

*2011 Annual Report*

# Utah Department of Commerce



## A Message from Governor Gary R. Herbert

Utah Department of Commerce

### 2011 Annual Report

#### Our Mission

*To protect the public interest  
by ensuring fair commercial  
and professional practices.*

#### Our Vision

*The Department of Commerce  
contributes to the success of  
Utah businesses, professionals  
and consumers by creating a  
favorable economic environment.*

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### STATE OF UTAH

GARY R. HERBERT  
GOVERNOR

OFFICE OF THE GOVERNOR  
SALT LAKE CITY, UTAH  
84114-2220

GREG BELL  
LIEUTENANT GOVERNOR



As Governor, it is my privilege to present the  
2011 Annual Report for the Utah Department of Commerce.  
This outstanding state agency supports Utah's economy  
and ensures that Utah's businesses and citizens  
continue to grow and prosper.

To all Department of Commerce employees, please  
accept my thanks and appreciation on behalf of the State  
of Utah for your tireless contributions and excellent public  
service. Utah continues to maintain its distinction as one  
of the best managed states due to outstanding state agencies  
such as the Utah Department of Commerce.

Sincerely,

A handwritten signature in dark ink, reading "Gary R. Herbert".

GARY R. HERBERT, GOVERNOR



## A Message from Francine A. Giani, Executive Director



GARY R. HERBERT  
Governor

GREG BELL  
Lieutenant Governor

### State of Utah Department of Commerce

FRANCINE A. GIANI  
Executive Director

THAD LEVAR  
Deputy Director



Governor Herbert, Members of the Utah Legislature, Citizens of Utah:

It is my pleasure to present the Annual Report for Fiscal Year 2011 for the Utah Department of Commerce, recording how our agency and employees serve the people of Utah.

With responsibility for issuing over 300,000 licenses and regulating hundreds of industries, the Department of Commerce is one of the Utah's chief regulatory agencies. Our employees are dedicated to fair and efficient regulation across a variety of industries which impact Utah's citizens.

During fiscal year 2011, our Divisions expanded their efforts to protect Utah consumers, while regulating business and industry to promote healthy commerce in the state. The following are highlighted achievements for each Division:

*Administration cut motor pool expenses by 25% by turning in Fleet vehicles and sharing existing vehicles among agency investigative staff.*

*Office of Property Rights Ombudsman issued 100th Advisory Opinion since inception of Advisory Opinion program.*

*Office of Consumer Services participated in Rocky Mountain Power rate case negotiations which resulted in lower rate increase for consumers.*

*Division of Consumer Protection recovered 1.9 million dollars in benefits for Utah consumers.*

*Division of Corporations and Commercial Code — 90% of all Annual Business Renewals completed online thanks to online upgrades completed during FY 2010.*

*Division of Occupational and Professional Licensing total licensees increased to 179,307, an increase of 9,710 over FY 2010.*

*Division of Public Utilities entered into Settlement with Questar Gas over 2009 gas leak at University of Utah which provided funding to increase training for utility facility locaters to help protect public from future leaks and ruptures caused by excavators.*

*Division of Real Estate through increased enforcement efforts against real estate fraud, the Division ordered \$351,050 in fines against bad actors and referred 16 cases to be screened for criminal charges.*

*Division of Securities saw a 50% increase in the number of attendees at public investor education presentations as result of Division's statewide investor education campaign targeting affinity fraud through print, radio and television ads.*

These advancements and others made Fiscal Year 2011 one of great progress. Commerce employees look forward to serving the citizens of Utah and building on our accomplishments in the years ahead. I invite you to visit our website at [www.commerce.utah.gov](http://www.commerce.utah.gov) to learn more about the Utah Department of Commerce.

Respectfully yours,

FRANCINE A. GIANI, EXECUTIVE DIRECTOR



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*Department  
of Commerce*

# Administration

## **Mission**

Administration's mission is to provide administrative support (financial, human resources, information technology, public relations, and adjudicative) to the following Divisions within the Department of Commerce:

- Office of Consumer Services (OCS)
- Occupational and Professional Licensing (DOPL)
- Consumer Protection (DCP)
- Public Utilities (DPU)
- Corporations and Commercial Code (CORP)
- Securities (DS)
- Real Estate (DRE)

## **Internal Efficiencies**

The Department of Commerce is continually looking for ways to increase operating efficiency and has implemented new programs to lower costs. The following are measures taken by the entire Department during fiscal year 2010-2011. Additional cost-saving programs are in each Division's report.



Despite absorbing budgetary reductions approaching 10% in the previous two years, The Department of Commerce budget was reduced an additional \$500,000 during fiscal year 2011. Thus, the Department had to find ways to absorb this reduction and ensure that this loss that included 5 full time positions could be absorbed as effectively as possible. Three highlights from cost cutting measures in FY 2011 included:

- A 25% reduction in Motor Pool Rental Expenses by turning in Fleet vehicles and sharing existing vehicles among more division investigative staff.
- A 27% reduction in wireless phone expenditures through new vendor contract negotiations and reduction of number of wireless phones provided for employees.
- Continued to hold Travel expenditures at historic lows by eliminating most out of state travel and non-mandatory essential conference attendance.

### Serving the Public

Commerce Administration oversees the following programs and procedures:

- Office of the Property Rights Ombudsman
- New Automobile Franchise Act
- Powersport Vehicle Franchise Act
- Agency Review of Administrative Actions

## Property Rights Ombudsman

### Introduction

The Office of the Property Rights Ombudsman (OPRO) was created by the Utah Legislature to protect the property rights of citizens when state and local government condemns or regulates private land.

### Mission

The mission of the Office of the Property Rights Ombudsman (OPRO) is to:

- educate citizens and government officials regarding private property rights and the protection of those rights;
- encourage state and local agencies to regulate and acquire land in a manner consistent with applicable statutes and constitutional law;
- advocate for fairness and compliance with state and local laws and ordinances; and
- assist citizens and government agencies to resolve property disputes fairly, in accordance with existing law, without expensive and time-consuming litigation.



*Activities of government often conflict with the property rights of private citizens. The Office of the Property Rights Ombudsman was created by the Utah Legislature to respond to this conflict.*



**Questions specific  
to the Property  
Rights Ombudsman  
may be directed to:**

*Brent Bateman, Lead Attorney*  
(801) 530-6391  
[bbateman@utah.gov](mailto:bbateman@utah.gov)  
or via our webpage at  
[www.propertyrights.utah.gov](http://www.propertyrights.utah.gov)



## **Fiscal Year 2011 Highlights**

The OPRO continues to serve the citizens of the state of Utah by working to protect their property rights.

### *Dispute Resolution in Eminent Domain Cases*

The OPRO resolves hundreds of disputes between government and citizens each year, protecting citizens' private property rights and helping to avoid costly litigation, thus saving the valuable money and resources of both Utah Citizens and government agencies.

During the 2011 fiscal year, the attorneys at the OPRO

- logged 395 telephone calls from citizens and government agencies where questions were answered or concerns resolved with one phone call;
- opened 212 cases;
- closed or resolved 213 cases;
- conducted 135 formal mediations of disputes.

### *Dispute Resolution in Land Use Cases*

During fiscal year 2011, the OPRO

- issued 13 formal Advisory Opinions;
- issued its 100th formal Advisory Opinion since inception of the Advisory Opinion program.

### *Other Significant Accomplishments*

During fiscal year 2011, the OPRO

- led the drafting and passage of SB146, the Utah Revised Impact Fee Act, to improve understanding and management of impact fees by local government, thereby improving the fairness of impact fees charged to citizens;
- assisted in the passage of SB56 to revise the Property Rights Ombudsman Act to improve services to citizens;
- provided 29 formal training sessions on topics within its purview to various organizations;
- provided hands-on legal experience to three interns — two law students and a new attorney;
- appeared on various newspapers and radio shows, giving input of property rights matters.



## New Automobile Franchise Act and Powersport Vehicle Franchise Act

The *New Automobile Franchise Act* (NAFA) and the *Powersport Vehicle Franchise Act* (PVFA) protect the public interest by helping ensure fair business practices between vehicle franchisors and franchisees. The Acts establish a standard of conduct and clarify the duties of a franchisor (generally a manufacturer) and franchisee (a dealer). In addition, they establish a right to notice and hearing for franchisees with regards to a franchisor's intent to terminate, relocate, or establish a new franchised dealership. Franchisors and franchisees must pay an annual registration fee to cover the cost of adjudication.

	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
<b><i>New Automobile Franchise Act (NAFA)</i></b>			
Franchisor/Franchisee Registrations	185	176	128
<b><i>Powersport Vehicle Franchise Act (PVFA)</i></b>			
Franchisor/Franchisee Registrations	35	33	29
	Fiscal Year 2009 Filed Closed	Fiscal Year 2010 Filed Closed	Fiscal Year 2011 Filed Closed
<b><i>Franchise Cases Adjudicated</i></b>			
New Automobile Franchise Act (NAFA)	1 1	3 3	1 1
Powersport Vehicle Franchise Act (PVFA)	0 0	0 0	1 1



Questions specific to  
Commerce Administration  
may be directed to:

Francine A. Giani  
Executive Director  
(801) 530-6431  
fgiani@utah.gov

Thad LeVar, Deputy Director  
(801) 530-6431  
tlevar@utah.gov

## Administrative Actions

A business registrant or licensee, having been adversely impacted by a Department of Commerce Division action, may request agency review by the Executive Director. Upon review, the decision could be upheld, reversed, modified, or remanded to the Division for further consideration.

Division Cases	Total		DCP		CORP		DOPL		DRE		DS	
	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2010	Fiscal Year 2011
Filed	57	73	6	2	0	0	47	69	4	2	0	0
Closed	60	57	8	2	0	0	49	52	3	3	0	0
Affirmed	10	11	1	0	0	0	9	11	0	0	0	0
Remanded	17	22	0	0	0	0	15	22	2	0	0	0
Dismissed	31	22	7	1	0	0	23	18	1	3	0	0
Reversed	0	1	0	0	0	0	0	1	0	0	0	0
Modified	2	1	0	1	0	0	2	0	0	0	0	0



## Office of Consumer Services

The Office of Consumer Services is Utah's utility consumer advocate, representing residential, small commercial and agricultural consumers of natural gas, electric and telephone service. Utah's utility consumer advocate was first established as the Committee of Consumer Services in 1977 by the Utah Legislature, reorganized into the Office of Consumer Services in 2009. The Office has a staff of five led by a director. The Director, on behalf of the Office, represents the interests of residential and small commercial consumers in regulatory proceedings. The nine-member layperson committee advises the Office on its regulatory and advocacy work and helps establish policy objectives.



