

# LEGISLATIVE AUDIT COMMISSION



Review of  
Department of Financial and Professional Regulation  
Two Years Ended June 30, 2010

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**REVIEW: 4361**  
**DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION**  
**TWO YEARS ENDED JUNE 30, 2010**

**FINDINGS/RECOMMENDATIONS - 10**

**IMPLEMENTED - 5**  
**ACCEPTED - 5**

**REPEATED RECOMMENDATIONS - 10**

**PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 19**

This review summarizes the auditors' report on the Department of Financial and Professional Regulation, for the two years ended June 30, 2010, filed with the Legislative Audit Commission May 12, 2011. The auditors performed a compliance examination in accordance with *Government Auditing Standards* and State statute. The Department was created on July 1, 2004 as a result of the consolidation of the Departments of Financial Institutions, Insurance, Professional Regulation and the Office of Banks and Real Estate. Legislation once again created a separate Department of Insurance effective July 1, 2009.

The Department oversees the regulation and licensure of banks and financial institutions, real estate businesses and professionals, insurance companies (FY09 only) and various licensed professions, enforces standards of professional practice and protects the rights of Illinois residents in their transactions with regulated industries. The mission of the Department is to protect and promote the lives of Illinois consumers. DFPR regulates and oversees over one million professionals and licensed entities in nearly 100 industries. The Department also monitors most of the State's financial institutions, which have combined assets in excess of \$4 trillion. At the time of this audit, the Department had four Operating Divisions: Insurance (FY09 only), Professional Regulation, Financial Institutions, and Banking.

Mr. Dean Martinez was the Secretary of the Department during the first six months of the audit period. He resigned in December 2008 and Michael McRaith became Secretary. On July 6, 2009, Mr. McRaith became Director of the Department of Insurance, and Mr. Brent Adams was named Secretary of DFPR. Mr. Adams was confirmed by the Senate as Secretary on October 29, 2009. Previously, Mr. Adams served as Chief of Staff at DFPR. Jay Stewart is the Director of the Division of Professional Regulation; Manuel Flores, Director, Division of Banking; and Roxanne Nava, Director, Division of Financial Institutions.

Appendix A is an overview of some of the Department's service efforts and accomplishments from FY10 through FY08.

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The average number of employees by division is as follows:

<b>Division</b>	<b>FY10</b>	<b>FY09</b>	<b>FY08</b>	<b>FY04</b>
Division of Insurance	0	196	202	
Division of Banking	156	162	148	
Division of Professional Regulation	210	218	216	
Division of Financial Institutions	61	64	70	
Executive Office	7	8	4	
Fiscal and Accounting Unit	5	9	28	
Information Technology Unit	21	33	35	
Human Resources Unit	0	0	9	
General Counsel	15	29	38	
Legislative Affairs Unit	7	6	7	
Administrative Services Unit	21	25	25	
Shared Services—Fiscal	15	22	0	
Shared Services—Human Resources	7	11	0	
Legacy Department of Insurance				327
Legacy Office of Banks & Real Estate				251
Legacy Department of Professional Reg				248
Legacy Department of Financial Institutions				82
<b>TOTAL</b>	<b>525</b>	<b>783</b>	<b>782</b>	<b>908</b>

### **Expenditures From Appropriations**

The General Assembly appropriated a total of \$80,514,200 from 24 different funds during FY10; costs associated with some of the professions regulated by the Department are paid from those respective professions' individual funds. Appendix B summarizes these appropriations and expenditures by fund for the period under review, while Appendix C indicates expenditures for FY10, FY09 and FY08 by major object code.

Total expenditures from all funds was \$67,702,598 in FY10 compared to \$94,958,489 in FY09, a decrease of \$27,255,891, or 28.7%. The primary reason for the decrease was the re-establishment of the Department of Insurance, which accounted for about \$19.2 million in expenditures in funds established for insurance purposes in FY09 plus almost \$9 million in expenditures from the Professions Indirect Cost Fund for the Insurance Division support staff. All other expenditures were level.

### **Cash Receipts**

The Department collects fees and taxes in connection with the licensing of various professions, occupations and activities. Cash receipts totaled \$85.22 million in FY10 and \$519.36 million in FY09, a decrease of \$434 million due primarily to the re-establishment of the Department of Insurance. The table in Appendix D summarizes the revenues recorded in the various funds. Variances in receipts in the Division of Financial Institutions and the Division of Professional Regulation were generally due to timing differences in annual fee payments, renewal cycles and changes in number of licensees.

