscal 2011 allowance reflects the elimination of 6.6 full-time positions. The Division of Financial Regulation relinquished 5.6 positions – 1.0 financial examiner and 4.6 administrators. Special fund revenues are declining for this division; as such, revenues can no longer support previous staffing levels. The Division of Racing relinquished 1.0 assistant chemist position as a cost containment measure. Savings attributable to the abolished positions total \$392,000 in general and special funds.

Maryland Occupational Safety and Health Administration

The Maryland Occupational Safety and Health Administration (MOSH) seeks to ensure safety for Maryland employees at their places of work. The U.S. Department of Labor, through its Occupational Safety and Health Administration, has announced a new focus on enforcement efforts. Federal funds comprise approximately half of the MOSH fiscal 2011 allowance, an increase from fiscal 2010. Following the federal agency's lead, MOSH will use the additional federal funding for increased enforcement efforts by increasing workplace inspections. The unit will also use the funds to respond to workplace accidents and complaints and issue fines for violations of occupational standards.

Division of Occupational and Professional Licensing

The Division of Occupational and Professional Licensing regulates the practice of 22 occupations and professions in the State. The division strives to allocate costs appropriately across the specially funded and generally funded boards and commissions. To that end, each board reimburses the division for overhead costs. As a result of several rounds of costs containment, these costs are declining by approximately \$171,000.

The costs for administrative hearings are declining departmentwide, but the bulk of the costs are within the Division of Occupational and Professional Licensing. Costs are declining, in part, because complaint activity has declined within the Home Improvement Commission. This commission typically demands most of the administrative hearing time. Additionally, the Office of Administrative Hearings (OAH) conducted a review of the amount of time certain cases were taking

to administer. Accordingly adjustments to hearing expenses have been made in each agency depending on historical uses of OAH time.

Division of Racing

During the fiscal 2010 cost containment effort, the racing impact aid for local jurisdictions was reduced 50%, or \$602,800. The BRFA of 2010 has a provision to transfer these special funds to the general fund. Without this provision, funds would stay in the special racing revenues fund and if not distributed as impact aid, would instead, by statute, be distributed to other uses including the Maryland Bred and Standard Bred race funds.

The fiscal 2011 allowance restores the full funding for impact aid. **Exhibit 4** shows the level of funding at the cost containment level in fiscal 2010 and the allowance level for fiscal 2011 for each jurisdiction that receives horse racing impact aid.

Exhibit 4
Division of Racing
Horse Racing Impact Aid
Fiscal 2010 and 2011

<u>Jurisdiction</u>	<u>Fiscal 2010 Cost Containment Level</u>	<u>Fiscal 2011 Allowance</u>
Anne Arundel	\$172,500	\$345,000
Baltimore County	\$25,000	\$50,000
Howard	\$43,125	\$86,250
Prince George's	\$50,000	\$100,000
Baltimore City	\$277,200	\$554,400
Bowie	\$9,100	\$18,200
Laurel	\$25,875	\$51,750
Total	\$602,800	\$1,205,600

Source: Governor's Budget Book, Fiscal 2011

The Department of Legislative Services (DLS) recommends level funding impact aid for local jurisdictions in fiscal 2011 and recommends a companion action in the BRFA of 2010 to transfer \$602,800 in special funds to the general fund in fiscal 2011.

Issues

1. Changes in Mortgage Industry Affect Funding for Regulation

The Division of Financial Regulation strives to encourage and preserve homeownership through its role as the State regulatory agency of the mortgage industry. It licenses and regulates mortgage brokers, lenders, and originators; and it investigates and pursues instances of mortgage fraud.

Expanded Responsibilities

In response to the recent mortgage crisis, the division has increased efforts in regulating the mortgage industry. The division reclassified many positions and increased salaries in an effort to compete with the private sector and to retain more qualified examiners. Legislation has strengthened the division's capabilities with respect to investigating instances of fraud. Additionally, the division has increased its work with consumer protection. For example, the division is proactively investigating credit repair companies. Some disreputable businesses within that industry have been targeting consumers with troubled credit with false claims of vanquishing their bad debt, bankruptcies, or bad credit.

As discussed earlier in this analysis, mortgage complaint volume continues to increase. Further, the department advises that complaints are becoming increasingly complex as the problems of fraud and foreclosures persist. The division also advises that it will address all consumer concerns regarding the mortgage industry – even those complaints regarding activities or entities that are not licensed or regulated by the division.

