

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**FY 2008-09 BRIEFING:
DEPARTMENT OF REGULATORY AGENCIES**

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

Prepared By:

Bernie Gallagher, JBC Staff

December 17, 2007

For Further Information Contact:

**Joint Budget Committee
200 East 14th Avenue, 3rd Floor
Denver, Colorado 80203
Telephone: (303) 866-2061
Facsimile: (303) 866-2150**

**FY 2008-09 JBC BUDGET BRIEFING
DEPARTMENT OF REGULATORY AGENCIES**

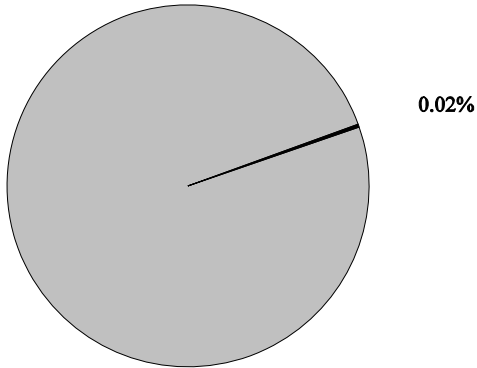
Table of Contents

Graphic Overview	2
Department Overview	3
Decision Items	12
Numbers Pages Overview	13
Numbers Pages	14
Long Bill Footnote Update	30
Briefing Issues:	
Expedited Settlement Process Inefficiencies	33
State-Led Initiative Related to Foreclosures	43
Appendices:	
A: Department of Regulatory Agencies Legal Expenses	50
B: The Expedited Settlement Process	52
C: Map of U.S. Third Quarter 2007 Foreclosure Activity	53

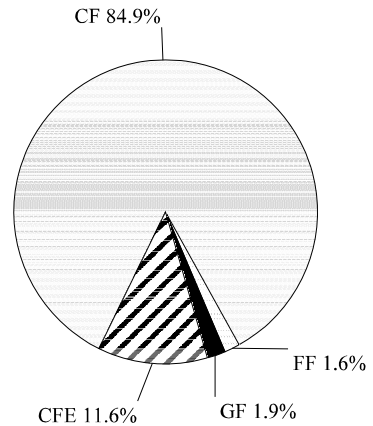
FY 2008-09 JBC BUDGET BRIEFING DEPARTMENT OF REGULATORY AGENCIES

GRAPHIC OVERVIEW

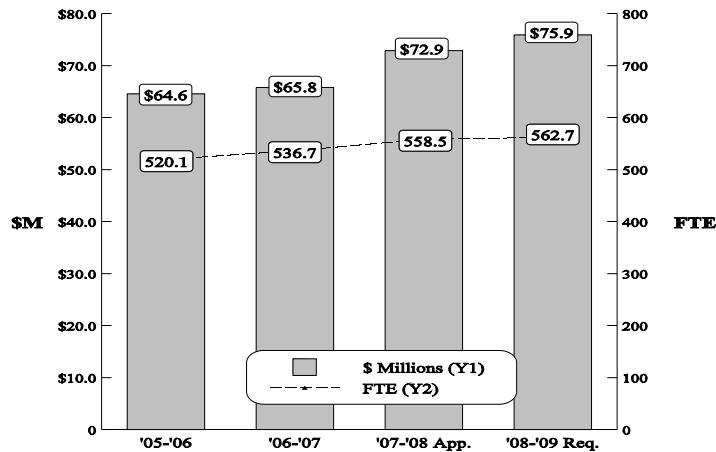
**Share of State General Fund
FY 2007-08**



**Funding Source Split
FY 2007-08**



Budget History



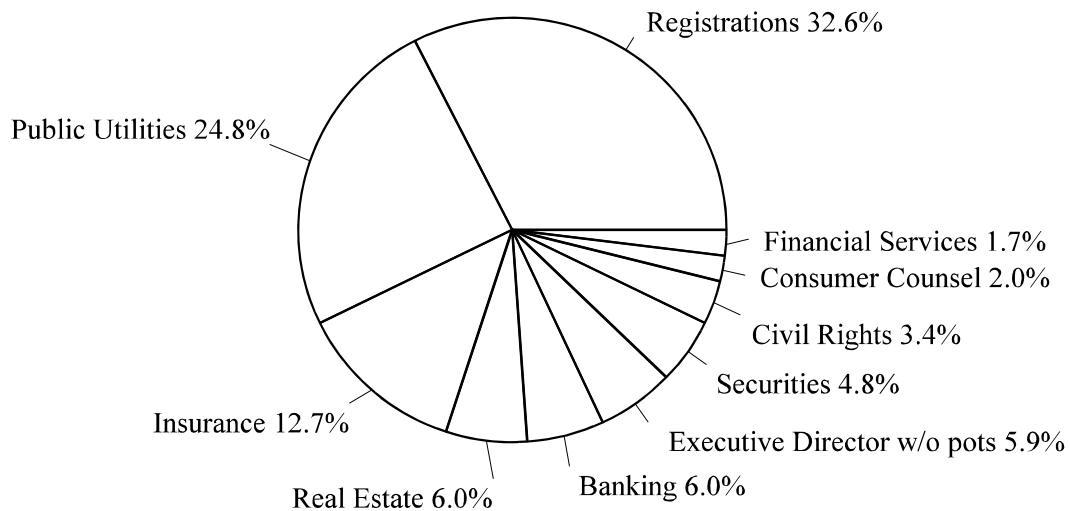
FY 2008-09 JBC BUDGET BRIEFING DEPARTMENT OF REGULATORY AGENCIES

DEPARTMENT OVERVIEW

Key Responsibilities

- ▶ Protect the public from fraudulent, dangerous, incompetent, discriminatory, or unsafe professionals or businesses - and from inadequate choice and unreasonably priced services and products by regulating 640,000 active licenses in the following industries:
 - State-chartered financial institutions such as banks, trust companies, credit unions and money transmitters. (Divisions of Banking and Financial Services)
 - Public utilities, such as electricity, gas and telecommunications. (Public Utilities Commission)
 - Providers of automobile, homeowners, life, health and other types insurance. (Division of Insurance)
 - Professionals in more than thirty occupations, including accountants, barbers, chiropractors, dentists, mortgage brokers, nurses, physicians, pharmacists, psychologists, stockbrokers and real estate agents and appraisers. (Divisions of Registrations, Real Estate, and Securities)
- ▶ Administer and enforce Colorado's civil rights laws. (Division of Civil Rights)
- ▶ Conduct Sunrise and Sunset reviews of state-run programs. Evaluate economic impact of rules proposed by state agencies.