The Bank and Trust Company Fund receipts decreased by almost \$8.9 million in FY10 as a result of bank closures and fee rate reductions resulting from the settlement of the Illinois Credit Union League litigation. Receipts decreased \$1.3 million in the Savings and Residential Finance Regulatory Fund as a result of a decrease in the number of licensees, adjustment to fees assessed through the National Mortgage License System, and fee reductions from the settlement of the Illinois Credit Union League litigation.

### **Locally Held Funds**

Appendix E summarizes the locally held funds of the Department for the years under review. The Official Advance Fund is a Special Revenue Fund with the purpose of securing and preparing evidence and purchasing controlled substances, professional services, and equipment for enforcement activities.

### **Property and Equipment**

Appendix F provides a summary of changes in property and equipment. Property and equipment decreased from \$10,831,178 as of July 1, 2008 to \$6,452,652 as of June 30, 2010.

### **Accounts Receivable**

As of June 30, 2010, the Department's gross accounts receivable totaled \$13.9 million. Of the \$13.9 million in gross receivable, \$7.5 million is current. Almost \$3.1 million is estimated as uncollectible.

## Status of Previous Audits

### Program Audit of the Department's Disciplining of Physicians (August 2006)

The program audit contained 24 recommendations and the Department made progress in implementing 19 recommendations. The following is the status of the remaining recommendations:

7. Take the steps necessary to assist the Medical Coordinators with backlogs and improve case timeliness. Not implemented—as of February 14, 2011, the Medical Coordinator had 143 cases in his possession, an increase from 2009.
11. Develop and implement management controls to ensure that prosecution activities are timely and properly documented. Partially implemented.
14. Make rules relating to the definition of disciplinary and non-disciplinary actions consistent with the Medical Practice Act of 1987. Not implemented.
19. Work to assure that all members, including public members, are appointed to the Medical Disciplinary Board as required by law. Not implemented.
24. Require employees, including medical investigators, to prepare timesheets as required by law. Not implemented.

## Accountants' Findings and Recommendations

Condensed below are the 10 findings and recommendations included in the audit report. All ten recommendations were repeated. The following recommendations are classified on the basis of updated information provided by Secretary Brent Adams and the Department of Financial and Profession Regulation, via electronic mail received September 21, 2011.

### Accepted or Implemented

1. **Evaluate procedures in place over the security of equipment. Also, perform a detailed assessment to determine if any of the missing computers contained confidential information. (Repeated-2008)**

**Finding:** The Department of Financial and Professional Regulation was not able to locate various pieces of computer equipment during its annual inventories. In its fiscal year 2009 and 2010 Physical Inventory Reports submitted to CMS, the Department reported it was unable to locate 59 of 3,129 items totaling \$91,852 and 75 of 1,815 items totaling \$147,586, respectively.

Upon further inquiry with Department and CMS personnel, auditors noted the following:

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- During FY09, the missing equipment consisted of approximately 25 laptop computers, 7 desktop computers, and other peripheral items.
- During FY10, the missing equipment consisted of approximately 21 laptop computers, 5 desktop computers, and other peripheral items.

The Department was unable to produce property transfer records or locate the missing computer equipment. The Department had not performed an assessment, and was unsure how much, if any, confidential information was on the missing computers.

Department management stated its personnel assumed the missing items were transferred to and removed by CMS. Upon follow up with CMS, CMS personnel stated none of these missing items were included in its property control records.

**Response:** Accepted. As a result of a previous external audit, the Department conducted an internal audit of all inventory procedures. The Department is implementing specific recommendations of that audit, including issuing property tags more promptly and implementing a reconciling process to ensure accuracy in the Quarterly Agency Report.

The Department has improved its inventory procedure to better track the internal movement of computer equipment within the Department and to document, in hard copy and electronic format, when equipment is moved. In addition, the Department has acquired a new inventory program that includes state-of-the-art scanning equipment that immediately matches inventory with inventory records maintained by the Department and CMS. This will enable the Department to more quickly identify any missing equipment. Moreover, a hard copy verification of equipment movement is now maintained by both the Information Technology Division and the Administrative Services Division.