Federal Regulations

The Division of Financial Regulation has joined the Nationwide Mortgage Licensing System (NMLS) and Registry in 2009. The system was established by the federal Safe Act which was designed to enhance consumer protection and reduce fraud by encouraging states to establish minimum standards for the licensing and registration of state-licensed mortgage loan originators. The nationwide mortgage licensing system and registry for the residential mortgage industry was established for the purpose of:

- providing uniform license applications and reporting requirements for state-licensed loan originators;
- providing a comprehensive licensing and supervisory database;
- aggregating and improving the flow of information to and between regulators;
- providing increased accountability and tracking of loan originators;

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- streamlining the licensing process and reducing regulatory burden;
- enhancing consumer protections and supporting anti-fraud measures; and
- facilitating the collection and disbursement of consumer complaints on behalf of state mortgage regulators.

This nationally mandated system provides one common, unique identifying license number and record for each mortgage originator and lender. The federal government is also mandating stricter licensing standards and examinations and is establishing a one-year licensure period. Previously, Maryland had a two-year license period for originators and lenders. In the long run, this system may prove cost efficient for the department; however, in the short term, costs are increasing for technological upgrades and related expenses.

Impact on Funding

Over the past few years, in connection with the increase of the mortgage industry and subsequent crisis, the budget for the Division of Financial Regulation has increased significantly. From fiscal 2007 to the fiscal 2010 working appropriation, the budget has grown from \$4.4 million to \$8.8 million.

The division has built its funding structure largely on special funds generated by fees paid by licensees. In fiscal 2010, 93.5% of the division's working appropriation is special funds, generated primarily from mortgage originator and lender licensing fees. Fees from banking institutions, credit unions, debt management companies, and money transmission companies also generate special funds for the division, albeit to a lesser degree. The regulation of some smaller businesses, such as check cashers and collection agents, are still funded by general funds.

As regulatory needs are expanding, the industry that supports the funding for that regulation is contracting. The number of licensed mortgage originators and lenders is falling significantly in response to the downturn in the market. In fiscal 2008, there were approximately 11,000 licensed originators and 3,700 lenders. In fiscal 2010, the licensees decline to about 5,900 and 2,000, respectively. As such, special funds for fiscal 2011 are declining commensurately. Special funds comprise 77% of the division's fiscal 2011 allowance. General funds increase by close to 250%.

Complicating the special funds decline is the switch to a one-year license from a two-year license. Although the department increased license fees in 2009, the switch to the one-year license created a first year cash flow shortage that impacted the special fund balance.

The division has made some attempt to lower costs in light of reduced special fund revenues. From fiscal 2009 to the fiscal 2011 allowance, nine positions have been eliminated and travel and equipment purchases have been curtailed. However, due to the current nature of the regulatory environment of the mortgage industry, the division's responsibilities have not declined.

DLS recommends that the department comment on plans for the continued use of general funds for mortgage related regulation; expectations for special fund revenues; and the possibility of lowering expenses and staff if the mortgage crisis abates.

2. Boiler Inspection Backlog Cited as an Audit Issue Since 1977

In March 2009, the Office of Legislative Audits released its audit of the Division of Labor and Industry for the period of November 2005 to October 2008. The audit disclosed that the division continues to have a significant backlog of overdue inspections of boilers and pressure vessels. The audit notes that the office has reported this condition in each of the division's audits since 1977. Full audit findings can be found in Appendix 2 of this analysis.

The Division of Labor and Industry's Boiler and Pressure Vessel Safety Inspection Unit has statutory responsibility for inspecting uninsured boilers and pressure vessels, as well as boilers that are overdue for inspection by the insurance industry. The unit also investigates any boiler and pressure vessel accidents. The inspections further the division's goal to limit serious injuries from boiler and pressure vessels to no more than four in any given year. While this goal has consistently been met, the unit has struggled to keep up with the required inspections each year.