Distribution of Total Department Budget Among Divisions, FY 06-07 Actuals



Factors Driving the Budget

Legal Services

The Department purchases more legal services from the Department of Law than any other state agency. The Department's appropriation for legal services for FY 2007-08 represents 29.4 percent of the State's total legal services appropriation for legal services and 9.7 percent of the Department's total appropriation, the largest component of the Department's budget after personal services. Given the large stakes involved in many of the Department's regulatory decisions, legal services will continue to be a driving factor. The following table shows that DORA typically accounts for nearly one third of total state legal services expenditures.

State Agency	FY 03-04 Actual	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Approp.
Regulatory Agencies	\$4,984,120	\$5,075,682	\$5,310,731	\$5,767,024	\$7,083,214
Percent of Total	28.3%	28.2%	27.5%	28.5%	29.4%
Natural Resources	2,229,281	2,198,168	2,471,139.0	2,680,439	3,165,863
Personnel	2,152,987	2,315,498	2,548,690	2,391,739	2,584,869
Public Health & Envirmt.	1,464,533	1,354,044	1,599,380	1,872,485	1,974,054
Corrections	959,650	1,095,811	1,012,821	1,036,745	1,328,161
Human Services	1,050,906	1,173,984	1,301,464	1,249,611	1,181,076
Transportation	978,367	981,602	1,098,635	1,113,597	1,101,915
Other	3,767,120	3,821,461	3,950,421	4,142,129	5,637,932
Total	\$17,586,964	\$18,016,250	\$19,293,281	\$20,253,769	\$24,057,084
Annual Variance	-1.7%	2.4%	7.1%	5.0%	18.8%

Source: FY 2008-09 JBC Staff briefing for the Department of Law, November 7, 2007.

Legislation

During the 2007 Legislative session, the General Assembly passed 22 bills which appropriated \$3.0 million and 16.3 FTE to the Department. The appropriations affected five divisions. The following table provides an overview of the Divisions most affected by the legislation:

2007 Special Bills Impacting DORA					
Division	Number of Bills	Appropriation from Special Bills	Increase in Spending Authority from 2007 Long Bill	FTE Authority from Bills	Increase in FTE Authority from 2007 Long Bill
Div. of Real Estate	4	\$997,980	29.7%	6.1	15.1%
EDO	14	910,085	4.8%	1.0	1.9%
PUC	6	540,228	3.8%	3.4	3.6%
Div. of Registrations	4	357,985	2.3%	4.3	2.6%
Div. of Insurance	5	184,598	2.3%	1.5	1.9%
Total		\$2,990,876	4.1%	16.3	3.0%

Summary of Major Legislation

Note the family of Real Estate bills passed during the 2007 Legislative Session, these include:

- ▶ S.B. 07-85 (Consumer Protection in Real Estate Transactions)
- ▶ S.B. 07-203 (Mortgage Broker Licensure)
- ▶ S.B. 07-216 (Mortgage Loan Fraud Act Practices)
- ▶ H.B. 07-1322 (Mortgage Fraud Prevention Act)

- ▶ **S.B. 07-4 (Shaffer/Todd): Coordinated Payment System.** Requires that the Department of Education, Department of Health Care Policy and Financing, Department of Public Health and Environment, and the Department of Regulatory Agencies (Division of Insurance) coordinate in developing a coordinated system of payment for developmentally disabled children or children with conditions that may result in developmental delays. Appropriates \$6,188 cash funds to the Division of Insurance from the Division of Insurance Cash Fund to contract labor to handle consumer complaints and inquiries pertaining to the implementation of the payment system. For more information, please reference the Department of Human Services section of this report.
- ▶ **S.B. 07-25 (Veiga/Madden): Sexual Orientation and Religion as Protected Classes.** Adds sexual orientation and religion to the list of protected classes for illegal employment discrimination, and permits persons subject to discriminatory or unfair employment practices to seek civil damages against an employer. Appropriates \$33,885 from the Controlled Maintenance Trust Fund to the Executive Director's Office for transfer to the Department of Law for legal services.
- ▶ **S.B. 07-85 (Veiga/Madden): Consumer Protection in Real Estate Transactions.** Prohibits a mortgage broker from improperly influencing a real estate appraisal and makes such improper influencing a deceptive trade practice; specifies criminal penalties for improperly influencing a real estate appraisal; and modifies the powers and duties of the director of the Division of Real Estate. Appropriates \$56,696 and 0.3 FTE to the Department of Regulatory Agencies (DORA) from the Mortgage Broker Registration Cash Fund. Appropriates \$40,662 cash funds exempt to the Department of Law for legal services out of the appropriation to DORA. Appropriates 0.3 FTE to the Department of Law.
- ▶ **S.B. 07-107 (Tapia/Borodkin): Landscape Architects Licensure.** Requires landscape architects to be licensed and provides regulatory authority to the newly created Board of Landscape Architects in the Division of Registrations, Department of Regulatory Agencies (DORA). Appropriates \$172,836 and 1.6 FTE to DORA from the Division of Registrations Cash Fund. Appropriates \$29,141 cash funds exempt to the Department of Law for legal services out of the appropriation to DORA.
- ▶ **S.B. 07-137 (Tochtrop/White): Plumbers Apprentice Registration System.** Creates a registration system and corresponding fee for plumbing contractors, requires plumbing contractors to employ a master plumber, limits master plumbers to working for only one plumbing contractor and expands the reasons and procedures for disciplinary action by the Examining Board of Plumbers. Appropriates \$159,419 and 0.7 FTE from the Division of

Registrations Cash Fund, of which \$28,463 cash funds exempt and 0.2 FTE to the Department of Law for legal services and \$130,956 cash funds and 0.7 FTE to the Division of Registrations. The appropriation to the Department of Law is from funds transferred from the DORA.