The Department's computers are secure from access by unauthorized third parties. All of the Department's computers are password protected. Only the person assigned the computer, Agency IT staff with administrative rights, or CMS IT personnel have the ability to override or change the password. Also, confidential information accessed through a desktop computer resides on the network, not on the resident hard drive. Agency staff is instructed not to save any licensing or enforcement data to the desktop hard drive.

In the past, computers that were not located during the Department's inventory had been transferred to CMS surplus without the proper paperwork. There were also some instances of inadequate transfer paperwork when the Department of Insurance spun-off from the Department.

**Accepted or Implemented - continued**

2. **Comply with the State Records Act and maintain the documentation required within the Enforcement Unit files. Further, allocate the resources necessary to comply with internal guidelines for the Enforcement Unit to ensure that case files reflect necessary and significant investigative, prosecution, and probation/compliance activities in the Department within established time frames. (Repeated-2004)**

**Finding:** The Department's Division of Professional Regulation's Enforcement Unit did not perform and/or document enforcement activities in a timely or sufficient manner. Auditors reviewed 25 investigation files and noted the following deficiencies:

- In three out of 25 case files reviewed, the Investigative Reports were not generated in a timely manner, ranging from 526 to 1,171 days after the investigative activity.
- In four cases, the investigator did not interview the complaining witness in a timely manner.
- In one case, an Investigative Report was not included in the file.
- In one case, the Consumer Services Inquiry Form did not have a document attached explaining the complaint in detail.
- In one case, an Investigative Summary Report was not included in the file.
- In one case, the investigator did not check the license status of the respondent within 30 calendar days of initial receipt of complaint.
- In two cases, the Investigative Report and/or the Investigative Summary Reports were not signed by the investigator and/or the supervisor.
- In two cases, the file did not contain a complaint intake form, internet complaint intake form, complaint report, letter stating a claim, or an e-mail letter stating a claim.

Auditors reviewed 25 probation files and noted the following deficiencies:

- In two cases, a copy of the original contact letter was not included in the file.
- In one case, an Investigative Report was not included in the file.
- In one case, an Integrated Licensing and Enforcement System (ILES) discipline page was not included in the file.

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- In one case, auditors were unable to verify if the Probation Investigator met with the respondent within 30 days of the assignment.

Auditors reviewed 25 prosecution files and noted the following deficiency:

- In two cases, the Investigative Report was not signed by the supervisor.

The activity of investigators and attorneys should be performed within reasonable time frames to allow for the accumulation of competent and sufficient evidence relating to complaints and to provide for timely prosecution of licensees.

Department personnel stated the Department is in the process of strengthening its controls over the monitoring of cases via the revision of the Enforcement's Policy and Procedure Manual. Department personnel stated the revised system of review will allow supervisors to more closely monitor the progress of cases (for timeliness of activities and for documentation of ministerial activity).

**Response:** Accepted. DFPR is reallocating resources and implementing new procedures in order to ensure that documentation is maintained in accordance with the State Records Act and all applicable internal policies. In order to ensure that all activities are performed in a timely manner and that all necessary documentation is maintained in case files, the Department is in the process of upgrading both its case review and oversight procedures. Through more detailed supervisory reviews and also through the addition of reviews by the Department's new internal audit group, IDFPR will be able to identify and address issues (and their root causes) in a timely manner—thereby enabling the Department to better comply with all relevant mandates and guidelines.

**Updated Response:** Implemented. The Department has substantially revised the Division of Professional Regulation's Enforcement Manual/Investigative Guidelines to ensure that investigation and prosecution activity is initiated and completed within acceptable time parameters and meets internal guidelines.

- 3. Ensure all interagency agreements are signed by all parties prior to the effective date of the agreement and that employees are not paid more than the maximum amount specified in the agreement. Further, require all interagency agreements include methodology supporting the percent allocation. (Repeated-2006)**

**Finding:** The Department's controls over interagency agreements were deficient. During an examination of seven interagency agreements (three between the Department and the Governor's Office of Management and Budget, two between the Department and the Governor's Office of Management and Budget and the Department of Labor, one between the Department and the Department of Central Management Services, and one between the Department and the Department of Insurance) during fiscal years 2009 and 2010, the following deficiencies were noted:

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### Accepted or Implemented - continued