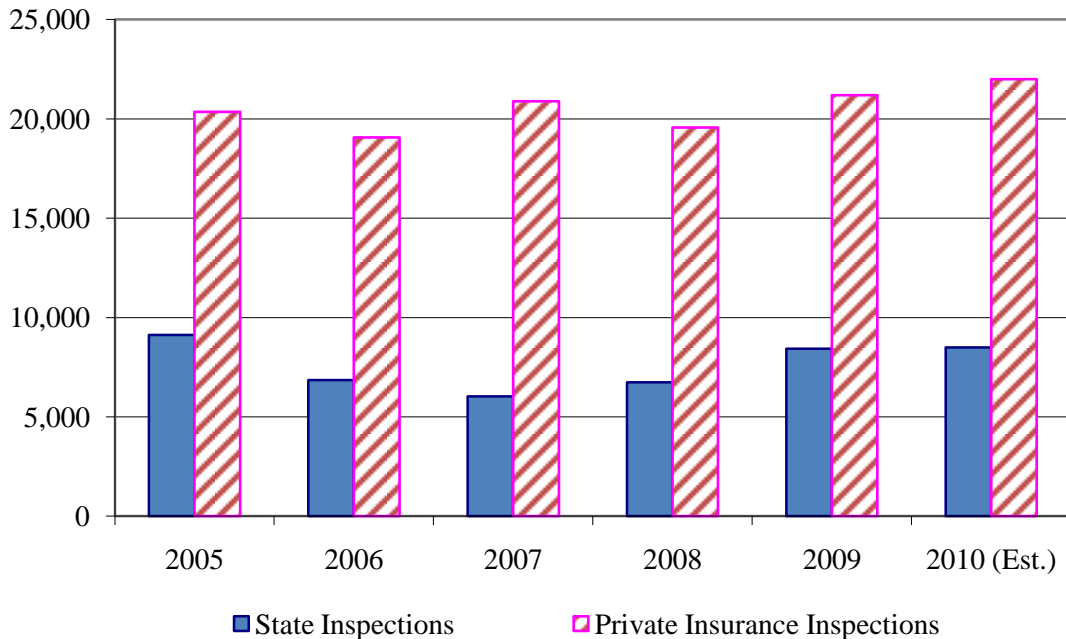
There are an estimated 54,200 boilers in the State and each year about 1,500 new boilers are installed. The unit is able to inspect about 6,500 boilers each year, although this total increased in fiscal 2009. There is a current backlog of about 5,100 inspections. The department advised that over the past year, it reduced the inspection backlog by about 5,000, as shown in **Exhibit 5**. This reduction occurred largely because the division, through improvements in available data, was able to determine that many boilers included in the backlog were no longer operational. Additionally, the division initiated a campaign to encourage (by threatening with fines) insurance companies to bring the units for which they are responsible into compliance. The department advises that the reduction trend is unlikely to continue because the majority of the boilers remaining in the backlog are uninsured boilers that must be inspected by the division.

Addressing the Backlog

Historically, there has been a concern about whether the unit has enough staff to complete all scheduled inspections as well as eliminate a past-due backlog. The inspector turnover rate has contributed to the problem. The unit inspectors are regularly recruited by insurance firms for higher salaries. At the urging of the legislature, the division has reviewed the salary structure for inspectors and has made some upwards adjustments as evidenced in the budget.

Additionally, to further address the backlog, the department has submitted departmental legislation (House Bill 85 of 2010) to require owners of uninsured boilers and pressure vessels to have them inspected by authorized third-party inspectors instead of by a State inspector. The bill would limit the State inspectors to initial boiler inspections for new boilers, repair inspections, investigating accidents, and monitoring the work of third-party inspectors.

**Exhibit 5
Boiler Inspections
Fiscal 2005-2010**



Source: Governor's Budget Books, Fiscal 2006-2011

The department should discuss the progress made to reduce the backlog of boiler inspections and the extent to which the proposed legislation would further this reduction.

3. Newly Created Workplace Fraud Unit

Chapter 188 of 2009 established a presumption that work performed by an individual paid by an employer creates an employer-employee relationship. The legislation prohibits construction companies and landscaping companies from failing to properly classify an individual as an employee. By misclassifying employees as independent contractors, employers avoid paying Social Security and Medicare taxes. Further, independent contractors are not covered by workers' compensation or unemployment insurance nor are income taxes withheld. In a recent national study, the U.S. Department of Labor found that construction companies misclassify between 15% and 20% of their employees.

The legislation also requires the Commissioner of Labor and Industry to investigate the construction and landscape industries to determine compliance with employee classification

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requirements. Investigation of a misclassification complaint may be on the commissioner's own initiative, on receipt of a written complaint, or on referral from another unit of State government. The commissioner may enter a place of business or work site to observe work being performed, interview employees and contractors, and review records as part of investigations. Further, the commissioner may issue a subpoena for testimony and production of records.

In fiscal 2010, the department created the Workplace Fraud Unit, housed within the Employment Standards program. Over the course of the year, the department reassigned five vacant general fund positions to the new unit to be funded with special funds from the Workers' Compensation Commission. The department is in the process of filling those positions to begin misclassification enforcement efforts.