*The core work of the Office is to evaluate the impact of utility rate changes and other regulatory actions and to advocate positions advantageous to residential and small commercial customers.*



The Office serves Utah consumers by making certain that small consumer interests are fully represented in all electric, natural gas, and telecommunication matters — which includes vigilant assessment of regulatory actions impacting customer rates, resource reliability, and policy issues.

### Utility Regulatory Filings

The core work of the Office is to evaluate the impact of utility rate changes and other regulatory actions and to advocate positions advantageous to residential and small commercial customers. These types of regulatory filings occur throughout the year and include a wide range of issues such as: requests for rate increases, proposals for energy efficiency and conservation programs, and presentation of long-term plans for necessary generating resources. Some of the Office's accomplishments for FY2011 include:

- ***Qwest/CenturyLink merger:*** Qwest requested regulatory approval to merge with CenturyLink, another telecommunications provider. The Office reviewed the terms to ensure that the merger would be beneficial to small customers and negotiated merger commitments that will protect small customer rates and service quality during the transition period.
- ***New power plant:*** The Office reviewed the RFP results leading to Rocky Mountain Power's request to construct a new natural-gas fired generating plant in Utah. The Office agreed the plant was in the public interest to meet Utah's growing demand for electricity.
- ***New regulatory processes:*** The Office participated in two new regulatory processes, Major Plant Addition Cases and the Energy Balancing Account, recently authorized by the legislature to help ensure that the implementation of the processes, as well as the outcome, resulted in just and reasonable rates for small customers. The Office was instrumental in the implementation of a sharing mechanism within the design of the Energy Balancing Account to keep incentives in place for Rocky Mountain Power to minimize its overall energy costs.
- ***Multi-state allocations:*** Rocky Mountain Power is part of an electrical system spanning six states. The Office represented the interests of Utah's small customers in a key case deciding how system costs are allocated to each state, which resulted in a methodology that protects the interests of Utahns.





*The Office recognizes that many issues impacting utility customers originate in policy initiatives. The Office volunteers its time and talents to participate in as many local, regional, and national forums as resources allow.*

- **Qwestar Low-Income Program:** Qwestar implemented its first low-income assistance program based upon an agreement from the last rate case. The Office supported this program as providing benefits to both low-income customers and to other ratepayers in reducing certain other costs such as collections and arrearages.
- **Wireless Lifeline:** This year, for the first time in Utah, wireless companies applied to provide Lifeline Telephone Service (reduced cost service to qualifying low-income customers). The Office participated and will continue to monitor these programs to ensure that the public funds that support Lifeline service are well managed and deliver the benefits they are designed to provide.
- **Rocky Mountain Power's general rate case:** The case examining the utility's recent request for a rate increase was ongoing at the end of the fiscal year. Rocky Mountain Power anticipates filing for rate increases almost annually. Scrutinizing these requests to ensure that small customers are protected through an appropriate balance of keeping costs low and maintaining service quality will be a key part of the Office's work in the foreseeable future.

### **State, Regional, and Federal Policy Forums**

The Office recognizes that many issues impacting utility customers originate in policy initiatives. The Office volunteers its time and talents to participate in as many local, regional, and national forums as resources allow. We further leverage our resources through participation in our national organization, the National Association of State Utility Consumer Advocates. Together, the forty-six consumer advocate member organizations from 40 states share information on best utility practices.





Some of the important policy initiatives being followed include: regional transmission planning and pricing, development of energy efficiency programs, consumer protection issues related to smart grid policies, and reform of the Universal Service Fund for telecommunications carriers.

This fiscal year, our director or staff also participated in the following forums, as appointed or elected representatives on behalf of utility customers:

- Utah Renewable Energy Zone task force, Phase 2, and its accompanying Policy workgroup;
- Subcommittee work supporting the development of Governor Herbert's 10-Year Energy Plan;
- Energy Cluster Acceleration Partnership, Phase III;
- Public Interest Advisory Committee for the Gas Technology Institute;
- Critical Consumer Issues Forum: Smart Grid from the Consumer Perspective; and
- The Board of Directors of the Western Electricity Coordinating Council.

### **Promoting Better Understanding of Consumer Regulatory Issues**

It is a priority for the Office to promote better understanding of the utility regulatory process. Therefore, the Office seeks opportunities to work collaboratively with other organizations, regardless of how closely aligned our missions may be. This year, since the Committee of Consumer Services had several new members, the Office has presented a series of primers on regulatory topics at the Committee's periodic meetings and extended invitations to a wider audience. Representatives of the Office also served on the advisory board for two studies examining Utah's energy future to ensure that customer issues were appropriately incorporated and reached out to multiple stakeholder groups to increase the understanding of consumer issues related to energy and telecommunication policy. The Office believes that a common understanding of key regulatory principles best protects customers and facilitates cooperative problem solving.



**Questions specific to the Office of Consumer Services may be directed to:**

*Michele Beck, Director*  
(801) 530-6674  
[ocs@utah.gov](mailto:ocs@utah.gov)





# *Division of* Consumer Protection

## **Mission Statement**

The Division of Consumer Protection's mission is to respond to consumer complaints, protect consumers from unfair and deceptive practices, encourage businesses to develop fair practices, and to provide consumer education.

## **About the Division**

The Division staff accomplishes the Division's mission through a three-pronged approach: education, registration, and enforcement.

*The Division of  
Consumer Protection  
recovered over  
\$1.9 million in benefits  
for consumers during  
fiscal year 2011.*



## Education:

The Division works with the Federal Trade Commission, the U.S. Consumer Product Safety Commission, the AARP, local schools and universities, and other consumer groups to ensure consumer awareness of deceptive business practices and to distribute brochures and other educational materials to the public. The Division also works with trade groups in explaining their obligations to consumers under state and federal consumer protection laws.

## Registration:

The Division regulates the following business organizations:

- Charitable Organizations
- Credit Service Organizations
- Debt-Management Service Providers
- Health Spas
- Postsecondary Proprietary Schools
- Professional Fund Raisers
- Sellers of Business Opportunities
- Telemarketers



## Enforcement:

The Division administers the following statutes:

- Business Opportunity Disclosure Act
- Charitable Solicitations Act
- Child Protection Registry
- Consumer Sales Practices Act
- Credit Services Organizations Act
- Health Spa Services Protection Act
- Music Licensing Act
- New Motor Vehicle Warranties Act
- Pawnshop Transaction Information Act
- Postsecondary Proprietary School Act
- Price Controls During Emergency Act
- Prize Notices Regulation Act
- Telephone and Facsimile Solicitation Act
- Telephone Fraud Prevention Act
- Unfair Practices Act
- Uniform Debt-Management Services Act

## FY2011 Highlights

***Benefits recovered for consumers.*** The Division recovered over \$1.9 million in benefits for consumers during FY2011.

***The Division worked with state and federal enforcement agencies to protect consumers.***

The Division worked with the FTC on a law enforcement sweep involving job-related frauds in connection with the economic downturn, primarily business opportunity frauds, as well as the FTC's Consumer Sentinel Network on the issue of immigration service provider fraud. The Division's Chief Investigator and enforcement staff also participated on a task force organized by the U.S. Attorney's Office and comprised of federal and state law enforcement agencies involved in health care fraud.

***The downturn in the economy continues to make consumers vulnerable to unfair and deceptive practices.*** The economy continued to contribute to a large number of consumers being lured into purchasing expensive work-at-home schemes that were promoted by coaching companies who promised high returns on the initial investment. In addition, the Internet continued to be a fertile area where con artists took advantage of unwary consumers shopping for personal, family, or household purposes.



## Top Ten Consumer Complaints

The top consumer complaints received by the Division during FY2011 are as follows:

- 1/ **Internet Offer/Sales:** Misrepresentations or other deceptive practices, failure to deliver online purchases.
- 2/ **Coaching Services:** Typically involve misrepresentations and deceptive refund policies.
- 3/ **Retail Sales:** False advertising and other deceptive practices, defective merchandise, problems with rebates, coupons, gift cards and gift certificates, failure to deliver.
- 4/ **Alarm Systems:** Aggressive sales tactics used in door-to-door solicitations, failure to allow cancellations within stated time period.
- 5/ **Home Improvement/Repair:** Shoddy work, failure to start or complete job, refusal of job completion until consumer agrees to a higher price than originally agreed upon.
- 6/ **Unauthorized Debit:** Negative option internet purchases or failure to obtain express authorization prior to charging a credit or debit card.
- 7/ **Debt Collection:** Billing and fee disputes, mortgage-related fraud, credit repair, debt relieve services, illegal or abusive debt collection tactics.
- 8/ **Auto Repair/Sales:** Repairs: Failure to disclose refund policies, failure to obtain consumer's express authorization prior to repair, unnecessary repairs. Sales: Misrepresentations in advertising or sales, aggressive sales practices, contracts with incapacitated or vulnerable purchaser.
- 9/ **Grants/Scholarships:** Misrepresentation about money available to consumers for various household expenses.
- 10/ **Fraud:** Bogus work-at-home schemes, fake sweepstakes and lotteries, and other scams, particularly fake check scams requiring "excess funds" to be wired back to the perpetrator.





## Legislative Highlights

Senate Bills passed by the 2011 Legislature:

**SB 210, Amendments Relating to Postsecondary Proprietary Schools, Sen. C.Bramble; co-sponsored by Rep. D. Brown.**

This bill exempts specified schools from registration and clarifies the exemption certification application requirements.

