

# STATE OF CONNECTICUT

**AUDITORS' REPORT  
DEPARTMENT OF CONSUMER PROTECTION  
FOR THE FISCAL YEARS ENDED JUNE 30, 2004 AND 2005**

**AUDITORS OF PUBLIC ACCOUNTS  
KEVIN P. JOHNSTON ♦ ROBERT G. JAEKLE**

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March 9, 2007

**AUDITORS' REPORT  
DEPARTMENT OF CONSUMER PROTECTION  
FOR THE FISCAL YEARS ENDED JUNE 30, 2004 AND 2005**

We have made an examination of the records of the Department of Consumer Protection for the fiscal years ended June 30, 2004 and 2005.

This report on that examination consists of the Comments, Condition of Records, Recommendations and Certification which follow. Financial statements concerning the operations and activities of the Department of Consumer Protection (the Department) are presented and audited on a Statewide Single Audit basis to include all State agencies. This audit has been limited to assessing the Department's compliance with certain provisions of financial related laws, regulations, contracts and grants, and evaluating the Department's internal control policies and procedures established to ensure such compliance.

**COMMENTS**

**FOREWORD:**

The Department of Consumer Protection operated generally under the provisions of Chapters 416 and 545 of the Connecticut General Statutes, to enforce legislation intended to protect the consumer from injury by product use or merchandising deceit and to protect public health and safety through control over the distribution and sale of alcoholic beverages. Such legislation was generally within various Chapters of the following General Statute Titles: Title 20 (Examining Boards and Professional Licenses), Title 21 (Licenses), Title 21a (Consumer Protection), Title 30 (Intoxicating Liquors), Title 42 (Business, Selling, Trading and Collection Practices), and Title 43 (Weights and Measures).

James T. Fleming served as Commissioner of the Department of Consumer Protection until September 19, 2003, when he transferred to the Department of Public Works. At that time, Edwin R. Rodriguez became Acting Commissioner until his appointment as Commissioner on October 21, 2003. He continued to serve as Commissioner throughout the audited period.

**Boards and Commissions:**

Various sections of the General Statutes provide that certain boards and commissions operate within the Department of Consumer Protection. Presented below is a summary of these groups and its members as of June 30, 2005, statutory references and former members who served during the audited period follow.

<b>BOARD OR COMMISSION</b>	<b>CHAIRPERSON</b>	<b>MEMBERS AS OF JUNE 30, 2005</b>	<b>ALSO SERVED DURING AUDITED PERIOD</b>
Architectural Licensing Board (Section 20-289)	S. Edward Jeter	Paul H. Bartlett Carole W. Briggs Robert B. Hurd Christopher Mazza	Laura J. Bordeaux Roselyn Cama
State Board of Examiners for Professional Engineers and Land Surveyors (Section 20-300)	Anthony L. D'Andrea	John T. DeWolf Robert L. Doane William Giel Leonard Grabowski Robert Grossenbacher John Hallisey Rocco V. Laraia, Jr. Terry D. McCarthy Curtiss B. Smith Two vacancies	Frank S. Chuang
Connecticut Real Estate Commission (Section 20-311a)	Bruce H. Cagenello	Joseph B. Castonguay David W. Fitzpatrick Marilyn Keating Lana Ogrodnik Barbara Thompson Two vacancies	Maggie A. Claud Donna M. Hohider Gerry D. Mathews Rae Tramontano
Home Inspection Licensing Board (Section 20-490a)	Bernard F. Caliendo	Susan A. Connors J. Andre Fornier Dana J. Fox Richard J. Kobylenski Denise Robillard Bruce D. Schaefer William Stanley, Jr.	Ronald J. Passaro

<p>Connecticut Real Estate Appraisal Commission (Section 20-502)</p>	<p>Christopher Italia</p>	<p>Francis Buckley, Jr. Sean Hagearty Russell Hunter Gerald V. Rasmussen Nicholas J. Tetreault Two vacancies</p>	<p>Donato D. Maisano Howard L. Luppi</p>
<p>Connecticut State Board of Landscape Architects (Section 20-368)</p>	<p>Vincent C. McDermott</p>	<p>Dickson F. DeMarche Robert W. Hammersley Shavaun Towers Stephen S. Wing Two vacancies</p>	
<p>Electrical Work Examining Board (Section 20-331(b))</p>	<p>Laurence A. Vallieres</p>	<p>Ronald Bish Beverly A. Ceuch Jack B. Halpert Roger L. Johnson, Jr. Kenneth B. Leech David Munsill Michael Muthersbaugh Douglas A. Reid Raymond A. Turri Two vacancies</p>	<p>Lewis J. Stanio</p>
<p>Heating, Piping, Cooling and Sheet Metal Work Examining Board (Section 20-331(c))</p>	<p>Robert H. Barrieau</p>	<p>Philip H. Benoit Thomas F. Casey, Sr. Cameron G. Champlin, Jr. Ronald J. Crabb Patrick Duane David G. Foster Joseph Leggo Michael Rosario Three vacancies</p>	

