

Divisions of Certified Public Accounting,
Professions & Real Estate

Annual Report
Fiscal Year 2004-2005

Florida Department of
Business and Professional
Regulation



Jeb Bush
Governor

Simone Marsteller
Secretary

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**Message from
the Secretary**

Dear Floridians and visitors:

The 2004-2005 Fiscal Year was challenging for Floridians, with multiple hurricanes affecting all areas of the state and impacting the lives of almost every citizen and visitor. The Department of Business and Professional Regulation (DBPR) answered the call to protect Florida's citizens, and I will ensure that we continue to do so.

DBPR is in the business of issuing licenses and ensuring the quality of services provided to Floridians and visitors by our licensees. One out of every 16 Floridians is a direct licensee of the department – ranging from real estate agents, architects, hotels, restaurants, veterinarians and accountants to contractors and cosmetologists. We touch almost everyone who lives in or visits Florida every day. Our ability to effectively protect the public is crucial and we will always look for opportunities to improve.

DBPR worked diligently throughout the 2004-2005 Fiscal Year sweeping hurricane-affected areas daily in an effort to locate and eliminate unlicensed activity. DBPR responds immediately after a storm, and this Fiscal Year conducted over 1,200 proactive sweeps. During these sweeps, investigators conducted over 18,500 license checks, issued over 500 citations, opened over 1,350 cases, issued over 1,500 cease and desist orders and facilitated the arrests of over 65 unlicensed individuals.

I can also assure Floridians that DBPR will work aggressively to protect consumers through the entire hurricane recovery process. We have continued our unrelenting enforcement efforts through the 2005 hurricane season and are out in the field each day making our presence known. We have also taken steps to enhance the way we work with local entities by expanding joint enforcement and outreach operations across the state with the common goal of protecting citizens from harm. Strong partnerships with local officials are crucial to ensuring the highest level of protection for Floridians.

In addition to working diligently to protect consumers from further harm following the storms, DBPR has continued to improve the services offered to our customers. As you know, under Governor Jeb Bush's leadership, DBPR was the first agency in Florida to revolutionize the way the public interacted with state government, providing a one-stop, 24 hour a day/7 day a week licensing process for people conducting business in Florida. February of 2005 marked the 2nd anniversary of the system being fully operational for all 200+ license types, and in that time, several impressive milestones were achieved, including:

- In late 2004, DBPR achieved its 15 millionth customer contact to date and is well on a pace to surpass 20 million customer contacts in 2005.
- 2004 saw a 40% increase in customer contacts over 2003. Similarly, 2003 saw an increase of 40% in customer contacts over 2002.
- The Customer Contact Center receives an average 36,000 customer contacts per week. Approximately 40% of calls are handled through self service, saving over 60,000 hours of staff time annually.

My number one goal for the department is to now improve the quality of service we provide to our licensees and the public. From the initial point of contact to the last, all of our customers should feel their needs are being addressed in a timely and compassionate manner. DBPR has already begun to make advances in increasing our accessibility and responsiveness.

As you can see, the department has come a long way in recent years; however, there is still work to be done. I have challenged all of our employees to take the steps necessary for us to attain excellence. Given all that the department has already accomplished, I am confident we will succeed. I look forward to sharing our future successes with you.

Sincerely,

Simone Marstiller
Secretary

Division of Professions



The Department's *Division of Professions* is responsible for the licensing of over 362,463 professionals, pursuant to Chapter 455, Florida Statutes. These professionals include architects and interior designers*; asbestos consultants; athlete agents; auctioneers; barbers; building code administrators and inspectors; community association managers; the construction industry; cosmetologists; electrical contractors; employee leasing companies; funeral directors and embalmers**; geologists; landscape architects; pilot commissioners; pilots rate review; surveyors and mappers and veterinarians. Although not a licensing activity, the pilotage rate review board regulates port pilotage rates in the state of Florida.

