

**DEPARTMENT OF PROFESSIONAL  
AND  
OCCUPATIONAL REGULATION**

**REPORT ON AUDIT  
FOR THE PERIOD  
JULY 1, 2009 THROUGH JUNE 30, 2012**



## **AUDIT SUMMARY**

Our audit of the Department of Professional and Occupational Regulation for the period July 1, 2009, through June 30, 2012 found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System and the Department's internal systems;
- no matters involving internal control and its operations necessary to bring to management's attention; and
- no instances of noncompliance with applicable laws and regulations or other matters that are required to be reported.

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## AGENCY HIGHLIGHTS

The Department of Professional and Occupational Regulation (Department) protects the citizens of the Commonwealth by regulating commercial occupations and certain professions as designated by the General Assembly. The Department's responsibilities include certification, licensing, investigation, compliance monitoring, fee collection, record maintenance, and enforcement. The Department provides centralized administrative, examination, and enforcement functions to the following boards:

|                                      |  |
|--------------------------------------|--|
| APELSCIDLA*                          | Geology                                    |
| Asbestos, Lead, and Home Inspectors  | Hearing Aid Specialists                    |
| Auctioneers                          | Opticians                                  |
| Barbers and Cosmetology              | Polygraph Examiners                        |
| Boxing and Wrestling                 | Real Estate                                |
| Branch Pilots                        | Real Estate Appraisers                     |
| Cemeteries                           | Soil Scientists and Wetlands Professionals |
| Common Interest Community Management | Waste Management Facility Operators        |
| Contractors                          | Waterworks and Wastewater Works Operators  |
| Fair Housing                         |  |

\*Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Certified Landscape Architects

As a result of legislation passed during the 2012 General Assembly session, changes will occur for several of the boards during fiscal year 2013 including the consolidation of the Opticians and Hearing Aid Specialists Boards and the consolidation of the Geology and Soil Scientists and Wetlands Delineators Boards

### Systems Development Project

The Department is implementing a new licensing and enforcement system called EAGLES that will expand public access through online licensing and permitting services, while also eliminating the maintenance costs associated with their current system. The Department's existing licensing and enforcement system uses a programming language no longer supported by the vendor. The Department began project execution on EAGLES in October 2007 and temporarily suspended the project to address several implementation issues. The Department hired a new project manager to help address these issues. In addition, the Department has created a new permanent position of EAGLES Director to act as a liaison between the various divisions to facilitate communication concerning the operational and information technology processes.

The initial project cost estimate was approximately \$2.9 million, and has increased to just over \$8.3 million as a result of project re-base-lining to address implementation issues. As of year-end, the Department has spent approximately \$6.1 million of the budget. The project schedule includes three separate releases, with different boards converting with each release. Phase I went live in September 2009 and Phase II went live in November 2011. Phase III should go live in August 2013.

The extended time period between each release is necessary as the Department must customize the out-of-the-box software for each board to allow for the individual statutory requirements. These customizations require extensive work by the vendor as well as extensive testing by the Department to ensure functionality in the production environment. In addition, the Department increased its personnel as a result of the system implementation since processing time has increased due to additional data captured in the system and additional screens staff must complete when processing transactions.

## FINANCIAL INFORMATION

The Commonwealth Accounting and Reporting System includes all financial data except for the activity of three recovery funds. The Department records licensing fees and the expenses associated with regulation in its special revenue funds. The Department records the collection of monetary penalties in the Literary Fund.

The schedule below compares the Department's budgeted versus actual expenses for fiscal years 2010, 2011, and 2012. Increases in budgeted amounts over the last three year have occurred primarily to cover increases in personnel costs associated with new licensing requirements and the new licensing and enforcement system and increases in information technology fees for VITA charges.