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Plumbing and Piping Work Examining Board (Section 20-331(d))	George C. Sima	Charles E. Appleby, Sr. Joseph Carr Richard J. Messina, Sr. James Piccoli Robert Stolting John R. Sullivan Four vacancies	Brian T. Kronenberger Louis E. DelMastro
Elevator Installation, Repair and Maintenance Work Examining Board (Section 20-331(e))	Michael T. Molleur (Acting Chairman)	John R. DeRosa, Jr. Paul B. Farnsworth Michael D. Griffin Thomas J. O'Reilly Two vacancies	Steven M. Roth Jeffrey J. Hogan
Fire Protection Sprinkler System Work Board (Section 20-331(f))	David J. Waskowicz	George DeVincke Robert W. Hollis III Ralph C. Miller Anthony D. Moscato Lisa Vereneau William Zisk, Sr. Two vacancies	
Automotive Glass Work and Flat Glass Work Examining Board (Section 20-221(g))	Edward J. Fusco	Mary E. Grabowski Douglas Howard Kurt L. Muller Robert Steben Carl Von Dassel John A. Wisniewski Two vacancies	
Commission of Pharmacy (Section 20-572)	William J. Summa, Jr.	Stephen F. Beaudin Edith G. Goodmaster Robert S. Guynn Jean Mulvihill Frederick C. Vegliante	Patricia A. Rizzo
State Board of Examiners of Shorthand Reporters (Section 20-651)	Susan K. Whitt	John C. Brandon Joseph DelFilippo Donald E. Hubbard William Mangini One vacancy	

Mobile Manufactured Home Advisory Council (Section 21-84a)	Vincent Flynn	Leonard S. Campbell Joseph B. Castonguay Miriam Clarkson George W. Cote Neil F. Gervais Albert N. Hricz Keith Jensen Michelina Lauzier Jeffrey P. Ossen Bennett Pudlin Marcia L. Stemm Two vacancies	James Heckman
Connecticut Boxing Promotion Commission (Section 21a-195a)	William H. Carey III (Acting Chairman)	Allen Bacchiochi Johnny Duke Gallucci Eben T. Jones A. James Krayske, Jr. Manuel M. Leibert June M. Lyons Larry Perosino Joseph Sitaro	Brian Farnen Christopher Healy Leonard L. Levy
Liquor Control Commission (Section 30-2)	Edwin R. Rodriguez (Commissioner)	Gary M. Koval Domenic L. Mascolo	James T. Fleming (Former Commissioner)

**Legislative Changes:**

Public Act 03-06, Sections 146 through 148, combined both the Department of Consumer Protection and the Department of Agriculture into one Department called the Department of Agriculture and Consumer Protection. The new Department would have one Commissioner who would be appointed by the Governor. The effective date of this merger was July 1, 2004. However, before the implementation of the merger of the two agencies, Public Act 04-189 was passed which repealed Sections 146 to 148, inclusive of Public Act 03-06, effective June 1, 2004.

Public Act 05-251, Section 60, subsection (c), allows the Commissioner of Administrative Services, in consultation with the Secretary of the Office of Policy and Management to develop a plan whereby the Department of Administrative Services (DAS) would merge and consolidate personnel, payroll, affirmative action and business office functions of selected executive branch State agencies within DAS. The effective date of the Public Act was July 1, 2005. The Department of Consumer Protection was selected as one such agency. In August 2005, payroll, personnel and affirmative action functions were transferred to DAS. Most business office functions were transferred to DAS during November 2005. The Department did retain its business functions relating to licensing, receipts, and the Guaranty Funds.

**RÉSUMÉ OF OPERATIONS:**

Public Act 04-02 of the May Special Session of the 2004 General Assembly authorized the establishment of two new special revenue funds relative to grants and restricted accounts. During the 2003-2004 fiscal year, as a result of the implementation of a new State accounting system and Public Act 04-02, the State Comptroller established a new Special Revenue Fund entitled “Federal and Other Restricted Accounts Fund” to account for certain Federal and other revenues that are restricted from general use and were previously accounted for in the General Fund as restricted contributions and accounts.

**General Fund:**

General Fund receipts of the Department were comprised mainly of payments for licenses to render professional services, to engage in skilled trades and certain businesses, and for liquor permits. A comparison of receipts for the fiscal years under review and the preceding year follows:

	<u>2002-2003</u>	<u>2003-2004</u>	<u>2004-2005</u>
Licenses	\$15,573,020	\$18,404,790	\$18,384,466
Permits	6,034,921	6,061,568	6,371,607
Fees	1,663,727	2,286,833	2,047,155
Fines, penalties, forfeitures	783,224	1,025,923	1,029,996
Restricted contributions, Federal	113,281	-	-
Restricted contributions, other than Federal	3,149,092	87,200	100
All other receipts	<u>1,370,915</u>	<u>35,067</u>	<u>144,880</u>
<b>Total General Fund Receipts</b>	<b><u>\$28,688,180</u></b>	<b><u>\$27,901,381</u></b>	<b><u>\$27,978,204</u></b>

Revenue collected for licenses and permits accounted for approximately 88 percent of the Department’s receipts. The decreases in restricted contributions were primarily due to the change in the accounting procedures resulting from the implementation of the new State accounting system, as explained above. The increase of \$2,831,770 in licenses during the 2003-2004 fiscal year was attributed primarily from changes in the handling of fees collected from Real Estate Salespersons and from a \$1,430,442 transfer of funds out of the New Home Construction Guaranty Fund and into the General Fund, as required by Section 20-417i, subsection (c)(3), of the General Statutes.

Fees collected from Real Estate Salespersons were previously deposited into a pending receipts account and then distributed to the General Fund and to the University of Connecticut (UConn). As of the 2003-2004 fiscal year, all real estate salesperson and broker license fees collected were deposited directly to the General Fund and periodic transfers, in accordance with Section 10a-125 of the General Statutes, were made to a pending receipts account and then transferred to UConn. The UConn transfers were previously accounted for under the above “All other receipts” category.