The division also administers the Farm and Child Labor programs. The Farm Labor Program processes and issues certificates of registration to farm labor contractors who engage in farm labor contracting activities in the state. The federal Migrant and Seasonal Agricultural Worker Protection Act and the Florida Farm Labor Registration Law, Chapter 450, Part III, Florida Statutes, require any person who recruits, transports, supervises, and/or pays workers to perform harvesting activities, to obtain a certificate of registration before conducting such activities. The Child Labor Program enforces the provisions of the Florida Child Labor Law. The purpose of the law is to protect the health and welfare of minors in the workplace and safeguard their education.

In FY 2004-2005, the division administered 15 professional boards**, three department-regulated professions and one council, all with the mission of protecting the health, safety and welfare of those who live in and visit Florida by regulating our professional licensees through education and compliance.

Division of Regulation

The Department's *Division of Regulation* is responsible for enforcement of professions and related businesses licensed by DBPR to ensure that the laws, rules and standards set by the Legislature are followed. Based in Tallahassee with 10 regional offices located throughout the state, the division proactively monitors professionals and related businesses by performing statutorily mandated inspections and aggressively pursuing and investigating complaints of wrongdoing.

The division utilizes a full range of compliance mechanisms to achieve its mission of protecting the health, safety and welfare of Floridians and visitors. The division strives to continually improve complaint analysis and legal sufficiency determinations.

*Effective October 23, 2002, the enforcement and regulatory responsibilities related to architecture and interior design were privatized, pursuant to Chapter 481, Florida Statutes.

** Effective October 1, 2005, regulation of the Funeral Industry is now provided by the Department of Financial Services, Division of Funeral, Cemetery and Consumer Services.

Initial determinations regarding complaints are critical. Correct analysis at this stage offers the greatest level of efficiency and enables the division to focus its enforcement efforts on those who pose the greatest threat of harm to the public.

In addition to notices of noncompliance and citations, the division places great emphasis on the effective use of alternative enforcement mechanisms, including mediation, alternative dispute resolution, stings, sweeps, industry partnerships and an annual unlicensed activity campaign focused on consumer awareness and public education. During FY 2004-2005, the department's mediation program successfully recovered more than \$6.3 million for consumers who were harmed and saved the department an additional \$632,000 in investigative and legal costs.

The biggest issue facing the division in the aftermath of the 2004 hurricanes was unlicensed contracting. Our goal continues to be ensuring that all those impacted by the storms do not become victims a second time.

The Division of Regulation began responding immediately following each storm, distributing thousands of brochures with important information and tips to make consumers aware of how to protect themselves from unscrupulous or unlicensed individuals, and erecting 140 signs warning of the consequences of contracting without a license. Teams also swept the hurricane-damaged areas daily in an effort to locate and prevent unlicensed activity. Over 1,200 sweeps were conducted statewide in conjunction with local law enforcement, city/county code enforcement, representatives from the Division of Workers' Compensation, local building officials and representatives from the local state attorney's office. The State Attorney prosecutes the unlicensed activity, a felony during a declared state of emergency.

During those sweeps, investigators verified over 18,500 licenses; issued over 500 citations; opened over 1,350 cases; issued over 1,500 cease and desist orders; and facilitated the arrests of over 65 unlicensed individuals. Since July of 2004, the division has opened over 465 unlicensed contracting-related Administrative Complaints in the state of Florida and has levied over \$1.5 million in administrative fines.

In an effort to inform as many consumers as possible about the dangers of unlicensed contracting, DBPR will conduct multiple outreach initiatives in FY 2005-2006. Throughout the year, the department will participate in radio shows and consumer awareness events. Strong partnerships with local officials are a critical component in protecting consumers, and the division is planning several joint meetings with sheriff's offices, building departments and state attorney's offices across the state to discuss joining forces in an effort to combat unlicensed activity.

Financial information for FY 2004-2005 for the Divisions of Professions and Regulation:

Revenue	\$42,874,598
Expenditures	\$45,895,840
Cash	\$18,841,272

Division of Real Estate



The Department's *Division of Real Estate* is responsible for licensing over 318,729 individuals, corporations and appraisers, as well as real estate schools and instructors. The mission of the Division of Real Estate is to protect the health, safety and welfare of those who live in and visit Florida by regulating real estate professionals through education and compliance.