### Analysis of Budgeted and Actual Expenses Fiscal Years 2010, 2011 and 2012

|              | <u>Original<br/>Budget</u> | <u>Final<br/>Budget</u> | <u>Actual<br/>Expenses</u> |
|--------------|----------------------------|-------------------------|----------------------------|
| Fiscal year: |                            |                         |                            |
| 2010         | \$20,985,230               | \$21,113,556            | \$17,908,587               |
| 2011         | \$21,197,545               | \$21,741,341            | \$18,883,879               |
| 2012         | \$21,842,019               | \$22,599,742            | \$19,255,516               |

The Department allocates administrative expenses, legal costs, and information system costs to the various boards using a cost allocation system. The Department's actual expenses were less than budget in fiscal years 2010, 2011 and 2012 primarily due to personnel vacancies and lower than expected information technology costs. The Department's expenses consist primarily of payroll expenses of \$13,219,477 in fiscal year 2010, \$14,415,517 in fiscal year 2011 and \$13,757,978 in fiscal year 2012 and accounted for 74 percent, 76 percent and 72 percent, respectively, of total expenses. The majority of the remaining expenses are contractual services which mainly consist of VITA services and costs incurred for the EAGLES project.

### Board Activity

The Department uses special revenue funds to account for the daily operations. The Code of Virginia requires separate special revenue funds for the activities of the Boxing and Wrestling Board and the Common Interest Community Management Board. The Department records its remaining activities in a single dedicated special revenue fund for all the other boards. We have consolidated all of these funds in the schedules presented in this report. The largest source of revenue comes from licensing fees for applications and renewals.

The following schedule summarizes the activity of the Department's operating funds for fiscal years 2010, 2011, and 2012.

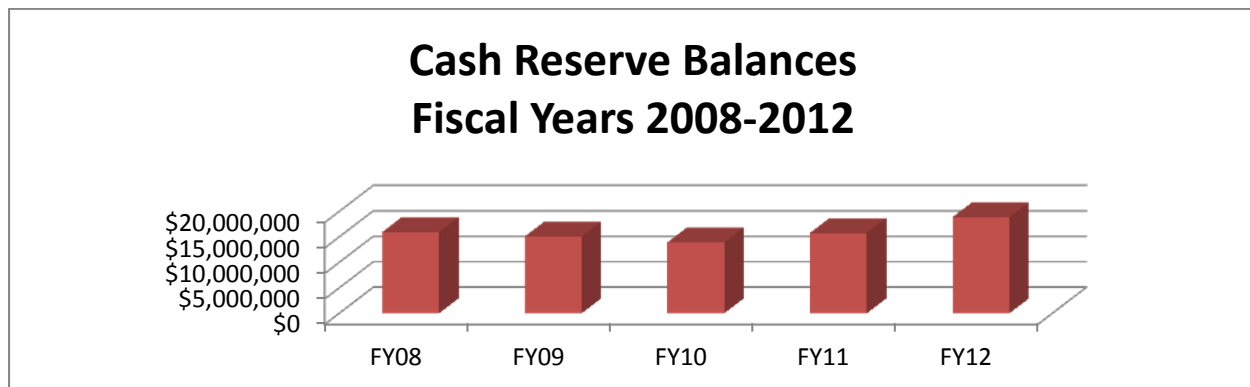
|                           | <u>Summary of Operating Activity</u> |                     |                     |
|---------------------------|--------------------------------------|---------------------|---------------------|
|                           | <u>2010</u>                          | <u>2011</u>         | <u>2012</u>         |
| Revenues                  | \$17,710,612                         | \$20,512,444        | \$22,245,783        |
| Expenses                  | <u>17,578,140</u>                    | <u>18,537,445</u>   | <u>19,029,128</u>   |
| Revenues less expenses    | 132,472                              | 1,974,999           | 3,216,655           |
| Transfers                 | <u>(1,286,694)</u>                   | <u>(108,498)</u>    | <u>(125,420)</u>    |
| Change in cash balance    | (1,154,222)                          | 1,866,501           | 3,091,235           |
| Prior year cash balance   | <u>15,057,295</u>                    | <u>13,903,073</u>   | <u>15,769,572</u>   |
| Current year cash balance | <u>\$13,903,073</u>                  | <u>\$15,769,574</u> | <u>\$18,860,809</u> |