Comparative summaries of General Fund expenditures for the fiscal years under review and the preceding fiscal year are presented below:

	<u>2002-2003</u>	<u>2003-2004</u>	<u>2004-2005</u>
Personal services	\$ 9,523,869	\$ 8,553,210	\$ 8,934,558
Contractual services	864,562	755,068	718,825
Commodities	155,915	149,832	177,004
Equipment	-	103,389	-
All other expenditures	<u>1,231</u>	<u>2,193</u>	<u>1,545</u>
Total Budgeted Appropriations	<u>10,545,577</u>	<u>9,563,692</u>	<u>9,831,932</u>
Restricted accounts:			
Federal accounts	133,064	-	-
Other than Federal accounts	<u>2,375,061</u>	-	-
Total Restricted Accounts	<u>2,508,125</u>	-	-
<b>Total General Fund Expenditures</b>	<b><u>\$13,053,702</u></b>	<b><u>\$ 9,563,692</u></b>	<b><u>\$ 9,831,932</u></b>

General Fund expenditures decreased 27 percent and increased three percent during the fiscal years ended June 30, 2004 and 2005, respectively. The decrease of \$3,490,010 in total expenditures during the 2003-2004 fiscal year was primarily due to the change to a new State accounting system. This change resulted in expenditures totaling \$2,419,432 and \$2,804,407 in the 2003-2004 and 2004-2005 fiscal years, respectively, no longer being recorded in the General Fund. In addition, the decrease in personnel services costs in the 2003-2004 fiscal year was the result of a full year of cost savings due to the prior year's layoff of fourteen employees, following the Governor's state-wide cost saving directive, and sixteen employees who retired as part of the Early Retirement Incentive Program. The three percent increase in personnel service costs during fiscal year 2004-2005 was primarily due to annual raises and retroactive payments on collective bargaining contracts.

**Special Revenue Fund – Federal and Other Restricted Accounts:**

As previously explained, beginning with the 2003-2004 fiscal year, restricted accounts that had previously been reported in the General Fund were being reported by the State Comptroller in a newly established Special Revenue Fund. The Department's Federal and Other Restricted Accounts receipts totaled \$2,562,784 and \$3,181,534 for the fiscal years ended June 30, 2004 and 2005, respectively. These receipts consisted primarily of non-Federal restricted revenue, such as fines collected and deposited to the Consumer Protection Enforcement Account, transfers made from the Department of Revenue Services for salaries and expenditures for agents assigned to the casinos, and fees collected from car dealers and deposited to the New Automobiles Warranties Account.

In addition, the Department also collected and deposited revenues to the Special Transportation Fund in the amount of \$650,424 and \$1,181,429, respectively for the fiscal years ended June 30, 2004 and 2005, respectively.

Expenditures in the Federal and Other Restricted Accounts totaled \$2,419,432 and

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\$2,804,407 for the fiscal years ended June 30, 2004 and 2005, respectively. A summary of these expenditures follows:

	<u>2003-2004</u>	<u>2004-2005</u>
Personal Services	1,438,329	1,632,200
Contractual Services	224,115	233,113
Sundry Charges	666,046	889,756
Commodities	37,630	21,059
Equipment	52,103	28,279
All other expenditures	<u>1,209</u>	<u>-</u>
<b>Total Special Revenue Fund Expenditures</b>	<b><u>\$2,419,432</u></b>	<b><u>\$2,804,407</u></b>

The Federal and Other Restricted Accounts Fund is used primarily to record expenditures relating to personal services and fringe benefit costs of employees working on specific projects within the Department. The increase in expenditures in the 2004-2005 fiscal year resulted from salary adjustments, a retroactive payment on a contract settlement and additional overtime charged to the Liquor Control Underage Drinking Grant and Casino Regulatory Programs.

In addition to the above Special Revenue Fund expenditures, capital equipment purchases totaling \$14,907 and \$209,584 were paid from the Capital Equipment Purchases Fund during the 2003-2004 and 2004-2005 fiscal years, respectively. Purchases were primarily for new computers and printers.

### **Fiduciary Funds:**

During the audited period, the Department used a pending receipts fund and several expendable trust funds to account for certain financial activities. A description of fiduciary fund activities for the audited period follows:

#### **Pending Receipts Fund:**

The Department used a pending receipts fund to hold moneys in a custodial capacity until final disposition was determined. Three sub-accounts were used within the Agency's pending receipts fund for various purposes. A brief description of pending receipts activity and a schedule of financial transactions for the audited period follows:

1. *Real Estate Licenses* – this account was used to temporarily deposit a portion of the real estate brokers and salesperson licenses and fees awaiting transfer to the University of Connecticut. Section 10a-125 of the General Statutes requires that eight and three-quarters percent of each fee be paid to the University of Connecticut, Center for Real Estate and Urban Economic Studies. The account is cleared out once the transfer is made.

2. *Federal Appraiser Certification* – this account was used to collect a \$25 fee from real estate appraisers to pay for Federal registration and certification, as required by Section 20-511, subsection (c), of the General Statutes.

3. *All Other* – this account was used for all other transactions which were pending resolution

such as closing out sales, license fees, fines, penalties and settlements.

	<u>Total</u>	<u>Real Estate Licenses</u>	<u>Federal Appraiser Certification</u>	<u>All Other</u>
<b>Cash Balance – July 1, 2003</b>	\$1,120,098	\$1,031,598	\$ 16,742	\$ 71,758
Receipts	844,116	686,499	33,994	123,623
Disbursements:				
General Fund real estate fees	(979,809)	(979,809)	-	-
University of Connecticut	(252,481)	(252,481)	-	-
All others	<u>(112,622)</u>	<u>(8,189)</u>	<u>(31,175)</u>	<u>(73,258)</u>
<b>Cash Balance – June 30, 2004</b>	<b><u>\$619,302</u></b>	<b><u>\$477,618</u></b>	<b><u>\$19,561</u></b>	<b><u>\$122,123</u></b>
Receipts	758,960	590,153	35,195	133,612
Disbursements:				
General Fund real estate fees	-	-	-	-
University of Connecticut	(972,963)	(972,963)	-	-
All others	<u>(157,863)</u>	<u>-</u>	<u>(36,025)</u>	<u>(121,838)</u>
<b>Cash Balance – June 30, 2005</b>	<b><u>\$ 247,436</u></b>	<b><u>\$ 94,808</u></b>	<b><u>\$ 18,731</u></b>	<b><u>\$133,897</u></b>

**Guaranty Funds:**

The Department used five guaranty funds during the audited period to receive deposits and pay claims in accordance with statutory provisions. A schedule of financial transactions for the audited period is presented below along with a brief description of guaranty fund operations.

