

New Regulatory Programs

WATER WELL CONTRACTORS

Increased residential growth in various parts of the Commonwealth can burden existing water supplies, leading localities to require construction of private wells for new housing developments. As a result, in order to protect consumers, the General Assembly directed the Board for Contractors to establish a three-tiered certification program for individuals who construct water wells. [HB 1921 (2005)]

ESTHETICIANS

The skin care industry is increasingly popular, with estheticians at specialty salons and day spas performing a variety of services. Those skin care services, especially when involving chemicals and mechanical devices, pose a risk to the public. The legislature directed the Board for Barbers and Cosmetology to develop a two-tiered licensure program for estheticians who administer cosmetic skin treatments, makeup application, and body hair lightening or removal.

[HB 2510 (2005)]

PHOTOGRAMMETRY

Photogrammetry is the technique of measuring objects from photographs, remote-sensing devices or other electronic imagery. Land surveyors have historically provided such measurement services as a licensed activity, in order to protect the public from relying on inaccurate measurements for construction and planning purposes. The General Assembly granted the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) authority to sub-regulate photogrammetry and other remote-sensing technologies through a limited land surveyor licensing program.

[HB 2863/SB 1306 (2005)]



DEPARTMENT of PROFESSIONAL and OCCUPATIONAL REGULATION

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LICENSING, REGULATION AND FINANCIAL ADMINISTRATION

Strong Financial Management

As a non-general fund agency, DPOR is financed by assessments on licensed practitioners, not by any tax revenues.

State law requires the agency to adjust fees so that revenues are sufficient to cover expenses, but not excessive.



To learn more about the responsibilities and activities of each board, visit the DPOR website at www.dpor.virginia.gov

	Fiscal Year 2005 (07/01/04 - 06/30/2005)	Fiscal Year 2006 (07/01/05 - 06/30/06)
Revenues	\$16,356,153	\$17,350,576
Expenditures	\$12,373,085	\$13,023,464
Cash Balance	\$8,952,369	\$13,279,481

Statistics for 2004-2006 Biennium

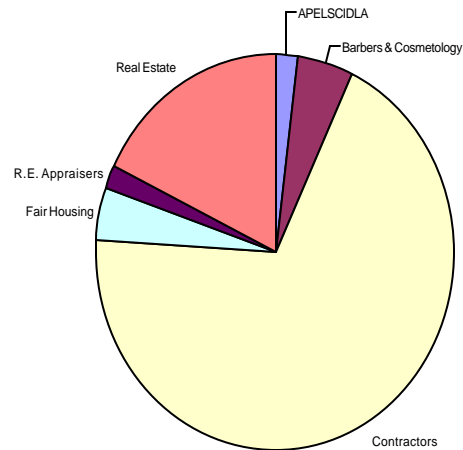
REGULATORY BOARD	REVENUES	EXPENDITURES	APPLICANTS EXAMINED	REGULANT POPULATION (06/30/06)	POPULATION % CHANGE since last biennium
Architects, Professional Engineers, Land Surveyors, Certified Interior Designers & Landscape Architects	\$2,706,307	\$2,050,747	5,769	35,497	4.79%
Asbestos, Lead and Home Inspectors	\$435,028	\$412,645	194	6,303	4.72%
Auctioneers	\$131,665	\$99,467	142	1,742	2.59%
Barbers and Cosmetology	\$4,264,258	\$3,625,185	13,639	64,032	4.50%
Boxing and Wrestling Task Force	\$305,241	\$243,801	n/a	673	- 24.72%
Branch Pilots	\$36,638	\$5,647	12	47	4.44%
Cemetery	\$134,855	\$72,332	n/a	1,386	30.63%
Contractors	\$12,667,011	\$10,534,486	32,946	101,536	11.88%
Fair Housing	\$54,935	\$54,935	n/a	1,987	N/A: Certification effective July 2004
Geology	\$70,805	\$49,881	169	834	2.84%
Hearing Aid Specialists	\$30,630	\$56,012	107	537	- 1.65%
Opticians	\$153,745	\$162,079	163	1,911	2.96%
Polygraph Examiners Advisory Board	\$11,755	\$40,254	31	261	- 8.42%
Real Estate Appraisers	\$542,472	\$402,930	2,587	3,984	8.70%
Real Estate	\$10,415,206	\$5,850,258	44,864	81,744	21.47%
Professional Soil Scientists & Wetland Professionals	\$61,180	\$26,536	36	185	54.17%
Waste Management Facility Operators	\$46,600	\$44,734	290	1,194	13.39%
Waterworks and Wastewater Works Operators	\$540,550	\$454,385	1,786	5,040	- 6.96%
TOTALS	\$32,608,881	\$24,186,314	102,723	308,893	11.65% increase