Source: Commonwealth Accounting and Reporting System

Appendix A summarizes the activity and cash balances of the Department's operating funds by Board. Each board is self-supporting through regulant-assessed fees. The Code of Virginia requires the individual boards to adjust fees at the end of each biennium if expenses vary more than ten percent from revenues. Adjusting a fee schedule is a lengthy process that can take up to three years to fully implement. Thus, boards set fees at a level that will support the boards' activity for three to four biennia.

Revenues will generally exceed expenses for the first few years after a fee increase. This allows the boards to establish cash balances, which they use in the later years when expenses begin to exceed revenues. When this occurs, the Department proposes new fee schedules to the boards for approval. The Department continually monitors each board to determine if a fee increase or decrease is necessary, since economic factors greatly impact the activity of each board.

With the exception of the Board of Contractors and Common Interest Community Management Board, most of the boards have experienced slight declines in cash balances from fiscal year 2009 to fiscal year 2012. The Board of Contractors approved a fee increase which took effect in April 2010 and resulted in a \$4.2 million increase in the cash balance from 2009 to 2012. The Common Interest Community Management Board increased its assessment fee beginning in fiscal year 2010 and has also experienced an increase in the number of registered associations, which has resulted in a \$1 million increase in the cash balance from 2009 to 2012. The Barbers and Cosmetology Board approved a fee increase which took effect in September 2011 and eliminated a negative cash position. Currently, several boards are in the process of adjusting fees. The Hearing Aid Specialists, Opticians, and Cemeteries Boards have approved a fee increase, which are now pending the Governor's approval. In addition, the Asbestos, Lead and Home Inspectors Board, Real Estate Appraisers Board, and Geology Board are currently reviewing proposed fee increases. The Department will continue to evaluate the activity of all boards to ensure fee schedules are appropriate. The following chart summarizes the changes in available cash reserves for the Department for fiscal years 2008 through 2012.



Source: Commonwealth Accounting and Reporting System

### Recovery Funds

The Department controls three recovery funds held in the Local Government Investment Pool (LGIP), a short-term investment pool managed by the State Treasurer. The Department also maintains an operating bank account for each fund. Fees from the respective boards fund the recovery funds, which pay individuals who have claims against licensees who are bankrupt, cannot be located, or otherwise cannot pay a claim when found guilty of improper and dishonest conduct. The following schedule shows the cash and investment balances for the recovery funds for fiscal years 2010, 2011, and 2012.

#### Cash and Investment Balances Fiscal Years 2010-2012

| <u>Account Name</u>   | <u>Fiscal Year<br/>2010</u> | <u>Fiscal Year<br/>2011</u> | <u>Fiscal Year<br/>2012</u> |
|---|-----------------------------|-----------------------------|-----------------------------|
| Virginia Common Interest Community Management Recovery Fund | \$ 143,566                  | \$ 154,168                  | \$ 164,247                  |
| Virginia Contractor Transaction Recovery Act Fund           | \$1,229,274                 | \$1,189,033                 | \$1,507,033                 |
| Virginia Real Estate Transaction Recovery Act Fund          | \$3,045,199                 | \$2,757,998                 | \$2,569,779                 |

Source: LGIP and Bank Account Statements

### Fair Housing Assistance Program

The Department's federal fund consists primarily of revenue and expenses from its participation in the Fair Housing Assistance Program administered by the U.S. Department of Housing and Urban Development (HUD). Pursuant to the cooperative agreement between HUD and the Department, HUD provides financial support to assist with the Department's processing of complaints alleging unlawful discrimination in housing. Additionally, HUD provides funds for training of agency staff involved with the processing of these complaints.