	<u>Guaranty Trust Funds</u>				
	<u>Health Club</u>	<u>Real Estate</u>	<u>Home Improvement</u>	<u>Itinerant Vendor</u>	<u>New Home Construction</u>
<b>Cash Balance – July 1, 2003</b>	<b><u>\$ 350,396</u></b>	<b><u>\$574,520</u></b>	<b><u>\$ 355,382</u></b>	<b><u>\$49,850</u></b>	<b><u>\$750,000</u></b>
Total Receipts	177,104	200,585	2,753,658	2,400	1,971,290
Investment Income	5,946	7,016	8,857	-	18,476
Transfers - Special Revenue Fund					
Restricted Accounts	-	-	-	-	(300,000)
Transfers - General Fund	<u>(182,319)</u>	<u>(282,121)</u>	<u>-</u>	<u>(2,250)</u>	<u>(1,430,441)</u>
Net Receipts	<u>731</u>	<u>(74,520)</u>	<u>2,762,515</u>	<u>150</u>	<u>259,325</u>
Disbursements	<u>(1,127)</u>	<u>-</u>	<u>(2,383,574)</u>	<u>-</u>	<u>(256,499)</u>
<b>Cash Balance – June 30, 2004</b>	<b><u>\$ 350,000</u></b>	<b><u>\$500,000</u></b>	<b><u>\$734,323</u></b>	<b><u>\$50,000</u></b>	<b><u>\$ 752,826</u></b>

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	<u>Health Club</u>	<u>Real Estate</u>	<u>Home Improvement</u>	<u>Itinerant Vendor</u>	<u>New Home Construction</u>
<b>Cash Balance – June 30, 2004</b>	<b><u>\$ 350,000</u></b>	<b><u>\$500,000</u></b>	<b><u>\$734,323</u></b>	<b><u>\$50,000</u></b>	<b><u>\$ 752,826</u></b>
Total Receipts	176,825	206,957	3,007,390	2,500	276,214
Investment Income	6,525	8,650	11,948	-	16,518
Transfers - Special Revenue Fund					
Restricted Accounts	-	-	(400,000)	-	-
Transfers - General Fund	(161,988)	(210,329)	(1,045,116)	(2,500)	-
Net Receipts	<u>21,362</u>	<u>5,278</u>	<u>1,574,222</u>	<u>-</u>	<u>292,732</u>
Disbursements	(24,301)	(5,278)	(2,083,964)	-	(646,371)
<b>Cash Balance – June 30, 2005</b>	<b><u>\$ 347,061</u></b>	<b><u>\$500,000</u></b>	<b><u>\$224,581</u></b>	<b><u>\$50,000</u></b>	<b><u>\$ 399,187</u></b>

**Note:** Guaranty Trust Fund cash balances presented above include both cash with the State Treasurer and amounts invested in the State Treasurer’s Short Term Investment Fund.

*Health Club Guaranty Fund* - This trust fund operated under the provisions of Section 21a-226 of the General Statutes and was used to reimburse members of registered health club facilities for unused paid contract balances when health clubs cease operations and have no resources available to issue refunds. Receipts consisted of annual fees paid by health clubs of either \$500 or \$100 dependent on the nature of the facility and investment earnings. The authorized balance of this fund is \$350,000 and amounts in excess of this limit are transferred to the General Fund.

*Real Estate Guaranty Fund* - This trust fund operated under the provisions of Sections 20-324a through 20-324j of the General Statutes and was used to compensate up to \$25,000, any person aggrieved by actions of registered real estate brokers and salespersons. Receipts consisted of a one-time fee of \$20 paid by real estate brokers and salespersons when registering for the first time. Investment earnings of this fund were credited to the General Fund. The authorized balance of this fund is \$500,000 and amounts in excess of this limit are required to be transferred to the General Fund.

*Home Improvement Guaranty Fund* - This trust fund operated under the provisions of Section 20-432 of the General Statutes and was used to reimburse homeowners up to \$15,000 for losses or damages per contract caused by actions of registered home improvement contractors. Receipts consisted of a \$100 annual fee paid by home improvement contractors and a \$40 annual fee paid by salespersons, investment earnings, and repayments from contractors ordered by the Department as restitution. The authorized balance of this fund is \$750,000. On an annual basis, any amounts in excess of this limit are first credited up to \$400,000 to the Home Improvement Enforcement Account; a special revenue fund account used for home improvement and construction enforcement purposes. Any amounts over these thresholds are transferred to the General Fund.

*Itinerant Vendor Guaranty Fund* - This trust fund operated under the provisions of Section 21-33b of the General Statutes and was used to satisfy consumer claims of up to \$500

against a registered itinerant vendor. An itinerant vendor is one who engages in a temporary or transient business in this State, either in one locality or traveling from place to place. Receipts consisted of an annual fee of \$100 paid by itinerant vendors. If invested, earnings are to be retained by this fund. The authorized balance of this fund is \$50,000 and any amounts over this balance are to be credited to the General Fund.