PUBLIC PROTECTION AND CONSUMER EDUCATION

REGULATORY BOARD	COMPLAINTS RECEIVED	PERCENTAGE OF TOTAL
Contractors	7,054	66.86%
Real Estate	1,808	17.14%
Barbers & Cosmetology	500	4.74%
Fair Housing	430	4.08%
APELSCIDLA	209	1.98%
R.E. Appraisers	201	1.91%
Cemetery	110	1.04%
Auctioneers	88	0.83%
Asbestos/Lead/Home Inspectors	73	0.69%
Hearing Aid Specialists	22	0.21%
Opticians	19	0.18%
Waterworks/Wastewater Works Operators	13	0.12%
Soil Scientists & Wetland Professionals	6	0.06%
Waste Management Facility Operators	6	0.06%
Boxing & Wrestling	4	0.04%
Polygraph Examiners	4	0.04%
Branch Pilots	2	0.02%
Geology	2	0.02%
TOTAL	10,551	100%

Complaint Volume by Board

(Boards with 2% or more of total complaints)



The **Complaint Analysis & Resolution** Section processes all complaints received by DPOR. The **Field Investigations** Section determines whether evidence supports a probable violation of board regulations or state law. The **Adjudication** Section conducts Informal Fact-Finding (IFF) Conferences in accordance with the Administrative Process Act. Cases resolved through the agency's **Alternative Dispute Resolution (ADR)** Section may avoid formal investigation.

During the biennium, DPOR conducted **767 disciplinary IFFs**, **394 licensing IFFs** and **93 Recovery Fund IFFs**. Boards entered 1,581 final orders. The agency **resolved 256 complaints** through free, voluntary ADR services.

In addition, DPOR worked with local authorities in successfully prosecuting 589 cases of unlicensed activity. DPOR helped consumers receive **\$2 million** in court-ordered victim restitution during the biennium.

Outreach & Partnership Initiatives

DPOR's ever increasing efforts to promote public awareness and participation during the biennium included the addition of a full-time **outreach coordinator** position. The outreach coordinator travels throughout the Commonwealth providing consumer education and fair housing training, and reaches more diverse audiences through **bilingual communication**.

DPOR focuses attention on accessible housing issues, particularly the concept of "**visitability**" in single-family housing and housing for persons with special needs. The agency's involvement stems from two mandates: (1) DPOR administers and enforces Virginia's **Fair Housing Law** and (2) DPOR licenses housing and design professionals such as architects, real estate agents, and contractors.

In 2004, DPOR continued its innovative partnership with the **Virginia Society of the American Institute of Architects (VSAIA)**. The collaborative effort increased awareness among architects about the value and necessity of designing accessible and adaptable housing. During the biennium, the agency built on the success of the VSAIA partnership to extend the effort to include the **Home Builders Association of Virginia (HBAV)**.

The HBAV partnership encourages home builders to help clients understand how universal design alternatives can increase the value of their investment and allow them to "age in place." Both partnerships featured coordinated marketing campaigns, educational seminars, and conference participation. The homebuilders initiative resulted in the Governor issuing certificates of achievement to HBAV, Tidewater Builders Association, and L&M Contractors of Virginia Beach for the **2005 Home-A-Rama Universal Living Home**.