## Statistics

	Fiscal Year <b>2009</b>	Fiscal Year <b>2010</b>	Fiscal Year <b>2011</b>
<b>Complaints</b>			
Complaints Received	3,995	4,632	2,729
Complaints Opened	3,129	3,610	2,083
Complaints Closed	2,937	3,319	2,080
Cases Not Assigned	866	1,022	643
<b>Registrations (Active)</b>			
Business Opportunities	12	12	14
Business Opportunities Exempt	996	996	1,001
Charitable Organizations	2,750	2,627	3,135
Charitable Organizations Exempt	940	1,092	1,199
Credit Service Organizations	12	13	10
Debt Management Service Providers	27	30	30
Health Spas	251	243	241
Pawnshops	—	117	115
Secondhand Merchandise Dealers	—	228	320
Professional Fundraisers	216	208	262
Proprietary Schools	65	65	65
Proprietary Schools Exempt	316	360	479
Proprietary Schools Private Nonprofit	—	—	8*
Proprietary Schools Accredited Exemption Certificate	—	—	31*
Telemarketers	69	81	79
Telemarketers Exempt	92	110	116
<b>Total Benefit Recovered for Consumers</b>	<b>\$2,999,272</b>	<b>\$2,422,858</b>	<b>\$1,920,069</b>
<b>Total Fines Collected</b>	<b>\$ 203,778</b>	<b>\$ 363,985</b>	<b>\$ 207,314</b>

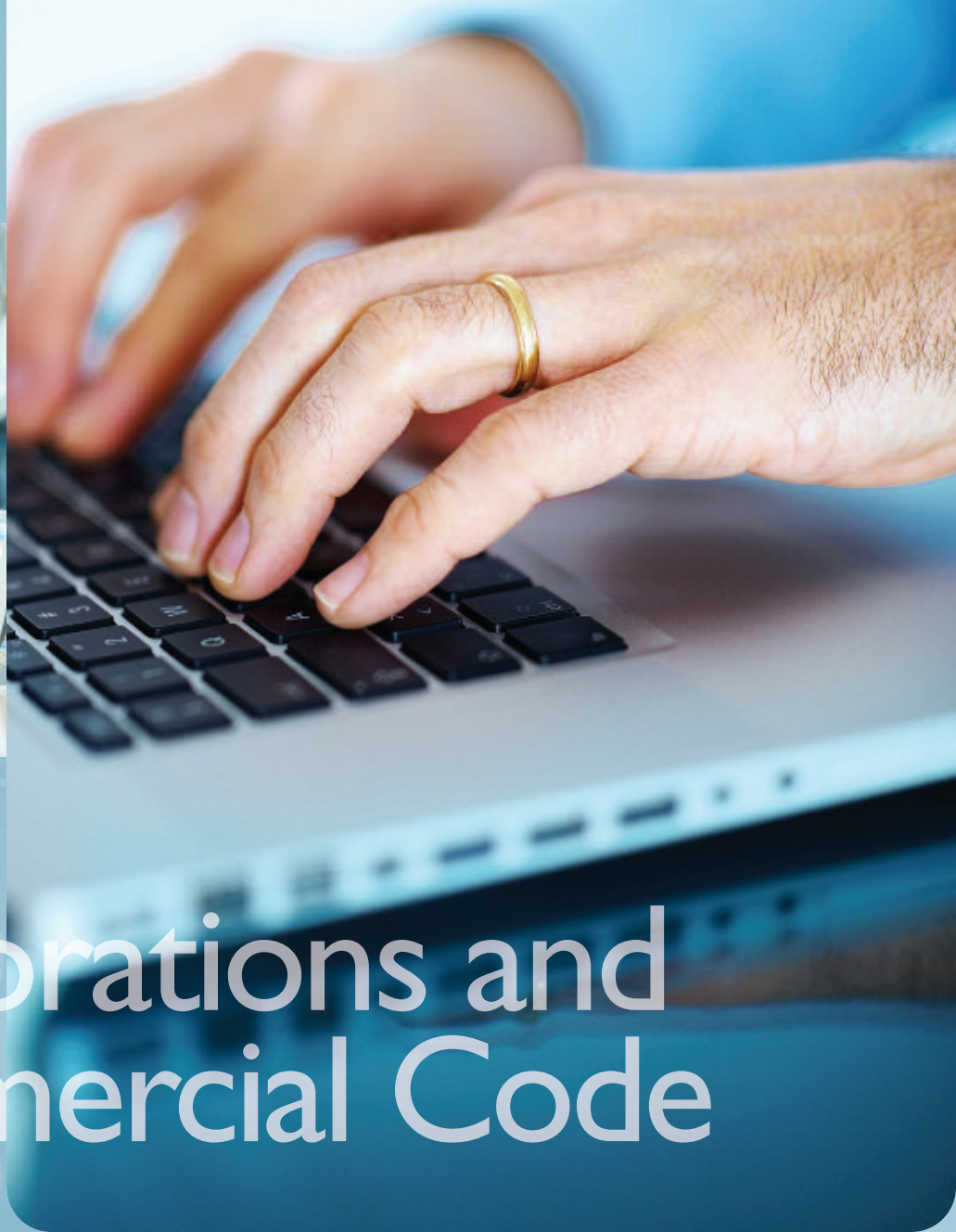
\*New registrations for the Division as of May 10, 2011.



**Questions specific  
to the Division of  
Consumer Protection  
may be directed to:**

**Traci Gundersen, Director**  
**(801) 530-6303**  
**tgundersen@utah.gov**





*Division of*

# Corporations and Commercial Code

## **Mission**

The Division of Corporations and Commercial Code serves business enterprises by providing registration and informational assistance. Additionally, the Division serves the public by facilitating access to all of its records and data. The Division functions as Utah's filing office and repository for all corporations, commercial code filings, business registrations, limited partnerships, limited liability companies, limited liability partnerships, collection agencies, and trademarks.

*The Division of  
Corporations and  
Commercial Code  
continues to look for  
innovative ways to give  
business filers access to  
services 24 hours a day,  
7 days a week.*



## About the Division

The Division of Corporations and Commercial Code in the Utah Department of Commerce registers all statutory business entities, state trademarks, and article 9 (UCC) and agricultural (CFS) lien notice filings. There are other less noticeable, but equally important filings.

Those businesses which should register with the Division are: profit and non-profit corporations, limited liability companies, limited partnerships, limited liability partnerships, unincorporated cooperative associations, general partnerships & sole proprietors who have an assumed name, business trusts, real estate investment trusts, tribal businesses, and any other assumed business name.

Out-of-state motorist service of process is also filed with the division. Certain bankruptcy filings are sent to the division for notice only.

The Division is charged with a variety of other filings, such as:

- ***The Governmental Entity Database*** — an online directory of contact for any governmental entity;
- ***One Stop Business Registration web site*** — a partnership with multiple agencies from local, state and federal level;
- ***Archival business research*** — searching old stock certificates to find disposition of business entity; and
- ***Individual name searches*** — those people involved as principals in businesses.

The Division staffs an information and help/phone center that answers an average of 8,000 phone calls per month. The help staff also provides an online information chat for those using online services. The agency has two customer service counters for walk-in assistance and partners with the Tax Commission to provide walk-in assistance at the satellite offices in Washington County (Hurricane), Provo, and Ogden, Utah.

## Help Center

The Help Center answers an average of 2,000+ calls a week. The six member Help Center fields questions ranging from “How do I start up a new business?” to “How do I reinstate an old business?”. With courtesy and understanding, the members of the Help Center educate citizens of Utah on business filings over the phone and in live online chats.



## Service Center

The Division has two service centers; one in the first floor lobby and one on the second floor with public access computers, which have streamlined the process of filing documents so customers face a minimal wait time. As a result, the Division of Corporations and Commercial Code usually keeps within the 24 to 48 hour turnaround time on all incoming documents.

Customer service is not something we can achieve with systems and processes alone. The Division's goal is to empower our employees, particularly those on the front line, to make a difference as they are the face of the Division. The Division of Corporations and Commercial Code continues to be committed to adopting new technology in order to better serve our customers.

## Upgrades for 2011

The Division of Corporations and Commercial Code has implemented the following changes:

- Create a mobile phone application for looking up business entities;
- Redesign and simplify the web pages;
- Update current online services in response to public input;
- Move more services online.

## Uniform Commercial Codes

Year	UCC-1	UCC-1 Addendum	UCC-2	UCC-3	UCC-3 Addendum	CFS-1	CFS-3
2006	24,322	8,609	1,145	19,145	1,567	419	724
2007	24,744	10,629	1,365	18,311	2,098	319	612
2008	23,115	7,805	1,265	18,748	3,278	303	668
2009	18,295	4,565	1,113	17,394	1,525	361	537
2010	15,967	4,801	1,570	17,034	2,341	436	613
2011	15,367	6,875	1,302	17,167	905	375	511

	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
<b>UCC-1</b>						
In-house Filings	10,394	10,564	8,281	4,391	4,137	6,500
Online Filings	13,928	14,180	14,834	13,904	11,830	8,867
Total	24,322	24,744	23,115	18,295	15,967	15,367
Adoption Rate	57.27%	57.31%	64.1%	76.00%	74.09%	57.70%
Difference from previous year	-254	252	654	-930	-2,074	-2,963
% Change	-1.79%	1.81%	4.61%	-6.27%	-14.92%	-25.05%
<b>UCC-2</b>						
In-house Filings	115	206	146	164	121	143
Online Filings	1,030	1,159	1,119	949	1,449	1,159
Total	1,145	1,365	1,265	1,113	1,570	1,302
Adoption Rate	89.96%	84.91%	88.46%	85.27%	92.29%	89.02%
Difference from previous year	-300	129	-40	-170	500	-290
% Change	-22.56%	-12.52%	-3.45%	-15.19%	52.69%	-20.01%
<b>UCC-3 Termination/ Continuations</b>						
In-house Filings	6,782	5,687	2,659	1,915	2,208	7,253
Online Filings	7,437	8,731	11,376	10,603	10,796	6,057
Total	14,219	14,418	14,035	12,518	13,004	13,310
Adoption Rate	52.30%	60.56%	81.05%	84.70%	83.02%	45.51%
Difference from previous year	526	1,294	2,645	-733	193	-4,739
% Change	7.61%	17.40%	30.29%	-6.80%	1.82%	-43.90%



*New Filings*

Year	Corporation	Percent Change	DBA	Percent Change	LLC	Percent Change	LP	Percent Change	Total Filings	Percent Change
2006	12,674	11%	17,296	0%	23,320	23%	618	11%	53,908	12%
2007	12,633	11%	16,780	-3%	27,643	19%	744	20%	57,800	7%
2008	11,491	-9%	16,793	0%	27,283	-1%	618	-17%	56,185	-3%
2009	9,256	-19%	15,659	-7%	24,344	-11%	515	-17%	49,744	-11%
2010	8,566	-7%	15,747	1%	24,143	-1%	378	-27%	48,834	-2%
2011	8,043	-6%	15,284	-3%	24,976	3%	436	15%	48,739	0%

Year	Average Number of Entities Gained per Month	Yearly Total	Percent Change
2006	1,503	18,036	8%
2007	1,669	20,030	11%
2008	1,512	18,144	-9%
2009	494	5,928	-67%
2010	516	6,192	4%
2011	791	9,492	53%

*Other Data Entry*

Year	Reinstatements	Amendments	Mergers	Conversions	Renewals	Change Forms
2006	4,504	4,001	413	1,298	15,629	20,590
2007	5,009	4,132	296	1,293	13,844	13,578
2008	3,232	4,401	499	1,618	22,111	6,288
2009	2,259	4,042	463	1,458	21,176	5,371
2010	2,665	3,049	352	617	19,498	4,617
2011	2,433	2,828	320	997	17,752	3,895

**Legislative Update from 2011 General Session***HB 29 Business Entity Mergers*

(effective date May 10, 2011): This bill enables, by statute, any statutory business entity to merge with any other statutory business entity.

*SB 95 Shareholder Action**Without Meeting* (effective date

May 10, 2011): This bill revises

requirements related to when action may be taken without holding a shareholder meeting, including timing, consent, and the type of actions that may be taken. Notice of this may be stated in the articles of incorporation or the bylaws.