- ▶ **S.B. 07-187 (Johnson/McGihon): Veterinary Practice Act Modification.** Creates an academic veterinarian license, requires veterinary school faculty to possess this license or a standard veterinary license by January 1, 2008, and requires all veterinarians to provide copies of veterinary records to local law enforcement authorities and to the Bureau of Animal Protection in the Department of Agriculture for animal cruelty investigations. Appropriates \$5,500 from the Division of Registrations Cash Fund to the Division of Registrations for computer programming expenses.
- ▶ **S.B. 07-203 (Groff/Marshall): Mortgage Broker Licensure.** Changes the regulatory framework for mortgage brokers from registration to licensing; makes errors and omissions insurance a licensing requirement; establishes education, testing, and continuing education requirements for mortgage brokers; defines grounds for disciplinary action. Appropriates \$422,463 and 1.8 FTE to the Department of Regulatory Agencies (DORA) from the Mortgage Broker Registration Cash Fund. Of this amount, \$59,299 cash funds exempt is re-appropriated to the Department of Law for legal services and \$186,349 cash funds exempt is re-appropriated to the Department of Law for consumer protection. In addition, appropriates 2.3 FTE to the Department of Law.
- ▶ **S.B. 07-204 (Tochtrop/Primavera): Prescription Drug Monitoring Program Fees.** Removes the requirement that the Electronic Prescription Drug Monitoring Program receive all funding from gifts, grants, and donations, and allows the State Board of Pharmacy to collect an annual fee from those who prescribe controlled substances to fund the program. Appropriates \$31,267 cash funds to the Division of Registrations from the Division of Registrations Cash Fund for FY 2007-08. The Department received a \$400,000 federal grant, of which \$221,692 is being applied in FY 2007-08 for the program.
- ▶ **S.B. 07-216 (Veiga/Marshall): Mortgage Loan Fraud Act Practices.** Creates a duty of good faith and fair dealing for mortgage brokers in their communications and transactions with borrowers; requires refinancing transactions to have a reasonable, tangible net benefit to borrowers; and requires the Director of the Division of Real Estate to promulgate rules governing the marketing of nontraditional mortgages by mortgage brokers. Appropriates \$392,242 and 1.5 FTE to the Department of Regulatory Agencies (DORA) from the Mortgage Broker Registration Cash Fund. Appropriates to the Department of Law \$48,456 cash funds exempt for legal services and \$265,085 cash funds exempt for consumer protection. The appropriations to the Department of Law are from funds transferred from the DORA. In addition, appropriates 3.4 FTE to the Department of Law
- ▶ **S.B. 07-249 (Veiga/Rice): Real Estate Title Insurance Market Analysis and Enforcement.** Requires the Division of Insurance to perform an annual market analysis of the title insurance industry in the state and investigate and enforce title insurance laws. Appropriates \$143,448 cash funds and 1.7 FTE to the Division of Insurance from the Division of Insurance Cash Fund for FY 2007-08.

- ▶ **H.B. 07-1037 (Levy/Fitz-Gerald): Expand Energy Efficiency Programs.** Appropriates \$191,776 cash funds and 2.0 FTE to the Public Utilities Commission (PUC) to develop rules for programs that promote energy efficiency for investor-owned natural gas and electric distributors. The appropriation includes \$13,554 to be transferred to the Department of Law for legal services.
- ▶ **H.B. 07-1065 (Pommer/Williams): Passenger Vehicle Criminal History Check.** Provides the Public Utilities Commission (PUC) authority to collect and spend \$197,500 in application fees for criminal history checks for certain motor vehicle carriers and to pass through these moneys to the Department of Public Safety to perform the criminal history checks. Carriers include operators of taxicabs, charter or scenic buses, fire crew transports, luxury limousines, off-road vehicle scenic charters, or children's activity buses.
- ▶ **H.B. 07-1101 (Butcher/Tapia): Pueblo Health Insurance Costs Study.** Appropriates \$29,569 cash funds from the Division of Insurance Cash Fund to conduct a study to determine factors involved in health insurance costs in Pueblo County.
- ▶ **H.B. 07-1104 (Butcher/Tapia): Insurance Property Repair Regulation.** Prohibits property and casualty insurers from requiring that appraisals or repairs be made by a specified repair business, representing to a claimant that the failure to use a particular repair business may result in nonpayment, and soliciting a referral fee in exchange for referring claimants to a repair business. Appropriates \$10,201 cash funds to the Division of Insurance from the Division of Insurance Cash Fund for FY 2007-08.
- ▶ **H.B. 07-1114 (Frangas/Romer): Regulation of Taxicab Certificate Fees.** Regulates the lease rate charged to taxi drivers by taxicab companies and makes such lease rates subject to certain public notice requirements. Appropriates \$4,878 cash funds to the Public Utilities Commission (PUC) from the Public Utilities Commission Motor Carrier Fund for FY 2007-08.
- ▶ **H.B. 07-1228 (Gardner, C./Shaffer): Renewable Fuel Distributed Energy Generation Incentives.** Requires the Public Utilities Commission (PUC) to research distributed energy generation programs and to develop a policy to establish incentives for consumers who produce distributed generation, including small wind turbines, thermal biomass, electric biomass, and solar thermal energy. Appropriates \$8,405 General Fund and 0.1 FTE to the PUC for FY 2007-08.
- ▶ **H.B. 07-1234 (Carroll, M./Tochtrop): Public Notice of Insurance Rates Increase.** Requires all insurance carriers to electronically submit rate filings for certain types of health care coverages to the Division of Insurance and also include rate standards used to ensure that rates are not excessive, inadequate, or unfairly discriminatory. Appropriates \$42,000 cash funds to the Division of Insurance from the Division of Insurance Cash Fund and decreases the appropriation to the division by \$4,808 cash funds and 0.2 FTE.
- ▶ **H.B. 07-1249 (Primavera/Spence): Regulation of Movers of Household Goods.** Changes oversight responsibilities by the Public Utilities Commission (PUC) for movers of household

goods, including the requirement to conduct a fingerprint-based criminal background check for officers of moving companies applying for new registrations. Appropriates \$7,878 cash funds to the Public Utilities Commission (PUC) from the Public Utilities Commission Motor Carrier Fund for FY 2007-08 and transfers this amount to the Department of Public Safety, Colorado Bureau of Investigation (CBI) to conduct background checks. Of this amount, \$3,038 are cash funds and \$4,840 are cash funds exempt for pass through to the CBI for requisite expenses associated with FBI fingerprinting.

- ▶ **H.B. 07-1274 (Rice/Williams): Creates the Commission for Visually Impaired Individuals.** Appropriates \$95,152 cash funds from the Colorado Disabled Telephone Users Fund to the Public Utilities Commission (PUC) and transfers this amount and 1.0 FTE to the Department of Human Services, Division of Vocational Rehabilitation for the Colorado Commission for Individuals who are Blind or Visually Impaired.
- ▶ **H.B. 07-1311 (Marshall/Tochtrop): Shorten the Sunrise Review Process.** Changes sunrise review procedures of unregulated occupations and professions by the Department of Regulatory Agencies (DORA). Appropriates \$62,122 cash funds exempt 1.0 FTE to the Office of Policy Research and Regulatory Reform for FY 2007-08. The source of funding is from various fund balances and reserves.
- ▶ **H.B. 07-1322 (Marshall/Groff): Mortgage Fraud Prevention Act:** Expands the Mortgage Broker Registration Act by defining prohibited conduct regarding fraud, misrepresentation, and conflict of interest, and requires disclosures specific to fees, costs, and lock-in agreement terms. Appropriates \$495,084 cash funds and 2.5 FTE to the Department from the Mortgage Brokers Registration Cash Fund. Appropriates to the Department of Law \$118,598 cash funds exempt for legal services and \$264,608 cash funds exempt for consumer protection out of the appropriation to DORA. In addition, appropriates 4.0 FTE to the Department of Law
- ▶ **H.B. 07-1331 (Carroll, M./Tochtrop): Michael Skolnik Medical Transparency Act.** Creates the Michael Skolnik Medical Transparency Act, which requires licensed medical practitioners to submit information to the State Board of Medical Examiners, which will then make this information available to the public in a searchable manner. Appropriates \$163,118 cash funds from the Division of Registrations Cash Fund and 1.0 FTE for FY 2007-08. Of this amount, \$5,422 will be transferred to the Department of Law for legal services.
- ▶ **S.B. 06-38 (Tapia/Knoedler): Insurance Fraud Investigation Fees.** Increases the annual registration fee for insurance companies regulated by the Department of Regulatory Agencies from \$120 to \$425 so that additional funds are available for the prosecution of insurance fraud. Requires the Attorney General's Office to provide annual reports to the Joint Budget Committee, the Senate Business, Labor and Technology Committee, and the House Business Affairs and Labor Committee, as well as to post a statistical report of the number of referrals, convictions, arrests, actions initiated and restitutions, fines, costs, and forfeitures obtained from the investigation and prosecution of insurance fraud on the Department of Law's website. Appropriates \$379,950 cash funds exempt and 5.0 FTE to the Department of Law for the provision of legal services.