In addition, with financial support from the **Department of Rehabilitative Services (DRS)** and the **Virginia Housing Development Authority (VHDA)**, DPOR established a design competition for Virginia architecture students. "**The New American Front Door**" competition, coordinated by APELSCIDLA Board member Kenneth Schwartz, FAIA, challenged architecture and landscape architecture students to re-conceive the role of the front yard, porch, and door and entry sequence. A jury of practicing architects, one of whom uses a wheelchair, judged more than 20 submissions from students attending Virginia's three architecture schools in 2005 and awarded \$5,000 in prize monies.

Studies

COMMUNITY ASSOCIATIONS

HJR 686 (2005) requested the **Real Estate Board** study professionally compensated managers of common interest community associations, such as condominiums and property owners' associations. The Board solicited comment at regional public hearings and from individuals living in common interest communities. The Board reviewed management contracts and surveyed management companies regarding the level of training for their employees.

The study, published as **House Document No. 3 (2006)**, found community associations employing reputable management companies generally satisfied with management personnel, who appear to receive adequate training. Community association concerns include training for association board members and the associations' ability to employ management companies offering adequate contracts.

LOCAL PILOT PROGRAM

SB 285 and HB 454 (2004) directed DPOR to establish a pilot program for a local government to assist the **Board for Contractors** with complaint investigation and implementation of final disciplinary orders. The bills provided for progress reports in 2004 and 2005.

Senate Document No. 16 (2004) reported on the agency's progress in signing Memorandums of Agreement for joint cooperation and resource sharing with the Town of Bluefield, Nelson County, and Prince William County. **Senate Document 21 (2005)**, the final report, indicated the pilot program allowed DPOR and participating localities to improve communication of disciplinary information to responsible parties, and to increase direct contact with licensees and consumers.

As a result of the pilot program, the Board for Contractors will continue shared reporting of disciplinary data and liaison services for all localities, extending cooperative agreement provisions to all interested jurisdictions in the Commonwealth.



Governor, General Assembly help licensees, protect public

After a year-long study of its disciplinary process, DPOR sought legislation to increase regulatory boards' ability to promote compliance early in the complaint process. Focused on helping licensees avoid future violations and resolving consumer complaints more quickly, **HB 1932 (2005)** provides boards with more options when imposing sanctions against a licensee. The new law grants DPOR boards the ability to: (1) place licensees on probation, with conditions such as remedial education or examination, and (2) allow staff to enter into consent agreements imposing monetary penalties for violations discovered during inspection or investigation. The expanded sanctions allow boards to determine the most appropriate, least burdensome restriction on licensees while promoting public protection, compliance, and education.

DPOR also requested legislation to clarify that licensure is required for the fitting or selling of hearing aids. **HB 2711 (2005)** closed a legal loophole inadvertently allowing mail-order hearing aid distributors and improperly trained fitters to avoid licensure. The new law protects consumers by specifying the activities of fitting or selling – whether performed separately or jointly – require minimum standards of competency through licensure.

To provide greater protection for consumers victimized by unscrupulous contractors, DPOR supported legislation to increase the cap on single payouts from the Contractor Transaction Recovery Fund. The recovery fund is designed to indemnify consumers who experience monetary loss at the hands of a licensed contractor. The initial \$10,000 cap, established in 1980, failed to keep up with industry trends as construction costs increased. **SB 916 (2005)** doubled the cap to \$20,000 to increase the number of victimized consumers eligible for complete reimbursement. The recovery fund is supported entirely by assessments on licensed contractors, not by any tax revenues.

DPOR also administers the Real Estate Transaction Recovery Fund, which applies to consumers harmed by improper or dishonest conduct of licensed real estate agents. In order to be eligible to file a claim with either the Contractor or Real Estate Recovery Funds, the statute requires consumers first obtain a court judgment and exhaust all attempts to collect the debt. Because of the lengthy timeframe for processing recovery fund cases, DPOR requested authority to eliminate the informal fact-finding (IFF) conference component, unless the respondent licensee requests the administrative proceeding. **SB 201 (2006)** will allow claimants to avoid the additional burden of an IFF and to receive a decision on their claim request in a more timely fashion.