- In four of seven interagency agreements tested pertaining to employees' salaries, employees were paid in excess of the salaries noted in the agreements.
- In FY09, an employee working for GOMB was paid \$62,328, \$1,800 more than the agreement specified.
- In FY09, an employee working for the Department, GOMB, and the Department of Labor was paid \$99,804, which was \$36,151 more than the agreement specified.
- In FY10, an employee working for the Department and GOMB was paid \$68,699, which was \$13,195 more than the agreement specified.
- In FY10, an employee working for the Department, GOMB, and the Department of Labor was paid \$93,667, which was \$25,662 more than the agreement specified.
- Five of seven interagency agreements tested, totaling \$344,680, were not signed by all necessary parties before the effective date. Four of the five agreements were signed 13 to 80 days late while one agreement was not signed by one of the parties.
- Three of seven interagency agreements tested pertaining to legal and administrative services (between the Department and GOMB), totaling \$213,032, did not include supporting documentation detailing the methodology used for determining the percent allocation to be paid by the Department for billing of shared costs.
- In two of seven interagency agreements tested totaling \$131,658, between the Department, the Department of Labor, and GOMB, the Department could not demonstrate that an employee paid from the multiple agencies (67% from the Department, 33% from the Department of Labor, and 0% from the Governor's Office) was working on Department related activities. No supporting documentation existed detailing the methodology used for determining the percent allocation to be paid by each State agency noted in the interagency agreement.

Department personnel stated the Department was a party to the agreements and shared in the costs in connection with employment and labor litigation issues relating to the Agency.

**Response:** Accepted. Administration of payroll is a responsibility of Administrative and Regulatory Shared Services Center (Shared Services). Shared Services routinely monitors personal services contracts (PSCs) with respect to projected overpayments. DFPR has requested that Shared Services similarly monitor intergovernmental agreements (IGAs). When an overpayment is forecasted by Shared Services, the Department will execute an appropriate amendment to the IGA.

With respect to IGAs that require agencies to divide payroll costs, the Department will endeavor to determine if there is a feasible methodology to monitor parties' assumption of payment obligations. If no methodology is appropriate, the Department will determine the

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feasibility of these types of IGAs going forward. The Department will endeavor to approve all IGAs prior to the performance of services thereunder.

**Updated Response:** Implemented. The Department is no longer entering into IGAs that divide payroll costs. With respect to the “overpayments,” DFPR is omitting salary information from future IGAs because an employee’s contract or the CMS Pay Plan, not an IGA, governs the employee’s rate of pay. The IGA merely governs an employee’s work assignment.

#### **4. Monitor the entries made into the Ethics Timekeeping Work Diary to ensure compliance with the Act. Also, take disciplinary action against employees who continue to violate personnel policies requiring timesheets. (Repeated-2004)**

**Finding:** The Department is not maintaining time sheets for employees in compliance with the State Officials and Employees Ethics Act. The Department’s official timekeeping system is the Central Management Services (CMS) payroll system, which tracks time using a “negative” approval, whereby the employee is assumed to be working unless noted otherwise. However, the Department implemented an additional timekeeping system, the Ethics Timekeeping Work Diary, during FY08 that tracks time all employees spend each day on official State business to the nearest quarter hour. During testing of the Department’s Ethics Timekeeping Work Diary, auditors noted the following:

- In seven out of 25 Work Diaries reviewed, time was not entered for any days worked by the employee for the selected pay period.
- In 10 out of 25 Work Diaries reviewed, time was not entered in the work diary for every day worked by the employee for the selected pay period.

Department management stated that employee orientation has been transferred to Shared Services and training in the use of the Ethics Timekeeping Work Diary is not part of the orientation process. They further stated there were employees who have not integrated the Ethics Timekeeping Work Diary entries into their work responsibilities. Department management stated they plan to provide periodic reminders to employees and post them on the Department’s intranet about the system and its use.

**Updated Response:** Implemented. The Department has implemented a regular notification/reminder system (on the last day of each pay period) to all Department employees, which has proven to be effective in increasing the compliance rate. The Department continues to conduct regular internal compliance audits, which has resulted in additional discipline for failure to maintain ethics timekeeping.

**Accepted or Implemented - continued**

**5. Implement controls to ensure evaluations are completed on a timely basis and hold management personnel accountable for completing employee performance evaluations on a timely basis. (Repeated-1993)**

**Finding:** The Department did not conduct employee performance evaluations on a timely basis. During testing, auditors noted 18 out of 25 employees sampled did not have a performance evaluation performed on a timely basis. These untimely evaluations included two evaluations that were not prepared or completed during the fiscal year and 16 evaluations that were completed between one and 257 days late.