- ▶ **S.B. 06-20 (Hanna/Green): Interstate Nurse Licensure Compact.** Directs the Governor to enter into a multi-state nurse licensure compact. Appropriates \$327,461 cash funds and 2.0 FTE to the Department and appropriates \$10,312 cash funds exempt to the Department of Law.
- ▶ **S.B. 06-230 (Boyd/Benefield): Prescription Drug Wholesalers.** Requires prescription drug wholesalers to become licensed with the State Board of Pharmacy. Makes the following FY 2006-07 appropriations: \$219,915 cash funds and 3.3 FTE to the Department of Regulatory Agencies; \$28,874 cash funds exempt and 0.2 FTE to the Department of Law out of the appropriation to the Department of Regulatory Agencies; \$31,183 cash funds, \$39,600 cash funds exempt, and 0.3 FTE to the Department of Public Safety.
- ▶ **S.B. 06-208 (Hanna/McGihon): Dental Hygiene Practice Employment.** Establishes the Blue Ribbon Commission for Health Care Reform for the purpose of studying and establishing health care reform models to expand health care coverage and to decrease health care costs. Appropriates \$100,000 General Fund to the Health Care Reform cash fund in FY 2005-06 and appropriates \$150,000 cash funds exempt from the Health Care Reform cash fund to the Division of Insurance for FY 2006-07. Of the FY 2006-07 appropriation, \$50,000 is from potential gifts, grants and donations.
- ▶ **H.B. 06-1161 (Vigil/Veiga): Mortgage Broker Registration.** Establishes regulatory requirements for mortgage brokers. Appropriates \$123,153 cash funds and 1.5 FTE to the Department of Regulatory Agencies; \$25,780 cash funds exempt and 0.2 FTE to the Department of Law; and \$46,894 cash funds, \$66,000 cash funds exempt and 0.6 FTE to the Department of Public Safety. Each of these appropriations is for FY 2006-07. The appropriation to the Department of Law is from funds transferred from the Department of Regulatory Agencies.
- ▶ **H.B. 05-1264 (Buescher/Tapia): Repeal of the Real Estate Recovery Fund.** Eliminates the Real Estate Recovery Fund and the related program that provides limited compensation for victims of willful wrongdoing by real estate brokers.
- ▶ **S.B. 04-211 (Hillman/Spradley): Unclaimed Property and CoverColorado.** Specifies that the principal in the Unclaimed Property Trust Fund plus any interest earnings be transferred to CoverColorado to the degree that moneys are available in the trust fund and are needed to fund CoverColorado's program. Eliminates the CoverColorado Cash Fund and transfers the fund balance to CoverColorado. The bill effectively ends the CoverColorado appropriation in the Long Bill, which has appeared among the appropriations for the Department of Regulatory Agencies since 1991.
- ▶ **S.B. 03-68 (Hagedorn/Brophy): Commission on Mandated Health Insurance Benefits.** Establishes the 11 member Commission on Mandated Health Insurance Benefits for the purpose of collecting data to assess the impact of mandated health care benefits on employers, employees, individual purchasers, insurers, health care providers, and other relevant entities.

- ▶ **S.B. 03-134 (Keller/Tochtrop): Sunset Certification of Nurse Aides.** Continues the regulatory functions of the state Board of Nursing until July 1, 2010, and makes some changes to the functions of the board, including requiring a feasibility study of requiring a state and federal fingerprint-based criminal history check of nurse aide applicants; adding two members to the Nurse Aide Advisory Committee; and requiring the implementation of a new medication aide training program.

- ✓ **S.B. 03-191 (Owen/Young): Augment FY 2002-03 General Fund Revenues.** For purposes of augmenting General Fund revenues for FY 2002-03, requires the State Treasurer to transfer a total of \$203,592,024 from various cash funds to the General Fund. With four specified exceptions, requires all of the transfers to occur on the effective date of the act. With regard to the Department of Regulatory Agencies, transfers a total of \$5,632,416 from the Disabled Telephone Users Fund, the Public Utilities Commission Motor Carrier Fund and the Real Estate Recovery Fund.

- ✓ **S.B. 03-239 (Chlouber/Berry): Sunset Motorist Insurance Database Program.** Continues the Motorist Insurance Identification Database Program until July 1, 2008; requires insurers to provide policy information to the designated agent that monitors the program database more frequently; and eliminates the requirement for the Division of Insurance to contract with a company to gather information regarding uninsured motorist claims.

Major Funding Changes FY 2006-07 to FY 2007-08

Action (Source)	General Fund	Other Funds (Source)	Total Funds	Total FTE
Mortgage Industry Legislation (S.B. 07-85, S.B. 07-203, S.B. 07-216, H.B. 07-1322)	0	\$1,366,485 (Cash Funds)	\$1,366,485	6.1
Annualized Salary Adjustments (Long Bill)	29,611	869,840 (CF and CFE)	899,451	0.0
Commission for the Deaf and Hard of Hearing move to the PUC (Long Bill)	0	619,724 (Cash Funds)	619,724	0.0
Div of Registrations: Passenger Carrier Background Checks (H.B. 07-1065)	0	250,030 (Cash Funds)	250,030	1.3
PUC: Expand Energy Efficiency Programs (H.B. 07-1037)	0	191,776 (Cash Funds)	191,776	2.0
Div of Registrations: Landscape Architects Licensure (S.B. 07-107)	0	172,836 (Cash Funds)	172,836	1.6
Div of Registrations: Michael Skolnik Medical Transparency Act (H.B. 07-1331)	0	163,119 (Cash Funds)	163,119	1.0
Div of Registrations: Plumbers Apprentice Registration System (S.B. 07-137)	0	159,419 (Cash Funds)	159,419	0.7
Financial Services: Credit Union Examiners (Decision Item)	0	111,606 (Cash Funds)	111,606	2.0
Document Imaging System (Decision Item)	0	96,150 (Cash Funds)	96,150	0.0
Wireless Broadband (Decision Item)	0	36,886 (CF and CFE)	36,886	0.0
Real Estate Appraiser FTE (Budget Amendment)	0	36,333 (Cash Funds)	36,333	1.5
Annualize Special Bills (Long Bill)	0	34,910 (CF and CFE)	34,910	0.5
Eliminate One-time Spending Authority (Special Bills, Decision Items, Budget Amendments)	0	(1,115,839) (CF and CFE)	(1,115,839)	0.0