*SB 131 Unincorporated Business**Entity Uniform Acts* (effective

date: see dates below): This bill

updates the statutes for Limited Partnerships, Limited Liability Companies, and General Partnerships. *It has a delayed effective date of July 1, 2012 for new filings and January 1, 2014 for existing entities to come in to compliance.*



## One Stop Business Registration

The One Stop Business Registration web site continues to improve and be recognized in the national and international community.

Representatives from foreign countries continue to look at this site as a model of government filing efficiency.

	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
<b><i>One Stop Business Registration</i></b>						
In-house Filings	41,237	43,052	36,690	30,365	28,736	26,964
Online Filings	11,600	14,030	18,751	19,613	20,329	21,994
Total	52,827	57,082	55,441	49,978	49,065	48,958
Adoption Rate	21.52%	24.58%	34.13%	39.24%	41.43%	44.92%
Difference from previous year	2,144	2,430	4,721	5,583	1,578	1,665
% Increase	22.67%	20.95%	33.65%	29.77%	8.05%	8.19%
<b><i>All Online Services</i></b>						
Total Online Filings	83,800	212,497	255,616	332,613	331,080	339,710
Adoption Rate	35.00%	64.00%	77.00%	81.00%	82.00%	82.00%
Difference from previous year	15,573	128,697	43,119	76,9979	-1,533	8,630
% Increase	22.83%	153.58%	20.29%	30.12%	-.046%	2.61%
<b><i>Certificates of Existence</i></b>						
In-house Certificates	856	682	678	422	482	492
Online Certificates	10,116	12,163	11,337	10,530	10,716	12,369
Total	10,972	12,845	12,015	10,952	11,198	12,861
Adoption Rate	92.20%	94.69%	94.36%	96.15%	95.70%	96.17%
Difference from previous year	1,515	2,047	-826	-807	186	1,653
% Increase	17.61%	20.24%	-6.79%	-7.12%	1.77%	15.43%
<b><i>Annual Business Renewal</i></b>						
In-house Renewals	103,296	35,790	22,111	22,132	19,498	18,360
Online Renewals	39,308	113,733	149,447	160,163	166,964	175,246
Total	142,999	149,523	171,558	182,295	186,462	193,606
Adoption Rate	27.56%	76.06%	87.11%	87.86%	89.54%	90.52%
Difference from previous year	11,561	74,425	35,714	10,716	6,801	8,282
% Increase	41.67%	189.34%	31.40%	7.17%	4.25%	4.96%



The One Stop Business Registration program will see even more enhancements with the launch of Phase IV. The OSBR Group was able to target problem areas based on customer input and adapt the flow of the application to allow for a more user-friendly experience. This encouragement of online filings helps the Division manage growth in business without requiring growth of government.

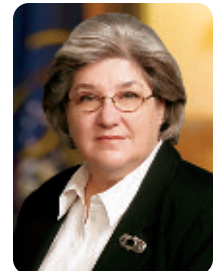
The following local partners offer business licensing services through OSBR: Salt Lake City, Sandy City, Provo, Logan, Murray, West Jordan, South Logan, and Springville.

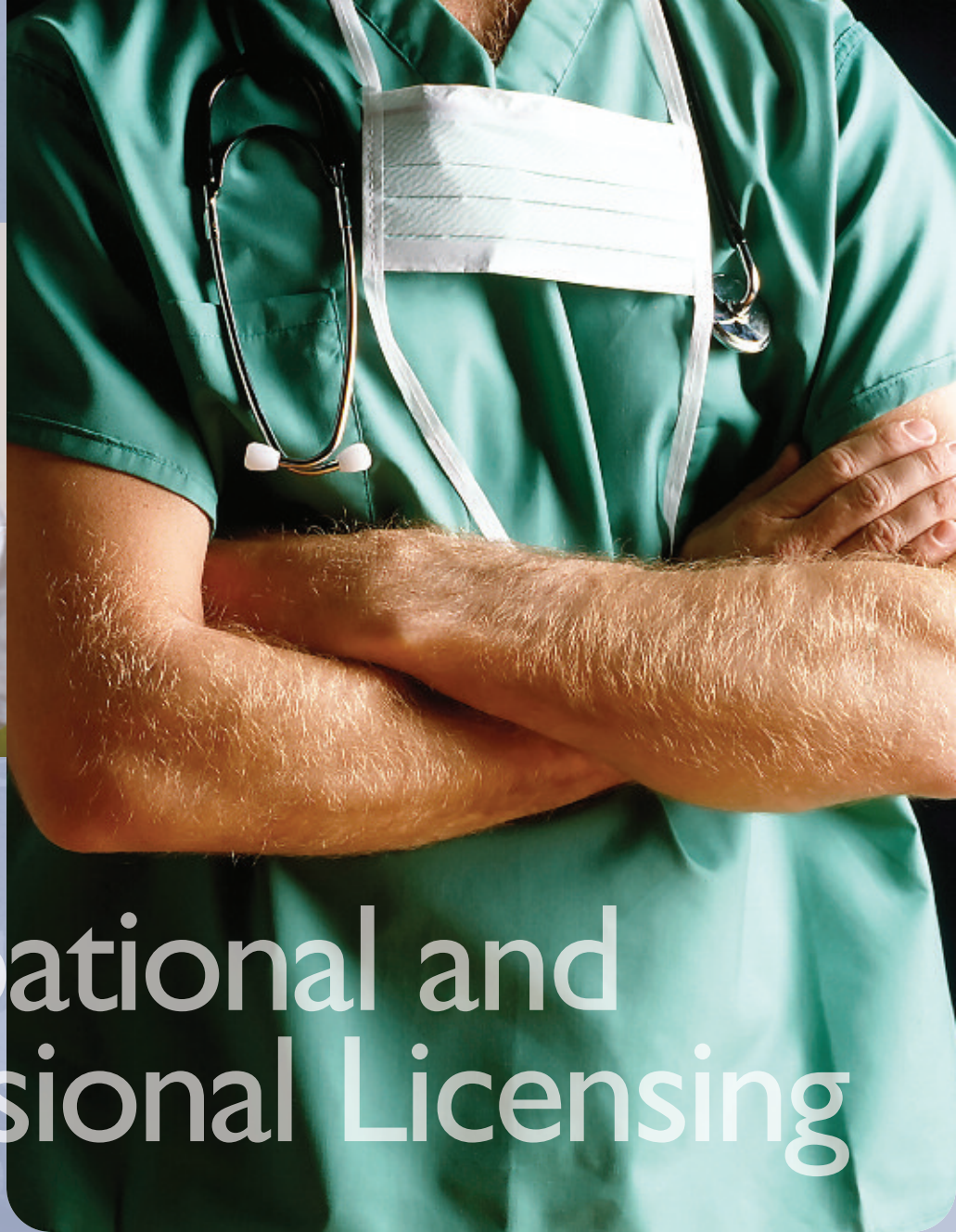
Beginning in September 2006, the Division of Corporations and Uniform Commercial Code changed the annual report/renew process. The Division began sending out postcard renewal notices directing customers to the Division's website to renew and update their entities. The adoption rate for the online renewal process skyrocketed from a previous high of around 40% to over 90% in the first month. Since that time, the adoption rate has been fairly steady around the 90% mark.

The screenshots show the Utah OneStop Online Business Registration system. The first screenshot is the welcome page, the second is the initial questionnaire, and the third is a continuation of the questionnaire with some answers selected.

**Questions specific to the Division of Corporations and Commercial Code may be directed to:**

**Kathy Berg, Director**  
(801) 530-4849  
kberg@utah.gov





*Division of*

# Occupational and Professional Licensing

## **Mission**

The mission of the Division of Occupational and Professional Licensing (DOPL) is to protect the public and to enhance commerce through licensing and regulation.

## **DOPL Objectives**

- Provide courteous customer service that is responsive, accurate, and informative
- Collaborate with stakeholders to balance regulation and commerce
- Administer programs and applications efficiently
- Promote a positive working environment where employees can participate and develop as teams and individuals.

*Total number of  
licensees increased  
to 179,307,  
an increase of 9,710  
over fiscal year 2010.*



## Licensing Statistics

One of the primary purposes of the Division is to protect the public by ensuring that an applicant for a professional license achieves a minimal level of competence.

	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
<b>Total Licensees</b>	169,093	169,380	169,597	179,307
<b>New Applications Submitted</b>	33,205	31,954	29,879	35,325
<b>Licensees Renewals</b>				
Online	70,087	64,264	84,391	71,077
Manual	17,378	7,905	7,831	9,045
Total	87,465	72,169	92,222	80,122
Percent of Renewals Online	80.13%	89.05%	91.51%	88.71%

### Licensees by Profession

(Including Temporary Licenses)

	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
Acupuncturists.....	102	108	104
Alternative Dispute Resolution Providers ...	49	49	NA
Architects .....	2,286	2,371	2,194
Athlete Agents .....	9	16	28
Athletic Trainer.....	214	264	281
Building Inspectors.....	702	608	687
Burglar Alarm Company Agents .....	4,126	5,265	5,644
Burglar Alarm Companies.....	160	172	175
Certified Court Reporters .....	137	141	126
Certified Public Accountants.....	4,183	4,335	4,400
Certified Public Accountancy Firms .....	612	651	646
Chiropractic Physicians .....	813	873	841
Contractors & Handyman .....	22,261	17,283	20,314
CS Handler: Facility and Individual .....	92	101	87
Controlled Substance Precursors:			
Purchaser and Distributor .....	10	11	6
Cosmetologist / Barbers .....	24,025	23,752	25,650
Cosmetology / Barber Schools.....	52	46	55
Deception Detection Examiners and Interns	29	29	23
Dental Hygienists.....	2,074	2,157	2,316
Dentists.....	2,528	2,604	2,608
Dietitians, Certified.....	579	622	594
Direct-Entry Midwives .....	21	20	25
Electricians .....	9,354	9,869	8,799
Electrologists .....	131	115	137
Electrology Schools.....	1	1	1
Elevator Mechanics .....	NA	NA	111
Engineers: Professional and Structural.....	7,439	7,933	8,129
Environmental Health Scientists .....	227	235	225
Estheticians and Master Estheticians .....	2,685	2,687	3,351

Continued on page 22.