# Appendix A

## Board Activity for Fiscal Years 2010, 2011, and 2012

|                             | APELSCIDLA*                  | Asbestos, Lead<br>and Home | Auctioneers                                 | Barbers and<br>Cosmetology       | Boxing and<br>Wrestling               | Branch Pilots   | Cemeteries          |
|-----------------------------|------------------------------|----------------------------|---|----------------------------------|---------------------------------------|-----------------|---------------------|
| 2009 Cash Balance           | 2,032,502                    | 457,021                    | 369,594                                     | 743,340                          | 231,043                               | 19,781          | 166,600             |
| 2010 Revenue                | 1,696,834                    | 196,131                    | 37,220                                      | 2,443,447                        | 198,316                               | 3,060           | 20,231              |
| 2010 Expenses and Transfers | 1,672,638                    | 282,703                    | 75,910                                      | 3,289,188                        | 206,427                               | 3,781           | 70,044              |
| 2010 Cash Balance           | 2,056,698                    | 370,449                    | 330,904                                     | (102,401)                        | 222,932                               | 19,060          | 116,787             |
| 2011 Revenue                | 1,557,207                    | 196,010                    | 66,305                                      | 2,610,738                        | 146,911                               | 3,180           | 35,520              |
| 2011 Expenses and Transfers | 1,537,433                    | 277,631                    | 68,459                                      | 3,280,349                        | 210,897                               | 2,517           | 68,888              |
| 2011 Cash Balance           | 2,076,472                    | 288,828                    | 328,750                                     | (772,012)                        | 158,946                               | 19,723          | 83,419              |
| 2012 Revenue                | 1,741,457                    | 229,384                    | 32,647                                      | 5,145,379                        | 173,730                               | 3,180           | 21,190              |
| 2012 Expenses and Transfers | 1,610,416                    | 308,072                    | 70,274                                      | 3,693,735                        | 201,638                               | 2,209           | 74,753              |
| 2012 Cash Balance           | 2,207,513                    | 210,140                    | 291,123                                     | 679,632                          | 131,038                               | 20,694          | 29,856              |
|                             |                              |                            |   |                                  |                                       |                 |                     |
|                             | Common Interest<br>Community | Contractors                | Fair Housing                                | Geology                          | Hearing Aid<br>Specialists            | Opticians       | Polygraph Examiners |
| 2009 Cash Balance           | 538,574                      | 1,363,052                  | -   | 86,285                           | 71,586                                | 153,055         | 3,285               |
| 2010 Revenue                | 920,484                      | 7,541,687                  | 19,324                                      | 33,585                           | 14,840                                | 55,325          | 19,880              |
| 2010 Expenses and Transfers | 470,201                      | 7,939,763                  | 19,324                                      | 35,685                           | 53,052                                | 103,234         | 12,130              |
| 2010 Cash Balance           | 988,857                      | 964,976                    | -   | 84,185                           | 33,374                                | 105,146         | 11,035              |
| 2011 Revenue                | 999,656                      | 10,625,746                 | 33,846                                      | 2,630                            | 23,940                                | 177,710         | 17,645              |
| 2011 Expenses and Transfers | 715,499                      | 8,094,598                  | 33,846                                      | 29,724                           | 54,764                                | 99,273          | 8,521               |
| 2011 Cash Balance           | 1,273,014                    | 3,496,124                  | -   | 57,091                           | 2,550                                 | 183,583         | 20,159              |
| 2012 Revenue                | 1,023,143                    | 9,833,156                  | 34,270                                      | 33,445                           | 13,595                                | 73,596          | 21,495              |
| 2012 Expenses and Transfers | 727,663                      | 7,724,987                  | 34,270                                      | 36,075                           | 48,361                                | 104,113         | 30,261              |
| 2012 Cash Balance           | 1,568,494                    | 5,604,293                  | -   | 54,461                           | (32,216)                              | 153,066         | 11,393              |
|                             |                              |                            |   |                                  |                                       |                 |                     |
|                             | Real Estate                  | Real Estate<br>Appraisers  | Soil Scientists<br>Wetland<br>Professionals | Waste Mgmt<br>Facility Operators | Waterworks<br>Wastewater<br>Operators | Miscellaneous** | <b>Total</b>        |
| 2009 Cash Balance           | 8,005,330                    | 402,587                    | 94,043                                      | 94,618                           | 211,100                               | 13,899          | 15,057,295          |
| 2010 Revenue                | 3,735,926                    | 273,751                    | 27,470                                      | 21,720                           | 436,100                               | 15,281          | 17,710,612          |
| 2010 Expenses and Transfers | 3,999,168                    | 329,168                    | 10,496                                      | 28,737                           | 247,904                               | 15,281          | 18,864,834          |
| 2010 Cash Balance           | 7,742,088                    | 347,170                    | 111,017                                     | 87,601                           | 399,296                               | 13,899          | 13,903,073          |
| 2011 Revenue                | 3,581,873                    | 173,622                    | 17,630                                      | 21,270                           | 221,005                               |                 | 20,512,444          |
| 2011 Expenses and Transfers | 3,638,041                    | 202,994                    | 7,629                                       | 26,704                           | 288,176                               |                 | 18,645,943          |
| 2011 Cash Balance           | 7,685,920                    | 317,798                    | 121,018                                     | 82,167                           | 332,125                               | 13,899          | 15,769,574          |
| 2012 Revenue                | 3,366,902                    | 221,724                    | 8,145                                       | 20,825                           | 248,520                               |                 | 22,245,783          |
| 2012 Expenses and Transfers | 3,845,859                    | 300,346                    | 8,790                                       | 24,773                           | 307,953                               |                 | 19,154,548          |
| 2012 Cash Balance           | 7,206,963                    | 239,176                    | 120,373                                     | 78,219                           | 272,692                               | 13,899          | 18,860,809          |