*New Home Construction Guaranty Fund* - This trust fund operates under Section 20-417i of the General Statutes and is used to reimburse new construction homeowners up to \$30,000 for losses or damages caused by actions of a registered new home construction contractor. Receipts consisted of a biennial fee of \$480 paid by new home construction contractors, and investment earnings. The authorized balance of this fund is \$750,000. Amounts in excess of \$750,000 are first credited up to \$300,000 to the Consumer Protection Enforcement Account (CPEA); a special revenue fund account, and any excess amounts are transferred to the General Fund. As of June 30, 2004, the fund balance limit was exceeded by \$2,826. This excess was transferred to the General Fund in the 2004-2005 fiscal year.

#### **PROGRAM EVALUATION:**

Section 2-90 of the General Statutes authorizes the Auditors of Public Accounts to conduct program and efficiency reviews as part of our audits of public agencies. We chose to look at the feasibility of information collecting and sharing between the Department of Consumer Protection's function, as a licensing/registration entity, and the Workers' Compensation Commission's (Commission) statutory requirement that all employers insure employees and beneficiaries in accordance with the provisions of the Workers' Compensation Act.

The Department's regulatory oversight is unique since it frequently interacts with many other State agencies. The Department issues licenses/registrations, regulates and enforces laws and regulations relating to approximately 33 occupational and professional trades. The Department, through its regulation of its occupational and professional licensing program, various boards and commissions, ensures that applicants possess the required education and training established for specific types of licenses and registrations. It requires applicants to complete various forms when requesting a new or renewal license/registration. Section 31-286a, requires that renewal of licenses or permits to operate a business must include sufficient evidence of compliance with workers' compensation insurance. The Department applications for liquor permit renewals require that the applicant attach a copy of their worker's compensation insurance certificate with their renewals. At one time, the Department did require applicants to provide proof of workers' compensation insurance for other licenses/registrations; however, this practice was discontinued over ten years ago due to logistical problems with the inception of the bank lockbox deposit process used for renewals and the increase in the volume of renewals, and staffing issues.

The Workers' Compensation Commission, in conjunction with Section 31-284, subsection (b), of the General Statutes, requires employers to insure its employees and beneficiaries in accordance with the provisions of the Workers' Compensation Act. When an award is made for an injured worker and the employer is unable to pay due to a lack of insurance, Section 31-355, subsection (b), of the General Statutes requires payments to be made out of the State's Second

Injury Fund. Since employers do not have to notify the Commission before they engage in business, the Commission does not have access to whether a new or existing employer is in compliance with the Act. Many of the noncompliant employers appear to be in the new home construction and home improvement business. The Commission has limited resources for pursuing violators prior to a claim being made. Non-compliance with the insurance requirements increases the number of awards having to be paid out of the State's Second Injury Fund.

Through the Department of Consumer Protection's oversight of trade, home improvement and new home construction contractors licensing/registration process, and Section 31-286a requirements, the Department should require applicants to indicate whether they are subject to carrying workers' compensation insurance and to provide sufficient evidence of such insurance when applying for new and renewal licenses/registrations. The information gathered could be shared with Commission investigators and could have a positive effect on reducing the amount of uninsured employers operating in the State, help protect employees, and reduce the number of claims paid out of the State's Second Injury Fund thus reducing the State's liability.

The Department should open a dialogue and exchange of ideas with the Workers' Compensation Commission concerning ways to share information between the two agencies relating to whether home improvement, new home construction contractors, and other types of businesses are carrying the required workers' compensation insurance on their employees. (See additional comments in the "Condition of Records" and "Recommendations" sections of this report.)

## CONDITION OF RECORDS

Our review of the records of the Department of Consumer Protection revealed certain areas requiring improvement or attention, as discussed in this section of the report.

### **Late Deposits and Reconciliations:**

*Criteria:* Section 4-32 of the General Statutes requires that receipts in excess of \$500 be deposited and accounted for within 24 hours. Individual receipts under \$500 may be held until the total sum of all receipts reaches \$500, however, individual receipts may not be held for longer than seven calendar days before being deposited and accounted for. Good business practice should provide that reconciliations of receipts that are not part of the State's Core-CT financial records be compared to the Core-CT General Ledger to ensure the accuracy and recording of all deposits.

*Condition:* We performed four separate receipt tests; one for each of four locations within the Department that receive money. The locations included the Licensing Services Division, Liquor Control Division, Lemon Law Unit, and Public Charities Unit. Our review noted the following: 18 of 25 Licensing Services Division receipts tested, totaling \$11,271, were deposited between one to 16 days late; three of ten Liquor Control fine receipts tested, totaling \$11,825, were deposited between one to four days late; three of ten Lemon Law receipts tested, totaling \$1,452, were deposited between one to seven days late; and three of five Public Charities receipts tested, totaling \$3,100, were deposited between two to four days late.

We could not verify the receipt date or timeliness of deposit for one of the 25 receipts reviewed from the Licensing Division because supporting documentation could not be located.

We noted that the Department utilizes a computerized E-licensing system to maintain license information as well as receipt information relating to various licenses and registrations that are issued. The Department is not reconciling the receipt totals entered on the E-licensing system to the Core-CT General Ledger on a consistent basis.

*Effect:* Late depositing of receipts indicates noncompliance with statutory requirements and a lack of reconciliations could result in receipts being lost, stolen or not properly recorded.

*Cause:* Late deposits were due, in part, to the large volume and variety of receipts the Division receives which results in the Department's inability to process all incoming receipts within the 24 hour requirement. Other causes were not determined.

*Recommendation:* The Department should comply with statutory depositing requirements and

prepare monthly reconciliations of receipts. (See Recommendation 1.)