**Response:** Accepted. The Department is working with the Administrative & Regulatory Shared Services Center to implement a new system of timely notification to supervisors.

**6. Enforce procedures to ensure monitoring of telecommunications charges and services, as well as adherence to CMS guidelines and Department policies. (Repeated-2003)**

**Finding:** The Department did not maintain adequate controls over telecommunication services and expenditures. During testing of detail billings for telephone and cell phone charges to determine if the Department performed a timely review of the vendor invoices and monitored charges for services and expenditures to ensure unnecessary expenditures were eliminated, proper services was provided, and misuse of telecommunications services did not occur. Auditors noted the following:

- Detail phone line billings related to January 2009, May 2009, October 2009, and January 2010 included 475 of 3,859 detail phone line billings that had not been approved as of the date of testing, October 2010. However, the Department paid these invoices prior to receiving approval from the responsible reviewer.
- During a review of telephone credit card cancellations, the Department failed to timely submit *Telephone Credit Card Request* forms to the Department of Central Management Services for 29 of 40 separated employees. The forms were submitted 61 to 1,598 days after the employee separation.

According to Department personnel, billings were distributed and approved untimely due to difficulties in obtaining employee cooperation in completing the reviews. Additionally, telephone credit cards were not properly canceled timely due to oversight and the transferring of duties as a result of the deconsolidation of the Division of Insurance from the Department.

**Response:** Accepted. The Department will continue to stress to employees the importance of completing timely reviews of monthly telecommunications services and expenditures. The Department strives to obtain approval of detailed billings before invoices are paid, but even in the absence of such approval, IDFPR pays the invoices timely to

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avoid incurring late fees. To the extent a charge is disputed after an invoice has been paid; the Department will dispute the charge and seek reimbursement or credit. As for calling cards, the Department is deactivating all calling cards.

**Updated Response:** Partially Implemented. As of June 1, 2011, the Department has deactivated all calling cards. The Department has also identified the “frequent offenders” relative to telecommunications responsibilities, and is counseling and monitoring these individuals with respect to these responsibilities.

- 7. Review and approve a Vehicle Policy to ensure adequate controls over the operation of automotive equipment and expenditures. Further, communicate the policies to all employees and implement disciplinary actions for noncompliance to ensure that employees comply with Department policies over vehicle usage. (Repeated-2003)**

**Finding:** The Department did not maintain adequate controls over vehicle reporting.

The Department expended \$237,300 for operation of automotive equipment expenditures and operated an average of 74 vehicles during FY09. During FY10, the Department expended \$206,797 for operation of automotive equipment expenditures and operated an average of 72 vehicles. However, the Department has not yet standardized its policies and procedures and relies on various legacy agency vehicle policies and procedures.

During testing of 20 of the Department’s accident reports filed and vehicle maintenance records, auditors noted the following:

- In one case, the “Motorist’s Report of Illinois Motor Vehicle Accident” Form SR-1 was missing; therefore, auditors were unable to determine if the form was filed with the Department within two working days, as required by existing Department vehicle policies.
- In four cases, the Form SR-1 with an Auto Liability Uniform Cover Letter was not filed with CMS’ Risk Management within seven calendar days of the accident, as required by the CMS’ Vehicle Policy. The forms were filed from 12 to 24 days late.
- In five cases, the Form SR-1 on the Illinois Motorist Report was not filed with the Department within two working days of the accident, as required by existing Department vehicle policies. The forms were filed from 3 to 16 days late.
- In one case, the Form SR-1 on the Illinois Motorist Report was not signed by the motorist as required.

**Accepted or Implemented - continued**

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- In four out of 15 vehicles tested for proper vehicle maintenance, an oil change was not performed once every 5,000 miles, as required by existing Department vehicle policies. The mileage at the time of the oil change ranged from 5,184 to 8,323 miles.

Department personnel stated the Department currently follows CMS' vehicle policies and procedures. However, these policies and procedures are not specific enough to regulate the operational needs for the Department and may be the reason for non-compliance of employees. During the current examination, Department officials stated that a new vehicle policy has been developed and is currently in the process of being reviewed for approval.