Headquartered in Orlando, the division administers two professional boards, the Florida Real Estate Commission (FREC) and the Florida Real Estate Appraisal Board (FREAB). The FREC consists of seven members charged with administering and enforcing the real estate license law, Chapter 475, Part I, Florida Statutes. The board is empowered to promulgate rules that enable it to implement statutorily authorized duties and responsibilities contained in Rule 61J2, Florida Administrative Code (F.A.C.).

The FREAB also consists of seven members charged with administering and enforcing the real estate appraiser license law, Chapter 475, Part II, Florida Statutes. The board is empowered to promulgate rules that enable it to implement statutorily authorized duties and responsibilities contained in Rule 61J1, F.A.C..

Financial information for FY 2004-2005:

Revenue	\$27,532,017
Expenditures	\$11,050,283
Cash	\$18,872,770

Division of Certified Public Accounting



The Department's *Division of Certified Public Accounting* is responsible for the licensing of over 26,777 Certified Public Accountants (CPAs), and over 5,099 CPA firms. The division administers the Florida Board of Accountancy, which consists of nine members: seven CPAs and two consumers.

Headquartered in Gainesville, the mission of the division is to ensure that licensees meet the statutory requirements for the licensure and practice of certified public accounting as well as to protect the public from unscrupulous and unlicensed practitioners.

Financial information for FY 2004-2005:

Revenue	\$2,037,328
Expenditures	\$2,403,176
Cash	(\$860,543)

**2004-2005
Licensees by Professional Category**

	<u>ACTIVE</u>	<u>INACTIVE</u>	<u>TOTAL</u>
Accountancy	29,623	2,253	31,876
Architecture and Interior Design	13,810	667	14,477
Asbestos Consultants	426	10	436
Athlete Agents	187	5	192
Auctioneers	2,673	14	2,687
Barbers	12,108	243	12,351
Building Code Administrators/Inspectors	11,364	134	11,498
Community Association Managers	9,223	345	9,568
Construction	91,253	13,452	104,705
Cosmetology	172,916	2,062	174,978
Electrical Contractors	9,622	1,257	10,879
Employee Leasing	666	0	666
Farm Labor Contractors	2,904	N/A	2,904
Funeral Directors/Embalmers	4,201	190	4,391
Geologists	2,044	70	2,114
Landscape Architecture	1,312	92	1,404
Pilot Commissioners	106	0	106
Real Estate Appraisal	10,643	2,592	13,235
Real Estate Commission	243,449	62,045	305,494
Surveyors/Mappers	3,881	149	4,030
Talent Agents	290	0	290
Veterinarians	7,415	276	7,691
TOTAL	630,116	85,856	715,972

Note: The licensure data includes current, probationary, and suspended licenses in a status of active or inactive. Licenses in a status of delinquent or null/void are not included as in the past.

**2004-2005
Complaints by Professional Category**

	COMPLAINTS ADDED/RECEIVED	COMPLAINTS LEGALLY SUFFICIENT
Accountancy	353	227
Architecture & Interior Design	357	311
Asbestos Consultants	11	8
Athlete Agents	4	1
Auctioneers	181	109
Barbers	765	718
Building Code Administrators/Inspectors	89	25
Community Association Managers	307	58
Construction	8,758	5,262
Cosmetology	4,092	3,747
Electrical Contractors	689	459
Employee Leasing	213	170
Funeral Directors/Embalmers	269	159
Farm Labor Contractors	439	417
Geologists	3	1
Landscape Architecture	5	2
Pilot Commissioners	19	17
Real Estate Appraisal	605	493
Real Estate Commission	5,278	2,307
Surveyors/Mappers	190	167
Talent Agents	91	27
Veterinarians	514	312

Note: The numbers in the "Legally Sufficient" column may pertain to files that were added or received in a prior fiscal year. A "Complaint" is any written communication made to or by the department, alleging that a violation of the laws and rules relating to the regulation of professions has occurred. "Legally Sufficient Complaints" are complaints identified by the department to have potentially violated the laws or rules relating to the regulation of professions and are subject to further investigation.