*Agency Response:* “The Department agrees with the Auditors’ findings in this regard. It will continue its efforts to ensure full compliance with all statutory deposit and reporting requirements.”

**Guaranty Funds:**

*Criteria:* Under Sections 20-432, subsection (e), and 20-417i, subsection (e), of the General Statutes, the Commissioner shall order payment out of the Home Improvement and New Home Construction Guaranty Funds, respectively, of the amount unpaid upon the court judgment for actual damages exclusive of any punitive damages.

Section 20-432, subsection (o), and 20-417i, subsection (n), of the General Statutes, states that a contractor may renew his revoked license once he enters into an agreement to repay the Home Improvement or New Home Construction Guaranty Fund in full, in the form of periodic payments plus interest. The rate of interest is ten percent a year, in accordance with Section 37-3b of the General Statutes.

Good internal controls and proper recordkeeping would require that when a payment is made out of a Guaranty Fund, a corresponding accounts receivable should be immediately established to obtain restitution from the appropriate contractor.

*Condition:* We found inconsistencies in the manner in which accounts receivable were established for both the Home Improvement and New Home Construction Guaranty Funds. Our review of Home Improvement Guaranty Fund payments revealed that 12 of 20 payments were set up as a receivable between two to 34 days after the payment was made from the fund. An additional seven of the 20 payments reviewed were set up between seven days to eight months before an actual payment was made out of the fund.

Our testing of payments made from the New Home Construction Fund payments revealed that eight of 15 payments were set up as a receivable between two days to three months after the payment was made from the fund. Three of the 15 payments were set up between three to 36 days before an actual payment was made out of the fund. We also noted that two payments made out of the New Home Construction Guaranty Fund, totaling \$49,865, were never added to the Departments’ accounts receivable listing.

Our test of restitution payments indicated that the Department did not charge contractor’s interest in accordance with Section 37-3b of the General Statutes

on most reimbursement payments received in both the Home Improvement

and New Home Construction Funds during the audited period.

*Effect:* The lack of consistent and timely recording of accounts receivable results in inaccurate information and could result in contractors not being billed for all amounts owed back to the fund. The lack of compliance with statutory requirements concerning interest charges results in a loss of State funds. Recording accounts receivables with an improper date can also lead to a loss of State funds, if interest is not properly calculated.

*Cause:* The Department believed that it needed to revise its settlement agreements with contractors and add language that clearly states that statutory interest would be charged on restitution payments before it could collect the interest. Other causes were not determined.

*Recommendation:* The Department needs to improve its procedures concerning the recording and collections of accounts receivable, and statutory interest related to restitution payments made to the Guaranty Funds. (See Recommendation 2.)

*Agency Response:* “The Department agrees with the Auditors’ findings in this regard and has fully implemented the recommendation that contractors be charged interest on reimbursement payments made to the Home Improvement and New Home Construction Guaranty Funds. It has also fully implemented the recommendation that a receivable account be established as soon as possible after any payment is made from the Home Improvement, New Home Construction and/or Real Estate Guaranty Funds.”

### **Property Control and Software Issues:**

*Criteria:* Section 4-36 of the General Statutes requires that each State Agency establish and keep an inventory in the form prescribed by the State Comptroller. In addition, the State’s Property Control Manual establishes the standards for maintaining an inventory system and sets reporting requirements. These standards and procedures include: properly tagging, recording and accounting for equipment; filing accurate Annual Fixed Assets/Property Inventory Reports (CO-59 report); maintaining a complete software library/inventory with required information; and producing an annual software inventory report that should be reconciled to a physical inventory of the software library. The definition of capitalized equipment for CO-59 report purposes are items valued over \$1,000 and have a useful life of one year or more.

*Condition:* Nine out of 40 items tested were not listed on the Core-CT Asset Report that is currently used to record and track inventory items. One item was not tagged or included on the inventory records. Two older printers were not located and no surplus documentation could be found. Our testing noted that 62 of 105 new computers purchased during the fiscal year ended June 30, 2005, were tagged and listed on a Department spreadsheet called “additions”

that the agency maintained but were not included on the Department's permanent property control Core-CT Asset Report record.

We noted numerous errors on the CO-59 report for the fiscal year ended June 30, 2005. The report total included leased copiers that do not meet the reporting criteria. Software additions were included in error as part of the Capitalized Furnishings and Equipment total. Many items that did not meet the definition of capitalized equipment were included as "additions" to the annual report total. The errors that we noted resulted in an overstatement on the CO-59 report for the fiscal year ended June 30, 2005 totaling \$82,612. The final report was also filed 45 days late.

The Department did not prepare an annual software report and/or compare it to a physical inventory of its software. The software records were incomplete and did not include the location or computer ID number to which the non-networked software was installed. Six tagged licenses were not listed on the agency's inventory record and approximately 111 items listed on the inventory records could not be traced to the actual corresponding tagged license documentation maintained in an agency binder.

*Effect:* The above conditions indicate a weakness in controls and accountability that resulted in a misstatement of reported inventory values and could lead to the possible loss of assets going undetected and the misuse or violations of copyright and software laws and regulations.

*Cause:* The two employees that were responsible for maintaining the agency's inventory were reassigned to another agency and many new purchases made in the 2004-2005 fiscal year were not entered into the Core-CT inventory system prior to leaving. Other causes were not determined.

*Recommendation:* Equipment and software inventory procedures should be strengthened to provide accurate information and to comply with requirements established in the State's Property Control Manual. (See Recommendation 3.)

*Agency Response:* "The Department agrees with the Auditors' findings in this regard and will fully implement this recommendation. It should be noted that this function was in the process of being converted to Core-CT during the audited period and is now being administered by the Department of Administrative Services per the 2005-2006 merger of State agency business offices."