**Response:** Accepted. The Department will continue to make efforts to communicate to all employees the policies and procedures regarding vehicle usage, including the requirement to complete an SR-1 Accident form and submit it to the Vehicle Coordinator within 2 business days of the accident. The Department is finalizing its updated Vehicle Policy, which will include requiring employees to properly maintain vehicles and to complete an SR-1 Accident form within the requisite time frame. The Department has taken steps to improve routine maintenance by way of updating the Automotive Monthly Log Report to include oil change maintenance.

**Updated Response:** Partially Implemented. The Department's new Vehicle Policy will be adopted soon.

### **8. Obtain certification forms for license and automotive liability insurance for employees assigned State vehicles, as required by statute, or rescind an employee's authority to use a State assigned vehicle upon refusal to provide the required certification. (Repeated-2008)**

**Finding:** The Department did not properly certify license and automotive liability coverage for individuals assigned a State vehicle in compliance with the Illinois Vehicle Code. The auditors tested 25 employees personally assigned a State vehicle during FY09 and/or FY10 for a total of 46 certifications and noted the following:

- In two cases, no certification was filed with the Department.
- In 44 out of 46 (96%) certification forms reviewed, the certification was not submitted by July 31<sup>st</sup> or 30 days after the individual was assigned a vehicle, whichever is later. The filing of forms ranged from 22 to 255 days late.

According to Department officials, the Vehicle Coordinator position has been vacant for a majority of the engagement period which caused a delay in notifying and retrieving the insurance certifications in a timely manner.

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**Updated Response:** Implemented. The Department has taken steps to ensure that all employees who use or are likely to use state vehicles have submitted the automobile license and insurance certification forms. The Department has implemented a system by which employees who have not completed the form are prohibited from utilizing a state vehicle and have been notified of the prohibition.

**9. Appoint qualified members to the Boards as required by statute and reappoint applicable Board members in a timely manner. In those cases where the Governor's Office is required to appoint the Board members, work with the Governor's Office to fill Board vacancies by appointing qualified members to the Boards. (Repeated-2004)**

**Finding:** The Secretary of the Department did not ensure the appointment of the required number of members to the various Boards in order to fill vacancies.

- The Secretary of the Department did not appoint two members to the Board of Nursing in order to fill vacancies.
- The Department's Division of Professional Regulation was not in compliance with the provisions of the Pharmacy Practice Act of 1987 regarding the State Board of Pharmacy. Auditors noted six of nine positions (licensed pharmacist) were held by individuals with terms that expired in April 2007, April 2009, and April 2010.
- The Secretary of the Department did not appoint members to the Board of Orthotics, Prosthetics, and Pedorthics. During testing auditors noted that four of six positions were held by individuals with expired terms. Also, one of six positions (public member) has been vacant since October 2006.
- The Department's Division of Financial Institutions was not in compliance with the provisions of the Currency Exchange Act regarding the Board of Currency Exchange Advisers. During testing auditors noted that five out of seven board positions were vacant. Two positions have been vacant since January 1998, and three positions have been vacant since January 1999. Department personnel stated they were unaware of when the Board last met.
- The Department's Division of Professional Regulation was not in compliance with the provisions of the Real Estate License Act of 2000. Auditors noted that one of nine positions (public member) has been vacant since March 2002. Additionally, two of nine positions were held by individuals with terms that expired in October 2006 and October 2007, respectively.
- The Department's Division of Professional Regulation was not in compliance with the provisions of the Real Estate License Act of 2000. During testing, auditors noted that four of five positions were held by individuals with terms that expired in October 2003, October 2006, October 2007, and October 2009.

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### Accepted or Implemented - concluded

- The Department's Division of Professional Regulation was not in compliance with the provisions of the Illinois Dental Practice Act. During testing, auditors noted that four of 11 positions (2 dentists, 1 dental hygienist, and 1 public member) were held by individuals with terms that expired in March 2008, July 2008, January 2010, and February 2010.
- The Secretary of the Department did not appoint members to the Illinois Occupational Therapy Licensure Board. During testing, auditors noted that two of seven positions (1 Occupational Therapist Assistant and 1 physician) have been vacant since January 2004 and April 1999, respectively. Three of seven positions were held by individuals with terms that expired in January 2007 (2 positions) and January 2006 (1 position).
- The Department's Division of Professional Regulation was not in compliance with the provisions of the Real Estate Appraiser Licensing Act regarding the Real Estate Appraisal Administration and Disciplinary Board. During testing, auditors noted that one position has been vacant since June 2006.
- The Secretary of the Department did not appoint members to the Barber, Cosmetology, Esthetics, and Nail Technology Board. During testing, auditors noted that one of 11 positions (salon owner) has been vacant since July 2003. Also, six of 11 positions were held by individuals with terms that expired in October 2002, September 2003, October 2004, May 2005, June 2005, and May 2006.