*Licenses by Profession (Including Temporary Licenses) (Continued)*

	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
Esthetics Schools .....	28	23	30
Factory Built Housing Dealers .....	45	44	35
Funeral Directors Apprentices .....	348	387	353
Funeral Service Establishments .....	108	113	114
Genetic Counselors .....	43	48	47
Geologists .....	843	863	836
Health Facility Administrators .....	301	339	308
Hearing Instrument Specialists .....	108	114	106
Hunting Guides / Outfitters .....	NA	51	286
Land Surveyors .....	692	735	725
Landscape Architects .....	426	441	388
Marriage and Family Therapists .....	528	553	584
Massage Therapists .....	4,405	4,983	4,754
Medical Language Interpreter .....	NA	4	16
Nail Technicians .....	3,924	3,538	4,170
Nail Technician Schools .....	9	8	12
Naturopathic Physicians .....	31	40	44
Nurses .....	27,676	28,567	29,980
Occupational Therapists and Assistants .....	684	732	762
Optometrists .....	457	468	458
Osteopathic Physicians .....	429	457	508
Pharmacists, Interns, and Technicians .....	7,499	8,220	8,449
Pharmacies .....	1,304	1,263	1,431
Physical Therapists .....	1,714	1,973	2,061
Physician Assistants .....	771	836	921
Physician / Surgeons .....	8,221	8,512	8,734
Plumbers .....	4,294	4,455	4,094
Podiatric Physician .....	191	196	186
Preneed Funeral Arrangement Providers and Sales Agents .....	361	438	319
Private Probation Providers .....	37	67	62
Professional Counselors .....	917	953	1,080
Psychologists Psychology .....	840	866	867
Radiology Technologists and Practical Technicians .....	2,450	2,655	2,538
Recreational Therapists .....	659	705	676
Respiratory Care Practitioners .....	1,220	1,293	1,342
Security Companies .....	68	87	76
Security Personnel: Armed and Unarmed Officers .....	3,715	4,259	3,702
Social Workers .....	5,776	6,005	5,888
Speech-Language Pathologists and Audiologists .....	712	779	777
Substance Abuse Counselors .....	415	443	404
Veterinarians and Interns .....	649	670	673
Vocational Rehab Counselor .....	NA	98	205
<b>Total</b>	<b>169,380</b>	<b>169,597</b>	<b>179,307</b>





## State Construction Registry

The State Construction Registry provides full disclosure to property owners, contractors, and other interested parties, of people or entities providing goods and services to a construction project. The registry is a standardized statewide system for protecting construction lien rights through preliminary notices, notice of completions, and notices of commencements.

	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
<b><i>State Construction Registry</i></b>			
Notice of Commencement Filings	43,623	44,165	44,464
Filed by Municipalities	38,031	39,185	38,445
Filed by Users	5,592	4,980	6,019
Preliminary Notice Filings	109,198	109,551	99,526
Notice of Completion Filings	4,483	4,192	3,422

## Residence Lien Recovery Fund

The Utah Residence Lien Recovery Fund, in certain circumstances, bans a person from maintaining a lien on a residence and serves as a payment source for contractors, suppliers, and laborers, if a contractor fails to pay costs on a covered project.

	Fiscal Year 2011	Since Program's Inception
<b><i>Residence Lien Recovery Claim Totals</i></b>		
Number of Claims Filed	122	2,687
Amount of Claims	\$1,150,007	\$19,096,630
Number of Claims Paid	117	1,838
Amount of Paid Claims	\$921,714	\$11,734,020
Number of Claims Denied	66	549
Number of Claims Dismissed	12	227

## Prelitigation

The Division's prelitigation program expedites early evaluation and settlement, or other appropriate disposition, of medical malpractice claims. Parties in a medical malpractice suit are legally required to present their claims prior to filing in District Court. The program provides medical malpractice prelitigation hearing panels when properly requested by a party initiating a medical malpractice action.

	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
<b><i>Prelitigation Action</i></b>			
Cases Opened	338	295	270
Requests Denied	37	35	64
Hearings Scheduled	196	194	163
Cases Closed	361	312	271
<b><i>Outcome of Prelitigation Cases</i></b>			
No Merit	144	162	126
Meritorious	20	13	5
Stipulated	72	50	63
Dismissed	67	61	42
Split Decision	29	18	14
Jurisdiction	29	8	8



## Investigations

One of the Division's most important functions is to investigate violations of Utah's professional licensing laws. Investigative efforts are intended to protect the public from fraud and ensure compliance with the law.

	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
<b><i>Investigation Complaints</i></b>			
Complaints Received	4,549	3,687	3,139
Complaints Assigned	3,995	2,991	2,787
Closed Cases	4,147	3,523	3,144
<b><i>Investigation Actions</i></b>			
Felony Filings	47	27	43
Misdemeanor Filings	15	8	23
Administrative Filings	245	334	390
Letters of Concern	501	435	416
Diversion Referrals	32	28	25
Citations Issued	510	715	582

## Utah Recovery Assistance Program (URAP) and Probation

For license holders who commit or are likely to commit unlawful or unprofessional conduct but who are not a serious offenders, the Division offers two types of programs to correct behavior while allowing the individual an opportunity to make a living. URAP currently offers the option of diversion to any licensee who needs rehabilitative assistance and who has not been previously sanctioned by a licensing board. The URAP program is a non-public confidential program designed to assist and guide licensees to full recovery.

Probation may occur when a public disciplinary approach is warranted against a licensee. For both the URAP program and the Probation program when a licensee enters the program they are required to formally agree to the terms and conditions of the program and the consequences of their failure to meet those terms and conditions.

	Fiscal Year 2010	Fiscal Year 2011
Total Number of Active Licensees	169,597	179,307
Total Number of Diversionees (URAP)	149	138
Total Number of Probationers	489	556
Percent of Licensees Managed by Diversion or Probation Agreement	.360	.387

Questions specific  
to the Division of  
Occupational and  
Professional Licensing  
may be directed to:

Mark Steinagel, Director  
(801) 530-6626  
msteinagel@utah.gov



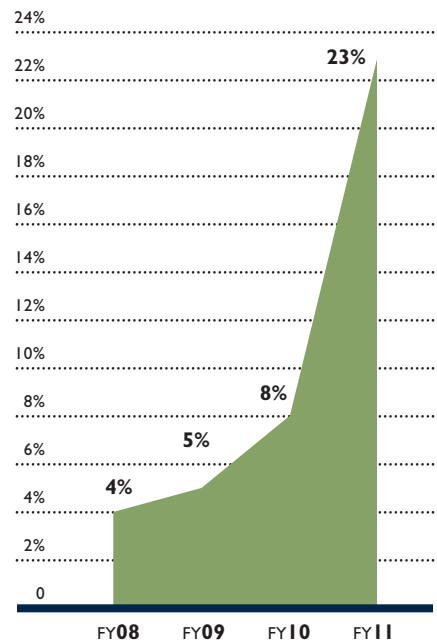
## Controlled Substance Data Base

The Utah Controlled Substance Database Program tracks and collects data on the dispensing of Schedule II-V drugs by all retail, institutional, and outpatient hospital pharmacies, and in-state/out-of-state mail order pharmacies. The data is disseminated to medical and law enforcement professionals and used to identify potential cases of drug over-utilization, misuse, and over-prescribing of controlled substances throughout Utah.

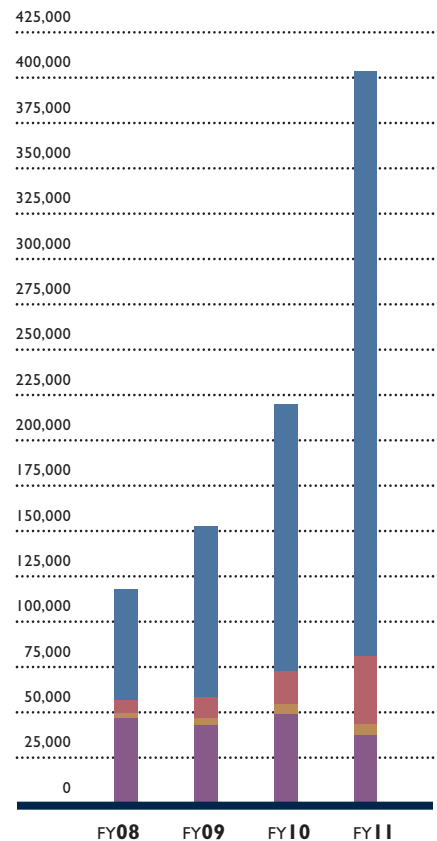
Total prescription records since inception.....	40,825,299
Total prescriptions processed in FY 2011 .....	5,361,407
Total Searches.....	402,339
Reporting Pharmacies .....	585
Cases vs. Non-Reporting Pharmacies .....	0
Number of doctor shopper letters sent to practitioners.....	1,867
Number of doctor shopper letters sent to pharmacies.....	5,237
Cases referred to other agencies .....	69
Letters regarding forged prescriptions.....	37
Denial letters.....	13
Active Online Users:	
Law Enforcement .....	593
Pharmacist .....	1,073
Prescribing Practitioners.....	9,899
Others .....	66
Total .....	11,631

Industry	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	4- Year Growth
Annual Controlled Substance Prescriptions	4,722,923	4,986,435	5,160,048	5,361,407	14%
Unique Prescribers	21,988	22,487	22,388	22,500	2%
Prescribers using the CSD	820	1,154	1,832	5,205	535%
<b>Industry Adoption</b>	<b>4%</b>	<b>5%</b>	<b>8%</b>	<b>23%</b>	<b>520%</b>
<b>CSD Searches</b>					
Prescribers	60,263	94,038	146,217	320,960	433%
Pharmacy	7,437	11,034	18,079	37,263	401%
Law	2,685	4,038	5,229	5,675	111%
DOPL	47,567	43,679	49,957	38,441	-19%
<b>Total CSD Searches</b>	<b>117,952</b>	<b>152,789</b>	<b>219,482</b>	<b>402,339</b>	<b>241%</b>

*CSD Utah Industry Adoption  
in percents*



*Total Utah CSD Searches*







## *Division of* Public Utilities

### **Mission**

The Division of Public Utilities promotes the public interest in public utility regulation and works to assure that all customers of regulated gas, electric, telephone and water utilities have access to safe, reliable service at reasonable rates. Division activities include:

- Investigating applications for certificates to provide utility service or to build new utility facilities;
- Auditing, analyzing, and investigating proposed rate increases or changes;
- Investigating and resolving complaints of utility customers;
- Monitoring the safety of natural gas pipelines within the state;

*The Division of Public Utilities' goal is to try to help resolve customer's issues as seamlessly as possible.*

- Auditing the finances and activities of utilities doing business in Utah;
- Assisting in the monitoring and management of the Universal Service Fund, which provides support for telecommunications customers in high-cost areas;
- Monitoring compliance with Utah law and Public Service Commission (PSC) rules and orders;
- Coordination and consultation with other state agencies in developing and implementing utility and other state policies.

### About the Division

The Division's staff of approximately thirty employees works with the PSC, the Office of Consumer Services and other state agencies, regulated telecommunications, electric, natural gas and water utilities, the public, outside experts, attorneys, and other states' utility regulators. Staff members have expertise in accounting, auditing, business, finance, economics, statistics, customer service, and engineering.