**GAAP Accounts Receivable Reporting:**

*Criteria:* Annual Generally Accepted Accounting Principle (GAAP) forms are required to be completed by each State agency at each fiscal year-end. The Office of the State Comptroller issues detailed instructions for each of the required forms. A form is required for accounts receivable amounts owed to the State by individuals, private organizations or other governments as of June 30th, if the total of all receivables is greater than or equal to \$300,000. Amounts that are held by the Department of Administrative Services-Bureau of Collections are not included in the totals reported.

*Condition:* A review of the GAAP accounts receivable form for both June 30, 2004 and 2005, showed various omissions in the totals reported on the forms. The totals originally reported on the June 30, 2004 and 2005 forms were understated by \$407,494 and \$1,789,424, respectively. The understatement for June 30, 2004, included unreported receivables totaling \$405,639 in the New Home Construction Guaranty Fund and \$1,855 in the Real Estate Guaranty Fund. The understatement for June 30, 2005, consisted of unreported receivables totaling \$410,500 in the Consumer Protection Enforcement Account, \$454,475 in the Home Improvement Guaranty Fund, \$917,341 in the New Home Construction Fund and \$7,108 in the Real Estate Guaranty Fund.

*Effect:* The reporting of incomplete totals result in omissions and inaccurate totals being reported on the State's Comprehensive Annual Financial Report.

*Cause:* The Department maintained a portion of its receivables using the new State accounting system and a portion using QuickBooks software. There appeared to be a misunderstanding of the GAAP form instructions.

*Recommendation:* The Department should properly report all accounts receivable as required on the annual Generally Accepted Accounting Principle forms. (See Recommendation 4.)

*Agency Response:* "The Department agrees with the Auditors' findings in this regard. It will fully implement this recommendation regarding its fiduciary fund receivables."

**Workers' Compensation Insurance:**

*Criteria:* The Department's regulatory oversight is unique since it frequently interacts with many other State agencies. The Department issues licenses/registrations, regulates and enforces laws and regulations relating to home improvement, new home construction contractors and many other types of businesses. Section 31-286a, subsection (b), states that no State agency may renew a

license or permit to operate a business unless the applicant presents sufficient evidence of current compliance with the workers' compensation insurance coverage requirements of Section 31-284. Section 31-286a, subsection (d), defines sufficient evidence to mean a certificate of self-insurance issued by a workers' compensation commissioner, certificate of compliance issued by the Insurance Commissioner, or a certificate of insurance issued by an authorized stock or mutual insurance company or association.

The Workers' Compensation Commission, in conjunction with Section 31-284, subsection (b), of the General Statutes, requires employers to insure its employees and beneficiaries in accordance with the provisions of the Workers' Compensation Act. Section 31-355, subsection (b), of the General Statutes requires payments to be made out of the State's Second Injury Fund for any award made to an injured worker where the employer is unable to pay due to a lack of insurance.

*Condition:* The Department requires all applicants for liquor permit renewals to provide a copy of their workers' compensation certificate along with renewal forms. The Department had previously required applicants to provide sufficient evidence of workers' compensation insurance (i.e. certificates) for other types of licenses/registrations; however, this practice was discontinued over ten years ago due to logistical problems with the lockbox deposit process for renewals, the increase in the volume of renewals, and staffing issues. Most renewal forms do not require any information concerning an applicant's current workers' compensation insurance.

Many of the State's employers who do not comply with the Workers' Compensation Act appear to be in the new home construction and home improvement business. The Commission has limited resources for pursuing violators prior to a claim being made. Noncompliance with the insurance requirements increases the number of awards having to be paid out of the State's Second Injury Fund.

*Effect:* Contractors' noncompliance with the insurance requirements potentially increases the State's liabilities. By no longer requiring sufficient evidence of insurance with renewal license/registration applications, the Department is in non-compliance with Section 31-286a, subsection (b), and has eliminated a potential resource for information that could help the Commission in limiting future State liabilities.

*Cause:* The limited amount of paperwork that the lockbox deposit process allows and the volume of renewals has led to the discontinuation of requiring sufficient evidence of workers' compensation being presented at the time of the renewal of licenses, permits and registrations.

*Recommendation:* The Department should comply with Section 31-286a, subsection (b), of the

General Statutes and discuss ways of sharing information with the Workers' Compensation Commission. (See Recommendation 5.)

*Agency Response:* "We are in agreement with the Auditors' findings. ... The Department was in full compliance with this review requirement for many years,...however, several situations resulted in the partial discontinuation of this practice and these include the following: diversity of the agency's regulatory program...increased volume of licenses issued since 1986...reductions in agency staff available to process license fees and materials...the demand upon the Department by the public to issue renewals in a timely manner, since failure to supply such licenses without delay could result in economic loss to Connecticut businesses and trades professionals. More significantly, the agency [has worked on achieving timely deposits and] has expanded its use of the bank lockbox process for most of its renewals however, this arrangement precludes the review of attachments such as workers compensation certificates.

... We will work to become a resource for the Workers Compensation Commission and to submit a legislative proposal that would allow for changes to our existing license renewal process. ... We will, with the assistance of the Workers Compensation Commission, develop a proposed amendment [to Section 31-286a, subsection(d)] ... so that a fourth form of evidence is allowed - a signed license renewal application form that includes [a] statement [that the applicant]...attest[s], under penalty of perjury, that [they] maintain, as applicable, workers compensation insurance coverage...and agree to provide the Department of Consumer Protection with [such] evidence....upon request. This certification process would include a random audit of the annual renewal applications received by the Department.