**FY 2008-09 JBC BUDGET BRIEFING
DEPARTMENT OF REGULATORY AGENCIES**

DECISION ITEMS FY 2008-09

Priority	Division: Request	GF	CF	CFE	FF	Total	FTE
1	Division of Registrations: Board of Medical Examiners FTE	\$0	\$72,915	\$0	\$0	\$72,915	1.0
2	EDO: Operating Expenses: License Records Management Funding	0	89,706	0	0	89,706	0.0
NP #1	Special Purpose: Workers Compensation Allocation for C-SEAP	40	946	117	19	1,122	0.0
NP #2	Special Purpose: Vehicle Lease Payments	0	(67,972)	0	0	(67,972)	0.0
NP #3	PUC: Colorado Commission for the Deaf & Hard of Hearing Cash Fund: From Human Services Budget Request.	0	31,116	0	0	31,116	0.0
Total Decision Item Request		\$40	\$126,711	\$117	\$19	\$126,887	1.0

**FY 2008-09 JBC BUDGET BRIEFING
DEPARTMENT OF REGULATORY AGENCIES**

OVERVIEW OF NUMBERS PAGES

Requested Changes FY 2007-08 to FY 2008-09

Category	Total	GF	CF	CFE	FF	FTE
FY 2007-08 Appropriation	\$72,918,590	\$1,416,593	\$61,899,105	\$8,446,994	\$1,155,898	558.5
FY 2008-09 Request	\$75,945,189	\$1,419,841	\$64,567,855	\$8,674,805	\$1,282,688	562.7
Increase	\$3,026,599	\$3,248	\$2,668,750	\$227,811	\$126,790	4.2
Percent Change	4.2%	0.2%	4.3%	2.7%	11.0%	0.8%

Overview of Notable FY 2007-08 Budget Changes:

The increase in the total amount requested for FY 2008-09 from the total appropriated in FY 2007-08 is largely a consequence of the increased budgetary base that was a result of the passage of 22 bills which appropriated \$3.0 million and 16.3 FTE to half of the Department's ten divisions.

Cash Funds -- \$2.7 million Increase

- ▶ Includes \$1.4 million for increases in Personal Services.
- ▶ Includes \$0.6 million for increases in Indirect Cost Recoveries.
- ▶ Includes \$0.4 million for increases in Legal Services.
- ▶ Includes \$0.3 million for increases in Leased Space.
- ▶ Includes \$0.1 million for increases in IT Asset Maintenance.

FTE -- 4.2 FTE Increase

- ▶ Increase of 2.4 FTE from annualized special bills in Real Estate
- ▶ Increase of 1.0 FTE from Decision Item #1 (Board of Medical Examiners FTE)
- ▶ Increase of 1.0 FTE from annualized special bill in Civil Rights
- ▶ Decrease of 0.2 FTE from annualized special bills in PUC

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	Request	FY 2008-09 DI/Notes
--	----------------------	----------------------	-----------------------------	---------	------------------------

DEPARTMENT OF REGULATORY AGENCIES
Rico Munn, Executive Director

(1) EXECUTIVE DIRECTOR'S OFFICE

Primary Function: conducting sunrise and sunset evaluations of divisions, commissions, and boards; promoting divisional efficiency and effectiveness; departmental administrative functions including accounting, budgeting, data processing, personnel, purchasing, facilities planning, and management reporting. The primary source of funding is from indirect cost recoveries that upon a variety of cash funds within the department.

Personal Services	3,563,837	3,550,333	3,861,164	3,993,458
FTE	<u>51.0</u>	<u>49.1</u>	<u>54.0</u>	<u>54.0</u>
General Fund	0	0	56,450	25,500
Cash Funds	0	0	19,000	36,500
Cash Funds Exempt	3,563,837	3,550,333	3,785,714 /a	3,931,458
FTE	51.0	49.1	54.0 /a	54.0
Federal Funds	0	0	0	0
Health, Life, and Dental	<u>2,319,876</u>	<u>1,591,518</u>	<u>2,253,091</u>	<u>2,336,611</u>
General Fund	76,114	59,376	120,081	73,758
Cash Funds	2,003,426	1,387,954	1,847,073	1,794,092
Cash Funds Exempt	240,336	144,188	285,937	434,092
Federal Funds	0	0	0	34,669
Short-Term Disability	<u>79,826</u>	<u>33,490</u>	<u>41,774</u>	<u>43,705</u>
General Fund	2,622	878	1,183	1,742
Cash Funds	69,562	29,137	33,542	35,073
Cash Funds Exempt	7,642	3,475	7,049	6,890
Salary Survey and Senior Executive Service	<u>1,905,814</u>	<u>899,451</u>	<u>1,008,654</u>	<u>1,197,655</u>
General Fund	56,942	29,611	36,244	53,983
Cash Funds	1,689,272	770,276	821,846	941,533
Cash Funds Exempt	159,600	99,564	150,564	202,139