### FY2011 Highlights

#### Energy

##### *New Plant Proposal*

The Division monitored PacifiCorp's RFP process that resulted in PSC approval of the Lake Side 525-megawatt power plant to be built in Vineyard, Utah. The new Lake Side power plant will deliver much-needed electric power in Utah in 2014. PacifiCorp solicited bids for new power to be delivered in June 2014 from a variety of sources and a final short-list of new power options was available in October 2010. The choice of a Lake Side power plant was formalized with the December 2010 application to the PSC. The Division participated throughout the formal PSC process, which included testimony and a hearing, in support of PacifiCorp's new Lake Side power plant.

##### *Major Plant Addition Dockets*

Pursuant to Utah Code Annotated §54-7-13.4 PacifiCorp filed an application on February 1, 2010, requesting to put the capital costs of transmission infrastructure and environmental control equipment into the Company's rate base. On August 3, 2010, the Company filed a request for rate recovery for additional transmission infrastructure and wind generation facilities. Division staff participated in both proceedings providing analysis and written testimony, which culminated in approval of the company's application.



### Telecommunications

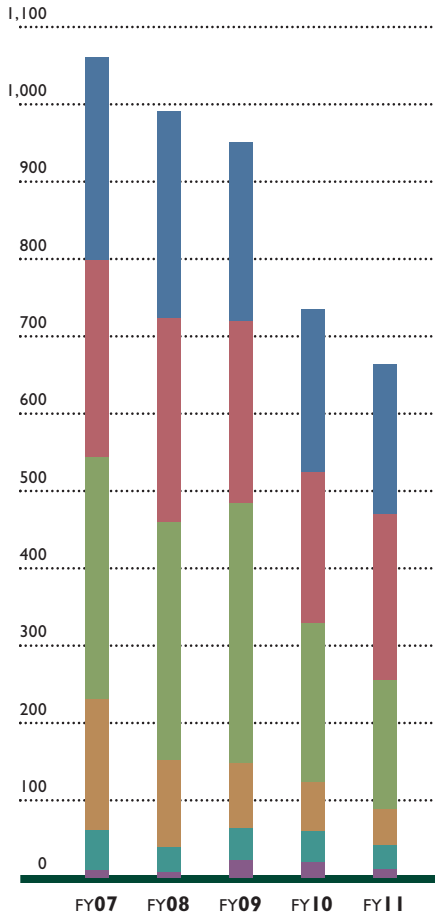
#### *Universal Service Fund Issues*

As the administrator of the Utah Universal Service Fund (USF), the Division conducts regular reviews of the USF support received by rural telecommunications carriers. These carriers receive support to help defray the expense of servicing high-cost rural areas. USF funds also support the cost of providing service to qualifying Lifeline (low-income) customers. During FY 2011, the USF fund balance ranged between \$2.0 and 5.4 million. While the fund's balance has been declining due to a prior decrease in the rate and additional disbursements, the PSC has recently increased the rate collected, which should stabilize the fund's balance.



### Five-Year History of Utility Complaints

Number of Complaints



The Division filed comments with the Federal Communications Commission concerning proposed federal rules that could jeopardize the fiscal health of the state's rural telephone companies and the stability of the state's USF. The comments were joined by the PSC. An FCC decision on the rulemaking is pending.

The Division agreed to support PSC approval of interim support from the state's USF to South Central Utah Telephone Association (SCUTA) during the pendency of SCUTA's application for USF monies. This interim support has enabled SCUTA to better serve its rural Utah members.



### Customer Service Section

The Customer Service Section helps to answer utility customer questions and works with customers and utilities to resolve informal complaints. Unresolved disputes are referred to the PSC for formal action. The Division's goal is to try to help resolve customers' issues as seamlessly as possible.

During FY 2011, the Customer Service Section fielded 659 informal complaints from utility customers, a 10% decrease from the previous year. Most complaints involve billing and service shut off issues.

### Five-Year History of Utility Complaints

Utilities	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	Utility Complaints Resolved Fiscal Year 2011	
						Informal/Resolved Without Hearing	Resolved by Hearing Officer
Electric	261	265	229	209	193	192	1
Natural Gas	253	261	233	193	212	208	4
Telecomm – ILEC* & Century-Link	309	306	333	204	165	163	2
Telecomm – CLEC**	169	112	84	63	47	47	0
Telecomm – Long Distance	54	35	44	43	34	34	0
Water/Sewer	7	4	20	17	8	7	1
<b>Total</b>	<b>1,053</b>	<b>983</b>	<b>943</b>	<b>729</b>	<b>659</b>	<b>651</b>	<b>8</b>

\*Incumbent Local Exchange Carriers, e.g. Century Link, All West, Frontier, Beehive

\*\*Competitive Local Exchange Carrier, e.g. AT&T, McLeod USA, Integra



In all cases, the Division first works with customers and utilities to resolve complaints informally. Most complaints were resolved by the Division working with the customer and the utility company. The unresolved disputes are referred to the PSC for formal action or hearing.

## Pipeline Safety

The Pipeline Safety Section operates under federal statutes to investigate safety and other conditions relative to the piping of natural gas within Utah. The section works with local natural gas distribution companies, such as Questar Gas Company, as well as municipal operators, intrastate transmission operators, and master meters.

Each year the federal Office of Pipeline Safety (OPS) evaluates the performance of state programs in fulfilling the requirements of the federal program. The Utah Pipeline Safety program continues to score high grades in its evaluation, which results in a high percent of Utah's program being funded by OPS.

During fiscal year 2011, Pipeline Safety personnel conducted comprehensive inspections of Questar Gas Company operations, municipal gas distribution operators, and intrastate transmission operators. The section also inspected pipeline construction projects and investigated incidents on pipelines. These inspections assure that operator procedures and operations are consistent with federal regulations for safe functioning of natural gas systems.

This year the Division also entered into a settlement with Questar Gas Company arising from a gas leak at the University of Utah in 2009. The settlement will protect the public by providing better training for utility facility locators, resulting in less frequent leaks and ruptures caused by excavators.

### *Pipeline Safety Inspections Fiscal Year 2011*

Questar Gas Company Regions .....	8
Municipal Gas Distribution Operators.....	6
Intrastate Transmission Operators .....	6
Gathering Operators .....	2
Small Gas System Operators (Master Meters) .....	35
Construction .....	21
Incident.....	43



**Questions specific  
to the Division  
of Public Utilities  
may be directed to:**

*Chris Parker, Director*  
(801) 530-7622  
[chrisparker@utah.gov](mailto:chrisparker@utah.gov)





## *Division of* **Real Estate**

### **Mission**

The mission of the Division of Real Estate is to protect the public and promote responsible business practices through education, licensure and regulation of real estate, mortgage and appraisal professionals.

### **2011 Outreach**

The Division makes every effort to be available to the public, to professional organizations, and to the individuals licensed or registered to practice in real estate-related industries. In fiscal year 2011, the Division sponsored several educational events.

*Through increased enforcement actions in fiscal year 2011, the Division of Real Estate ordered a total of \$351,071 in fines.*





In addition, Division staff spoke at numerous meetings sponsored by industry groups and attended a senior expo. The table below lists the Division's outreach efforts for the past year.

Date	Event
October 18-19, 2010	Division-sponsored Instructor Development Workshop held in Park City. Speakers included the Division Director, Division enforcement and licensing supervisors, and FBI agents Joe Wrona and David Johnson.
October 21-22, 2010	Division representatives sponsored a booth for the Senior Expo at the South Towne Expo Center in Sandy.
February, March, and April 2011	Division representatives attended and spoke at the Appraisal Institute Northern Utah Chapter luncheons.
March 25, 2011	Division representatives attended and spoke at the Appraisal Institute Spring Symposium in St. George.
April 26 through May 12, 2011	Three-hour Division-sponsored continuing education seminars held in Logan, Ogden, Lindon, Park City, St. George, Richfield, and Moab.

## Statutory Changes

Representative Gage Froerer sponsored H.B. 91, Real Estate Related Amendments. Changes focused on reducing over-burdensome regulation and fine-tuning administrative procedures to ensure licensees are treated fairly, while still giving the Division the necessary tools to sanction bad actors. More information about that legislation is available here:

<http://le.utah.gov/~2011/htmdoc/hbillhtm/hb0091s01.htm>





## Education

The Division's three education coordinators certify prelicensing courses, schools, and instructors in the real estate, mortgage, and appraisal industries. They also certify continuing education courses for real estate and appraisal professionals. The following tables give historical data as to the number of certifications issued by the Division, as well as the number of prelicensing examinations that have been administered.

<i><b>Certifications Issued</b></i>	Fiscal Year <b>2008</b>	Fiscal Year <b>2009</b>	Fiscal Year <b>2010</b>	Fiscal Year <b>2011</b>
Educational Programs	32	53	31	51
Real Estate Pre-Licensing Instructors	68	129	47	44
Real Estate CE Courses	1,202	1,111	9,701	1,039
Real Estate CE Instructors	467	503	383	369
Mortgage Pre-Licensing Instructors	47	40	36	22
Mortgage CE Courses	733	503	371	*
Mortgage CE Instructors	153	159	122	67
Appraisal CE Courses	—	—	412	491
Appraisal Instructors	25	94	107	54

*\*Under the licensing program that has been adopted across the country in order to comply with the federal S.A.F.E. Act, continuing education courses for mortgage professionals are now reviewed and approved at the national level by the Nationwide Mortgage Licensing System (NMLS).*



## ***Pre-licensing Examinations Administered***

	Fiscal Year <b>2008</b>	Fiscal Year <b>2009</b>	Fiscal Year <b>2010</b>	Fiscal Year <b>2011</b>
Real Estate Agent Exams	3,357	1,536	1,865	1,114
Real Estate Broker Exams	389	304	275	233
Mortgage Originator Exams	2,177	1,152	713	*
Mortgage PLM Exams	395	163	98	278
Appraiser Exams	299	189	202	186

*\*Pursuant to the federal S.A.F.E. Act, mortgage originator exams are now scheduled and administered through the NMLS. Therefore, the data as to how many exams were taken by Utah applicants in fiscal year 2011 is not available to the Division.*

## Licensure

The difficult real estate economy continues to impact the total number of licenses issued and renewed in the real estate, mortgage, and appraisal industries. The following tables show the number of licenses and registrations granted over the past six years in all industries regulated by the Division.