... We will meet with [the Workers Compensation Commission] soon and our discussion will also include the development of a reporting methodology for new home construction and home improvement contractors registration. We do recognize that the establishment of an "information sharing" arrangement between our two agencies could help to decrease future State liability to the Second Injury Fund."

## RECOMMENDATIONS

- The Department should ensure and document compliance with statutory depositing requirements over cash receipts. Our review noted that there were still numerous late deposits. This recommendation is being repeated. (See Recommendation 1.)
- The Department needs to improve the operations of the Home Improvement Guaranty Fund. The Department did make some improvements; however, we noted that there were still several problems in both the Home Improvement and New Home Construction Guaranty Funds. This recommendation is being modified and repeated. (See Recommendation 2.)
- The Department should ensure that its employees only use directory assistance when necessary. There has been a substantial reduction in the amount of directory assistance calls during the audited period therefore, this recommendation is not being repeated.

### *Current Audit Recommendations:*

- 1. The Department should comply with statutory depositing requirements and prepare monthly reconciliations of receipts.**

Comment:

We noted numerous deposits that were not made within the statutory time permitted. The Department is not reconciling receipt totals from its E-licensing system to the State accounting system on a consistent basis.

- 2. The Department needs to improve its procedures concerning the recording and collections of accounts receivable, and statutory interest related to restitution payments made to the Guaranty Funds.**

Comment:

The dates used to add new accounts receivable to both the Home Improvement and New Home Construction Guaranty Funds were inconsistent. Two payments made out of the New Home Construction Fund were never added to the outstanding accounts receivable list. We also noted that many repayments did not include statutory interest.

- 3. Equipment and software inventory procedures should be strengthened to provide accurate information and to comply with requirements established in the State's Property Control Manual.**

Comment:

Many new computers had been tagged but not properly added to the State's new property control asset report. We also noted numerous errors on the Annual Fixed Assets/Property Inventory Report. The Department did not prepare annual software reports and the software inventory records were incomplete.

- 4. The Department should properly report all accounts receivable as required on the annual Generally Accepted Accounting Principle forms.**

Comment:

There were numerous omissions on the GAAP forms for reporting year-end accounts receivable that resulted in large understatements being reported for both June 30, 2004 and 2005.

- 5. The Department should comply with Section 31-286a, subsection (b), of the General Statutes and discuss ways of sharing information with the Workers' Compensation Commission.**

Comment:

Copies of workers' compensation certificates were only required to be submitted for liquor permit renewals and not for other types of renewal registrations, permits, or licenses, although the Statute requires sufficient evidence (i.e. certificates) be presented in the case of any business license/permit renewal.

## INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes we have audited the books and accounts of the Department of Consumer Protection for the fiscal years ended June 30, 2004 and 2005. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations, contracts and grants, and to understanding and evaluating the effectiveness of the Agency's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grants applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly recorded, processed, summarized and reported on consistent with management's authorization, and (3) the assets of the Agency are safeguarded against loss or unauthorized use. The financial statement audits of the Department of Consumer Protection for the fiscal years ended June 30, 2004 and 2005, are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Department of Consumer Protection complied in all material or significant respects with the provisions of certain laws, regulations, contracts and grants and to obtain a sufficient understanding of the internal control to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

### **Compliance:**

Compliance with the requirements of laws, regulations, contracts and grants applicable to the Department of Consumer Protection is the responsibility of the Department of Consumer Protection's management.

As part of obtaining reasonable assurance about whether the Agency complied with laws, regulations, contracts and grants, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Agency's financial operations for the fiscal years ended June 30, 2004 and 2005, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants. However, providing an opinion on compliance with these provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*. However, we noted certain immaterial or less than significant instances of noncompliance, which are described in the accompanying "Condition of Records" and "Recommendations" sections of this report.

**Internal Control over Financial Operations, Safeguarding of Assets and Compliance:**

The management of the Department of Consumer Protection is responsible for establishing and maintaining effective internal control over its financial operations, safeguarding of assets, and compliance with the requirements of laws, regulations, contracts and grants applicable to the Agency. In planning and performing our audit, we considered the Agency's internal control over its financial operations, safeguarding of assets, and compliance with requirements that could have a material or significant effect on the Agency's financial operations in order to determine our auditing procedures for the purpose of evaluating the Department of Consumer Protection's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grants, and not to provide assurance on the internal control over those control objectives.

However, we noted certain matters involving the internal control over the Agency's financial operations, safeguarding of assets, and/or compliance that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of internal control over the Agency's financial operations, safeguarding of assets, and/or compliance that, in our judgment, could adversely affect the Agency's ability to properly record, process, summarize and report financial data consistent with management's authorization, safeguard assets and/or comply with certain provisions of laws, regulations, contracts and grants. We believe the following to be reportable conditions: the noncompliance with statutory depositing requirements; Guaranty Funds accounts receivable deficiencies, and equipment and software procedure deficiencies.

A material or significant weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with certain provisions of laws, regulations, contracts and grants or the requirements to safeguard assets that would be material in relation to the Agency's financial operations or noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions to the Agency being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over the Agency's financial operations and over compliance would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material or significant weaknesses. However, we do not believe that the reportable conditions described above are material or significant weaknesses.

We also noted other matters involving internal control over the Agency's financial operations and over compliance which are described in the accompanying "Condition of Records" and "Recommendations" sections of this report.

This report is intended for the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

**CONCLUSION**

We wish to express our appreciation for the cooperation and courtesies extended to our representatives by the officials and staff of the Department of Consumer Protection during the course of our examination.

Virginia A. Spencer  
Principal Auditor

Approved:

Kevin P. Johnston  
Auditor of Public Accounts

Robert G. Jaekle  
Auditor of Public Accounts