The department should brief the budget committees on the newly created Workplace Fraud Unit and the extent to which its efforts will result in an increase in insured employees and an increase in State revenues through fines and income tax withholding.

Recommended Actions

	<u>Amount Reduction</u>		<u>Position Reduction</u>
1. Delete 3 long-term vacant positions under the Division of Racing. The harness racing judge positions are assigned to a racetrack that is not currently providing racing activities. To the extent that racing resumes in the future, the division could use contractual staff.	\$ 51,927	GF	3.0
2. Reduce horse racing impact aid to the fiscal 2010 cost containment level. This action reduces the aid by half. The Budget Reconciliation and Financing Act of 2010 should be amended to transfer these special funds to the general fund.	602,800	SF	
Total Reductions	\$ 654,727		3.0
Total General Fund Reductions	\$ 51,927		
Total Special Fund Reductions	\$ 602,800		

Current and Prior Year Budgets

Current and Prior Year Budgets					
Department of Labor, Licensing, and Regulation - Business Regulation					
(\$ in Thousands)					
	<u>General</u>	<u>Special</u>	<u>Federal</u>	<u>Reimb.</u>	<u>Total</u>
Fiscal 2009	Fund	Fund	Fund	Fund	
Legislative Appropriation	\$9,750	\$24,087	\$4,228	\$1,347	\$39,412
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	288	1,170	307	0	1,765
Cost Containment	-1,103	-314	-21	0	-1,438
Reversions and Cancellations	-37	-813	-14	-43	-907
Actual Expenditures	\$8,898	\$24,130	\$4,500	\$1,304	\$38,832
Fiscal 2010					
Legislative Appropriation	\$9,275	\$26,334	\$3,972	\$1,509	\$41,090
Cost Containment	-856	-1,052	0	0	-1,908
Budget Amendments	0	0	0	0	0
Working Appropriation	\$8,419	\$25,282	\$3,972	\$1,509	\$39,182

Note: Numbers may not sum to total due to rounding.

Fiscal 2009

Actual expenditures for the business regulation divisions of the department were less than the original appropriation due largely to cost containment efforts and end-of-year cancelations.

Cost containment efforts resulted in a decline of over \$1.4 million in general, special, and federal funds. Specific reductions to the business regulation divisions include the elimination of several vacant positions within the Division of Occupational and Professional Licensing and the elimination of funding for routine inspections under the boards of cosmetologists and barbers. The remaining reductions were taken departmentwide and included reducing costs for travel, consultant services, subscriptions, and equipment. Also, the department reassigned more of its overhead to special and federal funded programs. Many of the activities of the department share funding sources. As such, reductions to general funds often necessitate reductions to special and federal funds.

Budget amendments increased the original appropriation by over \$1.7 million. The cost-of-living salary adjustment and the annual salary review increased general funds by \$142,234 and special funds by \$321,206. Special funds were also increased by \$74,000 to fund the costs associated with the administration of the newly created Elevator Safety Review Board. The remaining budget amendments realigned funds across the department.

Approximately \$907,000 in total funds were reverted or canceled at the end of fiscal 2009. Of this amount, about \$300,000 in special funds was canceled due to lower than expected revenues within the Division of Financial Regulation. Another \$400,000 in special funds was canceled within the Division of Racing due to fewer racing days held in fiscal 2009.

Fiscal 2010

The fiscal 2010 cost containment initiative reduced the department's business regulation original appropriation by over \$1.9 million. The majority of the reduction is due to savings related to position reductions and to the employee furlough. Most of the position and salary reductions occurred within the Financial Regulation and Occupational and Professional Licensing. General fund savings were also realized as the department transferred several general funded positions to the newly created Workplace Fraud Unit and other special funded programs. Also, the department relinquished over \$84,000 in general funds due to fewer than expected racing days and over \$61,000 in general funds to eliminate routine inspections under the boards of barbers and cosmetologists. Finally, horse racing impact aid was halved for fiscal 2010. The BRFA of 2010 includes a provision to transfer these special funds to the general fund.

Audit Findings

Audit Period for Last Audit:	November 9, 2005 – October 13, 2008
Issue Date:	March 2009
Number of Findings:	4
Number of Repeat Findings:	2
% of Repeat Findings:	50%
Rating: (if applicable)	n/a

This audit applies only to the Division of Labor and Industry (DLI) within the department.