### Total Number of Licenses/Registrations

	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
Real Estate	25,829	28,833	28,735	26,425	23,655	21,559
Mortgage	14,756	15,702	12,354	10,416	8,385	4,308
Appraiser	1,561	1,859	2,064	2,094	2,021	1,457
Appraisal Management Co. (AMCs)	—	—	—	—	88	133
Subdivision/Timeshare	422	489	477	571	352	400
<b>Total</b>	<b>42,568</b>	<b>46,883</b>	<b>43,630</b>	<b>39,506</b>	<b>34,501</b>	<b>27,857</b>

### New Licenses/Registrations Issued

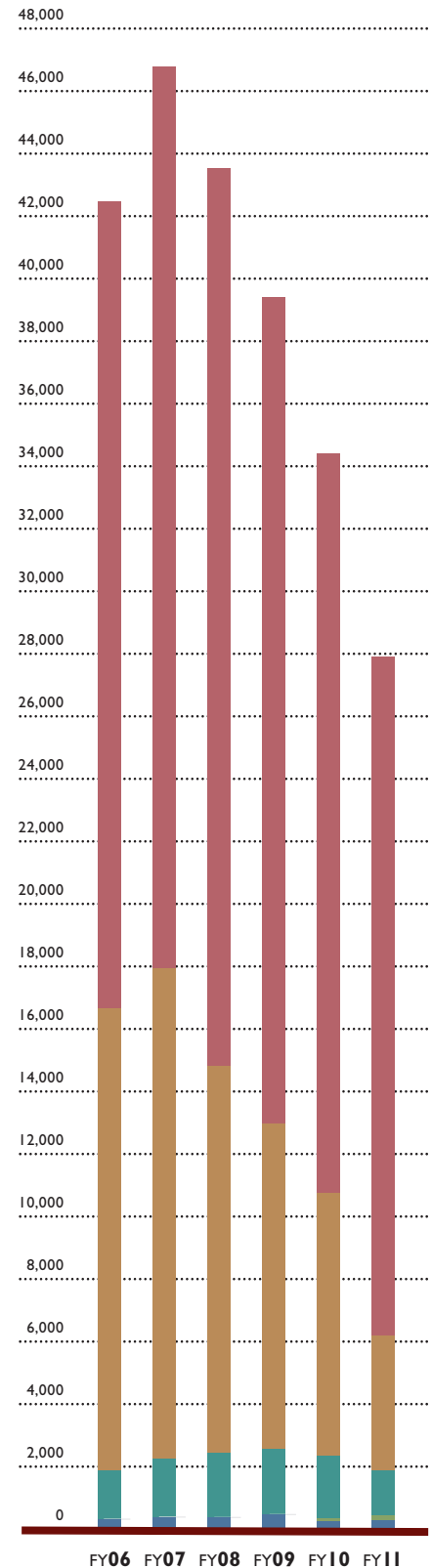
	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
Real Estate	4,666	5,697	3,591	2,209	2,050	1,362
Mortgage	3,669	3,649	2,032	1,028	1,113	853
Appraiser	160	481	531	307	347	196
Appraisal Management Companies (AMCs)	—	—	—	—	88	50
Timeshare	156	199	216	173	115	71
<b>Total</b>	<b>8,651</b>	<b>10,026</b>	<b>6,370</b>	<b>3,717</b>	<b>3,713</b>	<b>2,532</b>

### Licenses/Registrations Renewed

	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
Real Estate	7,601	8,071	9,340	9,550	9,049	8,388
Mortgage	1,998	3,065	3,367	3,086	1,283	3,704
Appraiser	390	544	463	586	511	626
Timeshare	122	135	185	140	88	36
<b>Total</b>	<b>10,111</b>	<b>11,815</b>	<b>13,355</b>	<b>13,362</b>	<b>10,931</b>	<b>12,754</b>

### Total Utah Licenses/Registrations

Number of Licences/Registrations







## Enforcement

The Division has worked hard to strengthen its relationship with criminal prosecutors at county, state, and federal levels. As a result, an increased number of complaints submitted to the Division are being screened and accepted for criminal prosecution. The Division continues to pursue administrative actions as needed in these cases. The following tables provide data about the type and number of disciplinary sanctions obtained by the Division, either through stipulation or by disciplinary action in an administrative hearing. Through these actions, the Division ordered a total of \$351,071.00 in fines during fiscal year 2011.

### Enforcement Statistics

	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
<b>Complaints Received</b>						
Real Estate	429	559	675	440	539	645
Appraiser	85	89	142	145	146	129
Mortgage	251	345	401	278	319	493
<b>Cases Opened</b>						
Real Estate	329	289	215	189	127	254
Appraiser	61	47	85	118	93	101
Mortgage	110	71	104	53	93	170
<b>Cases Closed</b>						
Real Estate	657	329	220	153	170	172
Appraiser	34	26	106	12	937	124
Mortgage	104	91	136	71	98	128
<b>Total Open Cases as of June 30, 2011</b>						
Real Estate	191	179	175	112	69	142
Appraiser	103	121	100	91	91	68
Mortgage	127	99	68	49	44	85

Questions specific  
to the Division  
of Real Estate  
may be directed to:

Jonathon Stewart, Director  
(801) 530-6751  
jstewart@utah.gov



### FY 2011 Sanctions

	Appraisal	Mortgage	Real Estate	Total
Remedial Education	5	2	31	38
Fines	10	22	45	77
Probation	6	32	60	98
Suspension	0	4	4	8
Revocation/Surrender	7	23	4	34
Cease and Desist Orders	1	3	2	6
Criminal Referrals	2	3	11	16





## *Division of* **Securities**

The Division of Securities enhances Utah's business climate by protecting Utah's investors through education, enforcement, and fair regulation of Utah's investment industry while fostering opportunities for capital formation.

### **Financial Regulatory Reform**

The past year has seen significant changes to the securities regulatory landscape. In the wake of the financial crisis of 2008-2009, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Although many of the rules implementing the Act are still in the drafting

*The Utah Division of Securities is working to update its rules to work smoothly with the new federal regulations and make the transition as easy as possible.*





Governor Herbert signing Senate Bills 100 and 101 on April 28, 2011.



*With Senate Bill 100, if the enforcement action leads to the collection of monetary sanctions over \$50,000, the reporter may be entitled to a reward of up to 30% of the amount collected in the case.*

process by various federal regulatory agencies, most observers believe the Act represents the most sweeping financial regulatory reforms since the 1930's. The Utah Division of Securities is working to update its rules to work smoothly with the new federal regulations and make the transition as easy as possible for securities firms and securities professionals doing business in the state.

In the 2011 General Session the Utah Legislature also adopted two notable changes to Utah's securities laws:

- Senate Bill 101, "Utah Uniform Securities Act Enforcement," sponsored by Sen. Ben McAdams (D – Salt Lake City), created enhanced administrative and criminal penalties for individuals who commit securities fraud against "vulnerable adults" or who use "undue influence" by exploiting a preexisting relationship of trust with the securities fraud victims. The goal of this legislation is to deal with the problem of affinity fraud in the state, where fraudsters use common membership in a religious or social organization to gain the trust of their potential victims and then convince them to "invest" with the fraudster.
- Senate Bill 100, "Securities Fraud Reporting Program Act," also sponsored by Sen. Ben McAdams (D – Salt Lake City), created a reward program for individuals who provide original information to the Division of Securities that leads to a successful enforcement action for securities fraud or other violations of the Utah's securities laws. If the enforcement action leads to the collection of monetary sanctions over \$50,000, the reporter may be entitled to a reward of up to 30% of the amount collected in the case. The goal of this legislation is to encourage those with information regarding violations to come forward and cooperate with the state in enforcement actions.



## Licensing

The Division of Securities licenses and regulates those in the securities industry that sell securities, offer advice about securities, or manage the investments of others. These include: broker-dealers, securities agents, investment advisers, investment adviser representatives, issuer agents, and certified dealers and their agents.

The Division works closely with the U.S. Securities and Exchange Commission (SEC) and securities regulators from other states to streamline the licensing process and to ensure consistency.



<i>Securities Licensing</i>	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
Broker – Dealers	1,766	1,815	1,819	1,775	1,641	1,621
Broker – Dealer Agents	89,516	97,506	103,174	100,677	88,947	96,660
Investment Advisers	157	176	148	183	156	142
Federal Covered Advisers	1,398	877	945	985	926	906
I.A. Representatives	3,445	3,711	4,445	4,189	3,577	3,881
Certified Broker – Dealers	23	20	21	15	10	12
Certified Investment Advisors	—	—	—	4	3	4
Certified Broker – Dealer Agents	90	97	72	63	73	74
Issuer Agents	83	117	109	102	85	87
<b>Total</b>	<b>96,478</b>	<b>104,319</b>	<b>110,908</b>	<b>107,993</b>	<b>95,418</b>	<b>103,397</b>

## Corporate Finance/ Securities Registration

Another key component of the Division's efforts to promote legitimate capital markets is to register securities offerings that are qualified to be sold in this state and review the adequacy of disclosures to potential investors by companies offering certain types of securities. In addition, Division employees meet with companies seeking to raise capital to explain the many options for raising capital and to discuss how to improve the quality of disclosure to potential investors.

The chart below lists the number of registrations, exemption offerings, and other filings reviewed by the Corporate Finance Section of the Division.

<i>Securities Filings</i>	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
Registrations						
Coordination	128	123	116	102	92	106
Qualification	1	1	0	0	1	0
Exemptions	41	40	50	27	31	53
Opinion / No Actions Letters	4	4	3	4	1	2
Mutual Funds	4,514	4,911	5,150	5,541	5,330	5,589
Rule 506	808	1,032	1,076	712	588	690
<b>Total</b>	<b>5,496</b>	<b>6,111</b>	<b>6,395</b>	<b>6,386</b>	<b>6,043</b>	<b>6,440</b>



## Compliance and Enforcement

The Compliance Section of the Division of Securities conducts routine and “for cause” examinations pertaining to the operations of licensed broker-dealers, investment advisers, and their agents. If misconduct is found, the Division will work with the licensed individual or firm to bring them into compliance with the applicable laws or initiate disciplinary proceedings against the licensee depending upon the nature of the violation or misconduct.

The Division of Securities actively seeks to identify those investment offerings that are fraudulent or otherwise fail to comply with the law’s requirements. Enforcement is a key component in promoting legitimate capital markets by preventing the loss of investor monies to fraudulent schemes and promoting investor confidence in the integrity of the markets.