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI/Notes
Performance-based Pay Awards	<u>0</u>	<u>0</u>	<u>475,057</u>	<u>518,010</u>	
General Fund	0	0	13,741	20,648	
Cash Funds	0	0	393,951	415,702	
Cash Funds Exempt	0	0	67,365	81,660	
Workers' Compensation	<u>73,502</u>	<u>89,243</u>	<u>139,889</u>	<u>107,139</u>	
General Fund	2,313	3,254	4,995	3,765	NP #2
Cash Funds	62,133	74,744	118,005	90,503	NP #2
Cash Funds Exempt	8,151	10,160	14,484	11,058	NP #2
Federal Funds	905	1,085	2,405	1,813	NP #2
SB 04-257 Amortization Equalization Disbursement	<u>134,696</u>	<u>0</u>	<u>385,299</u>	<u>537,907</u>	
General Fund	3,716		10,620	21,439	
Cash Funds	120,376		309,613	431,670	
Cash Funds Exempt	10,604		65,066	84,798	
SB 06-235 Supplemental Amortization Equalization Disbursement					
Equalization Distribution	<u>0</u>	<u>0</u>	<u>79,954</u>	<u>171,939</u>	
General Fund	0	0	1,896	6,867	
Cash Funds	0	0	64,503	137,937	
Cash Funds Exempt	0	0	13,555	27,135	
Operating Expenses	<u>135,413</u>	<u>142,341</u>	<u>211,692</u>	<u>209,671</u>	
General Fund	0	0	3,689	3,689	
Cash Funds	0	0	97,448	95,427	DI #1
Cash Funds Exempt	135,413	142,341	110,555	110,555	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI/Notes
Legal Services	5,347,619	5,822,297	6,591,955	7,071,796	
Hours Equivalent	<u>82,973</u>	<u>85,913</u>	<u>91,850</u>	<u>98,178</u>	
General Fund	47,113	48,654	90,141 /b	137,580	
Cash Funds	5,159,415	5,596,773	6,233,719 /c	6,666,121	
Cash Funds Exempt	83,829	93,864	132,391	132,391	
Federal Funds	57,262	83,006	135,704	135,704	
Administrative Law Judges	<u>170,820</u>	<u>214,701</u>	<u>229,718</u>	<u>236,446</u>	
General Fund	3,687	8,413	4,851	10,893	
Cash Funds	165,801	206,288	223,115	225,553	
Cash Funds Exempt	1,332	0	1,752	0	
Purchase of Services from Computer Center	<u>23,563</u>	<u>1,237</u>	<u>20,019</u>	<u>9,350</u>	
General Fund	242	12	206	0	
Cash Funds	19,806	1,022	18,446	0	
Cash Funds Exempt	3,515	203	1,367	9,350	
Multiuse Network Payments	<u>2,318</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	1,502	0	0	0	
Cash Funds	0	0	0	0	
Cash Funds Exempt	816	0	0	0	
Payment to Risk Management Fund	<u>24,834</u>	<u>81,141</u>	<u>72,676</u>	<u>86,883</u>	
General Fund	767	3,073	2,674	3,199	
Cash Funds	19,537	65,466	57,786	69,081	
Cash Funds Exempt	4,099	11,218	10,476	12,524	
Federal Funds	431	1,384	1,740	2,079	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI/Notes
Vehicle Lease Payments - CF	141,417	159,540	203,304	135,332	NP #1
Information Technology Asset Maintenance	<u>462,572</u>	<u>462,572</u>	<u>570,087</u>	<u>662,809</u>	
General Fund	0	0	0	0	
Cash Funds	212,549	212,549	280,646	375,578	
Cash Funds Exempt	250,023	250,023	289,441	187,231	
Federal Funds	0	0	0	100,000	
Leased Space	<u>2,304,701</u>	<u>2,268,234</u>	<u>2,532,604</u>	<u>2,667,656</u>	
General Fund	104,463	81,986	87,472	91,259	
Cash Funds	1,728,368	1,762,989	2,017,946	2,128,652	
Cash Funds Exempt	446,252	385,475	401,062	420,490	
Federal Funds	25,618	37,784	26,124	27,255	
Capital Complex Leased Space - CF	1,076	0	1,279	1,280	
Hardware / Software Maintenance	<u>657,699</u>	<u>668,400</u>	<u>926,466</u>	<u>669,427</u>	
General Fund	800	800	800	800	
Cash Funds	323,863	324,704	667,064	410,025	DI #1
Cash Funds Exempt	333,036	342,896	258,602	258,602	
Federal Funds	0	0	0	0	
Cover Colorado	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	0	0	0	0	
Cash Funds Exempt	0	0	0	0	
IT Systems Modification - CF	0	0	0	0	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	Request	FY 2008-09 DI/Notes
					Request vs. Appropriation
TOTAL - (1) EXECUTIVE DIRECTOR	17,349,583	15,984,498	19,604,682	20,657,074	5.4%
FTE	51.0	49.1	54.0	54.0	0.0%
General Fund	300,281	236,057	435,043	455,122	4.6%
Cash Funds	11,716,601	10,591,442	13,408,286	13,990,059	4.3%
Cash Funds Exempt	5,248,485	5,033,740	5,595,380	5,910,373	5.6%
FTE	51.0	49.1	54.0	54.0	0.0%
Federal Funds	84,216	123,259	165,973	301,520	81.7%

/a Reflects an increase of \$62,122 and 1.0 FTE, pursuant to H.B. 07-1311.

/b Reflects an increase of \$33,885, pursuant to S.B. 07-25.

/c Reflects increases of \$40,662, pursuant to S.B. 07-85; \$29,141, pursuant to S.B. 07-107; \$28,463, pursuant to S.B. 07-137; \$59,299, pursuant to S.B. 07-203; \$48,456, pursuant to S.B. 07-216; \$13,554, pursuant to H.B. 07-1037; \$4,337, pursuant to H.B. 07-1065; \$118,598, pursuant to H.B. 07-1322; and \$5,422, pursuant to H.B. 07-1331.

(2) DIVISION OF BANKING

Primary Function: regulates state-chartered commercial and industrial banks, trust companies, debt adjusters, and money order companies. Staff conducts examinations and enforcement compliance related to the Public Deposit Protection Act, trust department oper money order companies. The funding source is the Division of Banking Cash Fund.

Personal Services - CF	2,435,860	2,608,428	2,741,481	2,833,474	
FTE - CF	33.4	34.0	38.5	38.5	
Operating Expenses - CF	258,601	270,726	279,905	279,905	
Board Meetings - CF	10,174	11,500	11,500	11,500	
Indirect Cost Assessments - CF	416,082	422,728	453,276	478,152	
					Request vs. Appropriation
TOTAL - (2) BANKING - CF	3,120,717	3,313,382	3,486,162	3,603,031	3.4%
FTE - CF	33.4	34.0	38.5	38.5	0.0%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI/Notes
--	-----------------------------	-----------------------------	------------------------------------	------------------------------	----------

(3) DIVISION OF CIVIL RIGHTS

Primary Function: enforces state laws that prohibit discrimination in employment, housing, and public accommodations on the basis of race, sex, national origin, ancestry, physical or mental disability, religion, color, marital status, or sexual orientation.

Personal Services	1,484,590	1,561,336	1,580,309	1,673,349	
FTE	<u>23.9</u>	<u>25.9</u>	<u>31.0</u>	<u>32.0</u>	
General Fund	969,092	957,585	906,114	882,929	
FTE	15.2	16.4	18.0	19.0	
Cash Funds Exempt	179,706	234,347	311,532	427,757	
FTE	2.2	2.0	2.0	2.0	
Federal Funds	335,792	369,404	362,663	362,663	
FTE	6.5	7.5	11.0	11.0	
Operating Expenses	<u>87,783</u>	<u>131,792</u>	<u>97,977</u>	<u>100,736</u>	
General Fund	72,614	65,381	56,857	59,616	
Federal Funds	15,169	66,411	41,120	41,120	
Hearings	<u>5,000</u>	<u>0</u>	<u>6,000</u>	<u>18,000</u>	
General Fund	5,000	0	5,000	17,000	
Federal Funds	0	0	1,000	1,000	
Commission Meetings	<u>5,174</u>	<u>5,163</u>	<u>12,374</u>	<u>12,374</u>	
General Fund	5,174	5,163	5,174	5,174	
Federal Funds	0	0	7,200	7,200	
Indirect Cost Assessment - FF	81,594	81,765	56,025	46,612	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI/Notes
					Request vs. Appropriation
TOTAL - (3) CIVIL RIGHTS	1,664,141	1,780,056	1,752,685	1,851,071	5.6%
FTE	23.9	25.9	31.0	32.0	3.2%
General Fund	1,051,880	1,028,129	973,145	964,719	(0.9%)
FTE	15.2	16.4	18.0	19.0	5.6%
Cash Funds Exempt	179,706	234,347	311,532	427,757	37.3%
FTE	2.2	2.0	2.0	2.0	0.0%
Federal Funds	432,555	517,580	468,008	458,595	(2.0%)
FTE	6.5	7.5	11.0	11.0	0.0%
				8,426	