\*Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and certified Landscape Architects

\*\*The Miscellaneous column represents activity not allocated to a specific board.

Source: Board Financial Statements





# Commonwealth of Virginia

## *Auditor of Public Accounts*

Walter J. Kucharski  
Auditor of Public Accounts

P.O. Box 1295  
Richmond, Virginia 23218

October 24, 2012

The Honorable Robert F. McDonnell  
Governor of Virginia

The Honorable John M. O'Bannon, III  
Chairman, Joint Legislative Audit  
and Review Commission

We have audited the financial records and operations of the **Department of Professional and Occupational Regulation** for the period beginning July 1, 2009 and ending June 30, 2012. We conducted this performance audit 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.

### Audit Objectives

Our audit's primary objectives were to evaluate the accuracy of recorded financial transactions in the Commonwealth Accounting and Reporting System and the Department's financial systems, review the adequacy of the Department's internal controls, test compliance with applicable laws and regulations and review corrective actions of audit findings from prior year reports.

### Audit Scope and Methodology

The Department's management has responsibility for establishing and maintaining internal control and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered significance and risk in determining the nature and extent of our audit procedures. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances.

Revenues  
Expenses, including payroll  
Small purchase charge card  
Recovery Fund Accounts  
Information System Security

We performed audit tests to determine whether the Department's controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws and regulations. Our audit procedures included inquiries of appropriate personnel, inspection of documents, records, and contracts, and observation of the Department's operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

#### Conclusions

We found that the Department properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System and in its internal systems. The Department records its financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted no matters involving internal control and its operation that we consider necessary to be reported to management. The results of our tests of compliance with applicable laws and regulations disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

The Department has taken adequate corrective action with respect to audit findings reported in the prior audit.

#### Exit Conference and Report Distribution

We discussed this report with management on November 5, 2012.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

SAH/clj

**DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**  
as of June 30, 2012

Gordon Dixon  
Director

Steven L. Arthur  
Deputy Director for Administration and Finance