Department management stated they are currently reviewing qualified candidates to fill the vacancies. Department management stated it is difficult to find willing candidates to fill the positions. Reappointments were not made due to oversight.

**Response:** Accepted. The Department has made substantial progress in filling board vacancies, and we are engaging in an ongoing process of filling vacancies as terms expire. In addition, the Department has been proactive in the recruitment of new board members to fill vacancies by outreach to community leaders and organizations. Of the boards that were part of this finding, two now have no vacancies: Social Work Board and Board of Nursing. The Department spearheaded an initiative to reconstitute the State Banking Board, and as a result, the board now has 12 positions instead of 17. The Board is actively recruiting candidates for this board.

The Board of Debt Management Service Advisors was abolished by statute on 8/3/10.

**Updated Response:** Partially Implemented. The Board of Currency Exchange Advisors will be abolished effective 1/1/2012 pursuant to statute. The Department has been actively recruiting Board members and held its first-ever recruitment event on August 23, 2011, for prospective public members of DFPR boards. To date, DFPR has received 17 applications stemming from that event. Regarding the 10 Boards that were the subject of findings, four have been resolved.

**10. Implement procedures to ensure compliance with provisions of the Residential Mortgage License Act of 1987. (Repeated-2002)**

**Finding:** The Department's Division of Banking was not in compliance with provisions of the Residential Mortgage License Act of 1987. Auditors noted the following:

- A sample of 25 licensees was selected from a universe of 811 licensees. Sixteen of 25 of the licensees tested did not submit an annual audit report within 90 days of their fiscal year end. The reports were filed from one to 138 days late, with three of the 16 reports still not filed as of February 2011. These unfiled reports were due March 31, 2010.

Furthermore, the Commissioner (Secretary of Department or his designee) did not cause the licensees to pay a fee at the rate of \$50 per calendar day for all audit reports not delivered timely. The Department did not collect fees totaling \$38,000 for the untimely submission of the annual audit reports.

- Three of 15 licensees tested were not examined by the Department in a timely manner. The examinations were performed between 20 and 58 months late.
- One of 15 licensees tested did not maintain the adequate amount of net worth but was subsequently issued a license by the Department.

Department management stated that the above matters were the result of backlogs caused by staff shortages in previous years and due to Department oversight.

**Response:** Accepted. Staffing assignments have been updated to ensure the collection of fees for untimely submission of the annual audit reports. The Department eliminated the Mortgage Banking examination backlog as of July 2009, and is currently maintaining a timely examination schedule. The Department continues to review and enhance its internal procedures to ensure licensee compliance with the net worth requirement.

**Updated Response:** Implemented. The Department continues to review financial statements to ensure licensee compliance with the net worth requirement. The Department has invoice 109 licensees for late fees for the late submissions of financial statements (totaling \$189,900). To date, the Department has collected \$37,450 in late fees, representing 67 licensees.

### **Emergency Purchases**

The Illinois Procurement Code (30 ILCS 500/) states, "It is declared to be the policy of the State that the principles of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts...." The law also recognizes that there will be emergency situations when it will be impossible to conduct bidding. It provides a general

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exemption when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State Property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however that the term of the emergency purchase shall not exceed 90 days. A contract may be extended beyond 90 days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to the execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony.

Notice of all emergency procurement shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 3 business days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing.

A chief procurement officer making such emergency purchases is required to file an affidavit with the Procurement Policy Board and the Auditor General. The affidavit is to set forth the circumstance requiring the emergency purchase. The Legislative Audit Commission receives quarterly reports of all emergency purchases from the Office of the Auditor General. The Legislative Audit Commission is directed to review the purchases and to comment on abuses of the exemption.

The Department filed no affidavits for emergency purchases in FY09 or FY10.

### **Headquarters Designations**

The State Finance Act requires all State agencies to make semiannual headquarters reports to the Legislative Audit Commission. Each State agency is required to file reports of all of its officers and employees for whom official headquarters have been designated at any location other than that at which their official duties require them to spend the largest part of their working time.

The Department of Professional Regulation indicated as of July 2010, the Department had 164 employees assigned to locations other than official headquarters.