(4) DIVISION OF CONSUMER COUNSEL

Primary Function: representing interests of residential, agricultural and small business consumers in electric, gas, telecommunications utility rate and service proceedings before the Public Utility Commission (PUC). The funding source is the PUC Fixed Utility fund.

Personal Services - CF	631,726	614,166	753,191	773,249	
FTE - CF	5.9	6.3	7.0	7.0	
Operating Expenses - CF	34,333	32,233	55,572	55,572	
Indirect Cost Assessments - CF	75,651	76,859	82,414	86,937	
					Request vs. Appropriation
TOTAL - (4) CONSUMER COUNSEL - CF	741,710	723,258	891,177	915,758	2.8%
FTE - CF	5.9	6.3	7.0	7.0	0.0%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI/Notes
(5) DIVISION OF FINANCIAL SERVICES					
Primary Function: regulating state-chartered savings and loan associations and credit unions; and financial oversight of life care institutions. The funding source is the Division of Financial Services Cash Fund.					
Personal Services - CF	683,231	795,112	928,668	956,351	
FTE - CF	9.9	10.6	13.0	13.0	
Operating Expenses - CF	69,762	64,148	86,921	81,671	
Indirect Cost Assessments - CF	118,882	120,780	153,054	161,454	
					Request vs.
					Appropriation
TOTAL - (5) FINANCIAL SERVICES - CF	871,875	980,040	1,168,643	1,199,476	2.6%
FTE - CF	9.9	10.6	13.0	13.0	0.0%

(6) DIVISION OF INSURANCE

Primary Function: regulating insurance companies doing business and/or domiciled in Colorado; licensing insurance agents and adjusters; regulating non-profit hospital and health service corporations, prepaid dental plans, health maintenance organizations, self-insurance pools for workers' compensation, fraternal benefit societies, bail bondsmen, and pre-need funeral contracts. Unless otherwise indicated, the funding source is the Division of Insurance Cash Fund.

Personal Services	5,285,870	5,105,947	5,681,419	5,852,418
FTE	<u>72.6</u>	<u>71.4</u>	<u>80.0</u>	<u>80.2</u>
Cash Funds	5,285,870	5,105,947	5,681,419 /a	5,852,418
FTE	72.6	71.4	80.0 /a	80.2
Cash Funds Exempt	0	0	0	0
Operating Expenses	<u>376,501</u>	<u>445,274</u>	<u>403,944</u>	<u>383,869</u>
General Fund	100,000 /b	0	0	0
Cash Funds	276,501	380,274 /c	383,944 /d	383,869
Cash Funds Exempt	0	65,000 /c	20,000	0

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI/Notes
Senior Health Counseling Program - FF	421,795	463,453	509,000	509,000	
FTE - FF	1.5	1.6	2.0	2.0	
PIP Exam Program - CF	26,723	16,157	0	0	
FTE - CF	0.0	0.5	0.0	0.0	
Insurance Fraud Prosecution - CF	272,895	585,868	787,018	787,018	
Indirect Cost Assessments	<u>849,203</u>	<u>878,838</u>	<u>937,129</u>	<u>1,007,136</u>	
Cash Funds	832,164	850,848	924,212	993,563	
Federal Funds	17,039	27,990	12,917	13,573	
					Request vs.
					Appropriation
TOTAL - (6) INSURANCE	7,232,987	7,495,537	8,318,510	8,539,441	2.7%
FTE	<u>74.1</u>	<u>73.5</u>	<u>82.0</u>	<u>82.2</u>	<u>0.2%</u>
General Fund	100,000	0	0	0	n/a
Cash Funds	6,694,153	6,939,094	7,776,593	8,016,868	3.1%
FTE	72.6	71.9	80.0	80.2	0.3%
Cash Funds Exempt	0	65,000	20,000	0	(100.0%)
Federal Funds	438,834	491,443	521,917	522,573	0.1%
FTE	1.5	1.6	2.0	2.0	0.0%

/a Reflects increases of \$6,188, pursuant to S.B. 07-4; \$143,448 and 1.7 FTE, pursuant to S.B. 07-249; \$29,569, pursuant to H.B. 07-1101; \$10,201, pursuant to H.B. 07-1104; and a decrease of \$4,733 and 0.2 FTE, pursuant to H.B. 07-1234.

/b Reflects an increase of \$100,000 General Fund, pursuant to S.B. 06-208 to establish a Health Care Reform Commission

/c Reflects increases of \$93,742 cash funds and \$65,000 cash funds exempt for the Blue Ribbon Health Care Reform Commission, pursuant to S.B. 06-208.

/d Reflects a decrease of \$75, pursuant to H.B. 07-1234.

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI/Notes
--	-----------------------------	-----------------------------	------------------------------------	------------------------------	----------

(7) PUBLIC UTILITIES COMMISSION

Primary Function: regulates the rates and services of fixed utilities and transportation utilities located in the state and administers the Colorado Telecommunications High Cost Program, the Low-Income Telephone Assistance Program, the Highway Crossing Protection Program, and the Disabled Telephone Users Program.

Approximately half of the Division's funding is from the PUC Fixed Utility Fund, with the remainder coming from cash fund sources indicated in the letternotes.