**2004-2005
Complaints by Professional Category**

	PROBABLE CAUSE FOUND	NO PROBABLE CAUSE FOUND
Accountancy	102	101
Architecture and Interior Design	224	84
Asbestos Consultants	14	14
Athlete Agents	0	4
Auctioneers	12	96
Barbers	479	272
Building Code Administrators/Inspectors	12	87
Community Association Managers	19	301
Construction	2,947	5,065
Cosmetology	1,963	2,184
Electrical Contractors	335	420
Employee Leasing	57	121
Funeral Directors/Embalmers	75	204
Farm Labor Contractors	417	22
Geologists	0	3
Landscape Architecture	8	7
Pilot Commissioners	2	33
Real Estate Appraisal	121	162
Real Estate Commission	453	1,107
Surveyors/Mappers	64	92
Talent Agents	1	87
Veterinarians	39	373

Note: When an investigation is complete and found legally sufficient, it is submitted to the probable cause panel of the appropriate regulatory board. Determination of whether probable cause exists shall be made by majority vote of a probable cause panel of the board or by the department as appropriate, Section 455.225, Florida Statutes.

Complaints by Professional Category

	ADMINISTRATIVE COMPLAINTS FILED	FILES CLOSED/ ORDERS OF CLOSURE	DISPOSITIONS OF DISCIPLINARY ACTION	TOTAL # OF DISPOSITIONS
Accountancy	40	0	27	27
Architecture and Interior Design	81	0	0	76
Asbestos Consultants	9	0	8	8
Athlete Agents	0	0	0	0
Auctioneers	7	0	5	5
Barbers	70	12	45	57
Building Code Administrators/Inspectors	10	2	7	9
Community Association Managers	9	1	14	15
Construction	796	78	624	702
Cosmetology	198	17	95	112
Electrical Contractors	115	6	81	87
Employee Leasing	46	6	23	29
Funeral Directors/Embalmers	58	5	24	29
Farm Labor Contractors	226	0	189	189
Geologists	0	0	2	2
Landscape Architecture	4	0	5	5
Pilot Commissioners	2	0	2	2
Real Estate Appraisal	121	15	110	125
Real Estate Commission	453	97	278	375
Surveyors/Mappers	62	1	24	25
Talent Agents	0	0	25	25
Veterinarians	27	10	19	29

Statutory References

455.2285(7) Disciplinary actions may include Revocations, Voluntary Relinquishments, Suspensions, Probation, Reprimands, Obligations Imposed, Limitations Imposed, Restitution, Citations or other.

455.2285(8) At the close of the 2004-2005 Fiscal Year, the Division of Regulation had 42 files existing for which an investigation had not been completed within one year after the initial filing of the complaint. These files are identified to the supervisors in the appropriate regional field offices and receive the highest priority for completion. Furthermore, the Division of Regulation continues to increase its emphasis on mediation activities for complaints where harm caused by the licensee is economic in nature or can be remedied by the licensee. Complaints that are mediated are resolved very quickly as compared to the normal route of formal prosecution. By focusing on mediation and other compliance mechanisms, such as the issuance of notices of noncompliance and citations, the Division of Regulation provides an avenue for the expeditious processing and resolution of complaints.

455.2285(9) The department has established disciplinary guidelines for professions under our jurisdiction. The following boards/council either updated their disciplinary guideline rules during the fiscal year or promulgated rule making: Architecture and Interior Design, Community Association Managers, Funeral Directors and Embalmers, and Electrical Contractors. The department and the various boards continually review these guidelines for any possible revisions and improvements.

455.2285(10) The department continually reviews its rules and statutory provisions to determine if any regulatory provision or portion thereof, is unnecessary. The department will continue to streamline its business processes to provide Florida's citizens more efficient and customer friendly government.

Key Contacts

For more information, contact the Office of Communications at 850.922.8981 or the Office of Legislative Affairs at 850.487.4827.

The Honorable Jeb Bush, Governor of Florida

Simone Marsteller, Secretary

James Blount, Chief of Staff

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