Finding 1: **Safety inspections for boilers, pressure vessels, and elevators were not performed timely in accordance with State law. We have noted this condition regarding boilers and pressure vessels since 1977 and regarding elevators since 1997.**

Finding 2: Adequate internal controls had not been established over cash receipts.

Finding 3: **DLI did not always bill debtors and refer delinquent accounts to the State’s Central Collection Unit in a timely manner.**

Finding 4: Reductions to certain penalties assessed by one DLI program were adequately documented.

*Bold denotes item repeated in full or part from preceding audit report.

**Object/Fund Difference Report
DLLR – Business Regulation**

<u>Object/Fund</u>	<u>FY09 Actual</u>	<u>FY10 Working Appropriation</u>	<u>FY11 Allowance</u>	<u>FY10 - FY11 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	406.45	372.45	365.85	-6.60	-1.8%
02 Contractual	25.55	28.72	37.62	8.90	31.0%
Total Positions	432.00	401.17	403.47	2.30	0.6%
Objects					
01 Salaries and Wages	\$ 25,659,861	\$ 25,691,962	\$ 27,728,955	\$ 2,036,993	7.9%
02 Technical and Spec. Fees	1,004,106	984,180	1,616,897	632,717	64.3%
03 Communication	724,618	737,925	663,974	-73,951	-10.0%
04 Travel	865,457	917,721	695,770	-221,951	-24.2%
06 Fuel and Utilities	22,792	29,608	22,792	-6,816	-23.0%
07 Motor Vehicles	324,552	222,921	280,421	57,500	25.8%
08 Contractual Services	6,400,212	6,825,849	5,553,293	-1,272,556	-18.6%
09 Supplies and Materials	568,466	346,863	425,236	78,373	22.6%
10 Equipment – Replacement	214,641	115,424	54,865	-60,559	-52.5%
11 Equipment – Additional	45,601	6,000	32,430	26,430	440.5%
12 Grants, Subsidies, and Contributions	2,143,460	2,315,600	2,456,095	140,495	6.1%
13 Fixed Charges	859,578	988,125	990,052	1,927	0.2%
Total Objects	\$ 38,833,344	\$ 39,182,178	\$ 40,520,780	\$ 1,338,602	3.4%
Funds					
01 General Fund	\$ 8,898,050	\$ 8,418,674	\$ 8,771,983	\$ 353,309	4.2%
03 Special Fund	24,130,520	25,282,339	25,615,634	333,295	1.3%
05 Federal Fund	4,500,073	3,972,111	4,658,145	686,034	17.3%
09 Reimbursable Fund	1,304,701	1,509,054	1,475,018	-34,036	-2.3%
Total Funds	\$ 38,833,344	\$ 39,182,178	\$ 40,520,780	\$ 1,338,602	3.4%

Note: The fiscal 2010 appropriation does not include deficiencies.

**Fiscal Summary
DLLR – Business Regulation**

<u>Program/Unit</u>	<u>FY09 Actual</u>	<u>FY10 Wrk Approp</u>	<u>FY11 Allowance</u>	<u>Change</u>	<u>FY10 - FY11 % Change</u>
01 Division Of Financial Regulation	\$ 8,534,328	\$ 8,797,926	\$ 8,690,484	-\$ 107,442	-1.2%
01 Division Of Labor And Industry	15,275,958	15,363,254	17,150,126	1,786,872	11.6%
01 Division Of Racing	4,852,823	4,175,024	4,889,465	714,441	17.1%
01 Division Of Occupational And Professional Licensin	10,170,235	10,845,974	9,790,705	-1,055,269	-9.7%
Total Expenditures	\$ 38,833,344	\$ 39,182,178	\$ 40,520,780	\$ 1,338,602	3.4%
General Fund	\$ 8,898,050	\$ 8,418,674	\$ 8,771,983	\$ 353,309	4.2%
Special Fund	24,130,520	25,282,339	25,615,634	333,295	1.3%
Federal Fund	4,500,073	3,972,111	4,658,145	686,034	17.3%
Total Appropriations	\$ 37,528,643	\$ 37,673,124	\$ 39,045,762	\$ 1,372,638	3.6%
Reimbursable Fund	\$ 1,304,701	\$ 1,509,054	\$ 1,475,018	-\$ 34,036	-2.3%
Total Funds	\$ 38,833,344	\$ 39,182,178	\$ 40,520,780	\$ 1,338,602	3.4%

Note: The fiscal 2010 appropriation does not include deficiencies.