### Compliance and Enforcement

Activity	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010*	Fiscal Year 2011
New Investigations/Audits						
Complaints Received	85	115	162	283	191	202
Audit Files Opened	54	23	34	41	34	45
Investigation Files Opened	61	77	149	66	40	83
Administrative Cases						
New Cases Filed	87	108	123	78	65	94
Stipulations & Consent Orders	—	—	—	—	34	34
Adjudicated Orders	—	—	—	—	4	8
Civil Cases						
Lawsuits Filed	7	2	1	0	0	0
Judgements	1	0	0	0	0	0
Criminal Cases						
Criminal Charges Filed	19	24	34	31	16	34
Convictions	9	12	9	19	18	13
Pleas in Abeyance	9	4	3	2	6	7
Fines & Restitution						
Fines Assessed	\$864,230	\$3,698,905	\$4,409,235	\$1,736,378	\$5,363,698	\$1,822,484
Fines Paid	\$450,393	\$690,066	\$210,090	\$56,460	\$2,676,796	\$1,176,116
Restitution Ordered	\$2,480,666	\$25,026,659	\$31,036,757	\$31,906,009	\$21,484,942	\$5,256,191

\*Disclaimer: In 2010, the Utah Division of Securities adopted a new database “progress” to track enforcement, licensing and statistics.

The Division becomes aware of possible frauds as a result of investor complaints, referrals from other government and consumer agencies, and the Division's own investigative efforts (including undercover work). For allegations that prove valid, the Division can bring enforcement actions administratively (cease and desist orders or licensing discipline), in civil court (seeking court-imposed injunctions and restitution), or by referring cases for criminal prosecution. The Division works closely with criminal prosecutors in the U.S. Attorney's Office, the Utah Attorney General's Office and multiple counties to obtain criminal convictions against the most egregious violators.

The chart on page 38 summarizes some of the Division's compliance and enforcement activities.

### Investor Education

The Division's mission includes a mandate to educate Utah investors regarding the securities laws and to help increase public awareness of the problem of investment fraud. The Division hosts educational events throughout the state and uses various media outlets to run public service announcements, all designed to help give Utah investors the tools they need to take control of their savings and investments and recognize and avoid investment fraud. The Division partners with several other government agencies and non-profit groups in the state who also work to increase the financial literacy of all Utahans.

	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
Investor Education Presentations	42	47	44
Total Number of People Attending Investor Education Presentations	4,542	3,424	8,290

*The Division of Securities hosts educational events and uses various media outlets to run public service announcements, all designed to help give Utah investors the tools they need to take control of their savings and investments and recognize and avoid investment fraud.*



**Questions specific to the  
Division of Securities  
may be directed to:**

*Keith Woodwell, Director*  
(801) 530-6600  
[kwoodwell@utah.gov](mailto:kwoodwell@utah.gov)





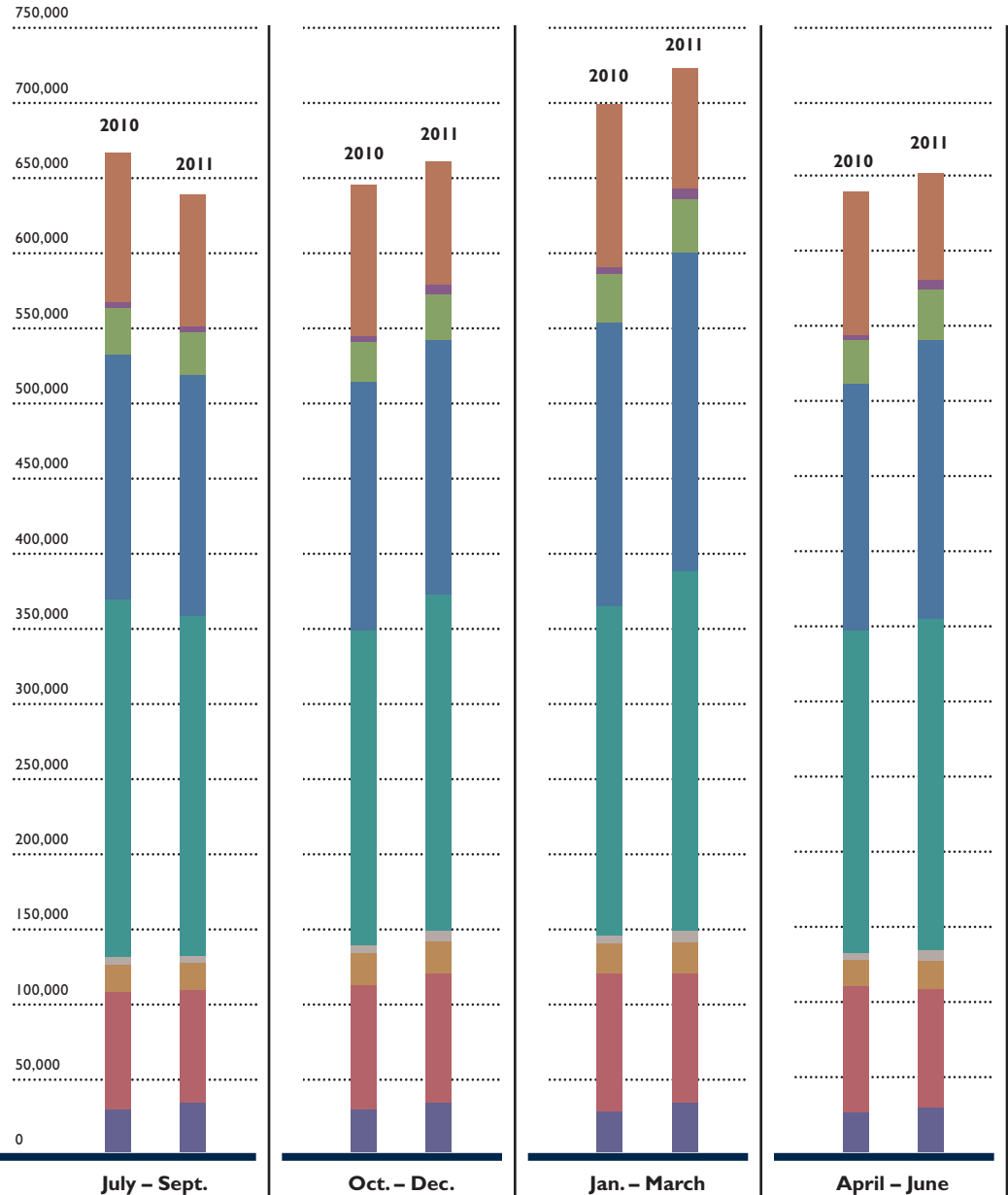
## Web Trends

Between fiscal years 2010 and 2011, the State changed the application used to generate reports of agency website activity.

The previous fiscal year results are presented here using the new application, and are comparable to the current fiscal year activity.

The new application eliminates automated, or 'bot,' inquiries and counts the actual access by individuals. This is a more accurate representation of actual website activity.

### Quarterly Website Visits by Division (Fiscal Year 2010 & Fiscal Year 2011)



	July – Sept.		Oct. – Dec.		Jan. – March		April – June	
	2010	2011	2010	2011	2010	2011	2010	2011
Commerce Main Site	98,587	87,371	100,518	82,275	108,169	79,957	95,033	71,434
Consumer Services (CCS)	4,368	3,794	4,246	5,957	4,441	6,590	3,428	6,087
Consumer Protection (DCP)	30,588	28,553	25,781	30,260	32,493	35,567	28,833	33,702
Corporations (CORP)	162,154	159,461	165,151	168,656	187,642	210,639	163,439	184,896
Occupational & Professional Licensing (DOPL)	237,356	225,332	208,649	223,303	218,331	239,062	213,624	219,162
Property Rights	5,378	4,995	5,419	7,247	5,395	7,740	5,014	7,531
Public Utilities (DPU)	18,159	17,827	20,774	20,748	19,963	20,904	17,459	18,664
Real Estate (DRE)	77,450	75,209	82,879	85,697	91,656	85,696	83,341	78,431
Securities (DS)	28,259	32,244	27,948	32,746	26,571	32,300	26,392	29,465
<b>Total</b>	<b>662,299</b>	<b>634,786</b>	<b>641,365</b>	<b>656,889</b>	<b>694,661</b>	<b>718,455</b>	<b>636,563</b>	<b>649,372</b>

**Utah Department of Commerce Web Usage***(Fiscal Year July 2010 to June 2011)*

Division / Application	Online	Paper	Total	Percent
<b>Division of Corporations and Commercial Codes</b>				
OSBR — New Business Reg	26,154	—	26,154	100%
ABR — Business Renewals	180,171	—	180,171	100%
ABR — Business Updates	7,932	—	7,932	100%
BES — Business Search	14,973,748	—	14,973,748	100%
Business Image Search	56,096	—	56,096	100%
Certificate of Existence	12,369	—	12,369	100%
Business Search — View Principals	197,473	—	197,473	100%
Principal Search — View Businesses	25,743	—	25,743	100%
Uniform Commercial Code Searches — Pageviews	349,371	—	349,371	100%
Uniform Commercial Code Certified Search	1,151	—	1,151	100%
Uniform Commercial Code Image Search	25,122	—	25,122	100%
Uniform Commercial Code Total Filings	19,942	21,220	41,162	48%
UCC Initial Filings	10,072	12,132	22,204	45%
UCC Continuations	3,548	2,567	6,115	58%
UCC Terminations	4,898	2,298	7,196	68%
UCC Amendments	1,417	2,394	3,811	37%
Trademarks	343	—	343	100%
<b>Division of Occupational and Professional Licensing</b>				
DOPL Verifications	2,683	—	2,683	100%
DOPL Renewals	73,927	—	73,927	100%
DOPL Search — Pageviews	4,113,149	—	4,113,149	100%
State Construction Registry Total Filings	147,412	—	147,412	100%
SCR Commencements	6,019	—	6,019	100%
Preliminary	99,526	—	99,526	100%
Completion	3,422	—	3,422	100%
Commencements — Cities	38,445	—	38,445	100%
<b>Division of Real Estate</b>				
Real Estate Renewal	7,586	—	7,586	100%
Real Estate License Management (RELMS)	638,928	—	638,928	100%
Real Estate Search — Pageviews	717,099	—	717,099	100%
<b>All Divisions — Totals</b>	<b>21,596,334</b>	<b>40,611</b>	<b>21,020,195</b>	<b>103%</b>

FY  
2011

## Expenditure Summary

### Department of Commerce Expenditures Fiscal Year 2011

July 1, 2010, through June 30, 2011

Expenditures  
by Division: (in dollars)

Administration / IT .....	\$3,637,290
Property Rights Ombudsman .....	\$445,044
Occupational and Professional Licensing .....	\$6,702,187
Securities .....	\$1,527,993
Consumer Protection .....	\$1,418,400
Corporations .....	\$1,914,905
Real Estate .....	\$1,622,800
Public Utilities .....	\$3,264,430
Office of Consumer Services .....	\$1,147,802
Building Rent .....	\$272,535
<b>Total .....</b>	<b>\$21,953,387</b>



# Utah Department of Commerce

*Heber M. Wells Building*

*160 East 300 South • Salt Lake City, UT 84111*

*(801) 530-6701*