Personal Services	7,216,615	7,332,060	7,911,507	8,135,424	
FTE	<u>88.5</u>	<u>87.3</u>	<u>96.9</u>	<u>96.9</u>	
General Fund	0	0	8,405 /a	0	
FTE	0.0	0.0	0.1 /a	0.1	
Cash Funds	6,880,865	6,996,310	7,526,868 /b	8,135,424	
FTE	88.5	87.3	96.8 /b	96.8	
Cash Funds Exempt	335,750	335,750	376,234	0	
Operating Expenses	<u>386,260</u>	<u>409,512</u>	<u>402,660</u>	<u>396,720</u>	
Cash Funds	386,260	409,512 /c	402,660	396,720	
Cash Funds Exempt	0	0	0	0	
Expert Testimony - CF	25,000	14,000	25,000	25,000	
Highway Crossing Payments - CFE	212,272	240,031	0	0	
Disabled Telephone Users Payment	<u>1,926,959</u>	<u>1,847,019</u>	<u>2,106,940</u>	<u>2,439,591</u>	
Cash Funds	1,523,564	1,847,019	2,106,940 /d	2,303,483	
Cash Funds Exempt	403,395	0	0	136,108	
Transfer to Reading Services for the Blind Cash Fund (Disabled Fund) - CF	190,000	200,000	200,000	200,000	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI/Notes
Commission for the Deaf and Hard of Hearing Cash Fund - CF	25,000	222,282	644,724	675,840	DI #3
Low Income Telephone Assistance	<u>298,212</u>	<u>1,779,665</u>	<u>2,238,600</u>	<u>2,143,752</u>	
Cash Funds	298,212	1,779,665	2,238,600	2,143,752	
Cash Funds Exempt	0	0	0		
Colorado Bureau of Investigation					
Background Checks Pass-through	<u>0</u>	<u>0</u>	<u>205,378</u>	<u>7,878</u>	
Cash Funds	0	0	200,538 /e	7,878	
Cash Funds Exempt	0	0	4,840 /e	0	
Indirect Cost Assessments	<u>1,010,485</u>	<u>1,026,621</u>	<u>1,100,812</u>	<u>1,187,308</u>	
Cash Funds	1,010,485	1,026,621	1,100,812	1,187,308	
Cash Funds Exempt	0	0	0	0	
					Request vs.
					Appropriation
TOTAL - (7) PUBLIC UTILITIES COMM.	11,290,803	13,071,190	14,835,621	15,211,513	2.5%
FTE	<u>88.5</u>	<u>87.3</u>	<u>96.9</u>	<u>96.9</u>	<u>0.0%</u>
General Fund	0	0	8,405	0	(100.0%)
FTE	0.0	0.0	0.1	0.1	0.0%
Cash Funds	10,339,386	12,495,409	14,446,142	15,075,405	4.4%
FTE	88.5	87.3	96.8	96.8	0.0%
Cash Funds Exempt	951,417	575,781	381,074	136,108	(64.3%)

/a Reflects a one-time appropriation of \$8,405 General Fund and 0.1 FTE, pursuant to H.B. 07-1228.

/b Reflects increases of \$168,764 and 2.0 FTE, pursuant to H.B. 07-1037; \$48,193 and 1.3 FTE, pursuant to H.B. 07-1065; and \$4,878, pursuant to H.B. 07-1114.

/c Reflects an increase of \$8,458, pursuant to H.B. 07-1037.

/d Reflects an increase of \$95,152, pursuant to H.B. 07-1274.

/e Reflects increases of \$197,500 cash funds, pursuant to H.B. 07-1065; and \$3,038 cash funds and \$4,840 pass through funds to the CBI, pursuant to H.B. 07-1249.

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	Request	FY 2008-09 DI/Notes
--	----------------------	----------------------	-----------------------------	---------	------------------------

(8) DIVISION OF REAL ESTATE

Primary Function: licenses real estate brokers, real estate appraisal professionals, mortgage brokers, analyzes subdivision offerings on undeveloped land, and administers an en program that is responsive to the needs of the industry and the consumer. The funding source is the Division of Real Estate Cash Fund unless otherwise indicated.

Personal Services - CF	2,070,067	2,295,406	2,920,933 /a	3,131,046	
FTE - CF	31.4	28.7	46.6 /a	49.0	
Operating Expenses - CF	162,459	176,162	214,248 /b	201,167	
Commission Meetings - CF	16,755	21,666	21,925	21,925	
Hearings - CF	450	150	4,000	4,000	
CBI / FBI Record Checks - CF	24,095	0 /c	0	0	
Payments from Real Estate Recovery	<u>0</u>	<u>17,277</u>	<u>0</u>	<u>0</u>	
Cash Funds	0	5,567	0	0	
Cash Funds Exempt	0	11,710	0	0	
Mortgage Broker Consumer Protection - CF	0	0	716,042 /d	733,735	
Indirect Cost Assessment - CF	399,871	406,257	476,823	556,395	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	Request	FY 2008-09 DI/Notes
TOTAL - (8) REAL ESTATE	2,673,697	2,916,918	4,353,971	4,648,268	Request vs. Appropriation 6.8%
FTE	<u>31.4</u>	<u>28.7</u>	<u>46.6</u>	<u>49.0</u>	5.2%
Cash Funds	2,673,697	2,905,208	4,353,971	4,648,268	6.8%
FTE	31.4	28.7	46.6	49.0	5.2%
Cash Funds Exempt	0	11,710	0	0	n/a

/a Reflects increases of \$14,471 and 0.3 FTE, pursuant to S.B. 07-85; \$68,440 and 1.8 FTE, pursuant to S.B. 07-203; \$72,357 and 1.5 FTE, pursuant to S.B. 07-216; and \$104,618 and 2.5 FTE, pursuant to H.B. 07-1322.

/b Reflects increases of \$1,563, pursuant to S.B. 07-85; \$6,885, pursuant to S.B. 07-203; \$6,344, pursuant to S.B. 07-216; and \$7,260, pursuant to H.B. 07-1322.

/c Pursuant to H.B. 05-1040, real estate broker applicants to submit the fingerprints and fee directly to the CBI, thus removing the pass-through spending authority.

/d Reflects increases of \$186,349, pursuant to S.B. 07-203; \$265,085, pursuant to S.B. 07-216; and \$264,608, pursuant to H.B. 07-1322.

(9) DIVISION OF REGISTRATIONS

Primary Function: regulates over 295,000 licensees in more than 42 professions and occupations. Its boards and licensing programs ensure a minimum level of competency among the practitioners, facilities, programs, and equipment that it licenses. The primary funding source is the Division of Registrations Cash Fund.

Personal Services	9,551,010	9,947,867	10,677,547	11,051,898	
FTE	<u>157.7</u>	<u>157.3</u>	<u>169.5</u>	<u>171.1</u>	
Cash Funds	7,770,516	8,196,728	8,538,539 /a	8,851,331	DI #1
FTE	135.3	134.9	144.3 /a	145.9	DI #1
Cash Funds Exempt	1,780,494	1,751,139	2,139,008	2,200,567	
FTE	22.4	22.4	25.2	25.2	
Federal Funds	0	0	0	0	
FTE	0.0	0.0	0.0	0.0	
Operating Expenses	<u>1,172,169</u>	<u>1,310,501</u>	<u>1,284,812</u>	<u>1,363,055</u>	
Cash Funds	1,050,905	1,180,678	1,284,812 /b	1,363,055	DI #1, #2
Cash Funds Exempt	121,264	129,823	0	0	
Federal Funds	0	0	0 /b	0	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI/Notes
Hearings Pursuant to Complaint	<u>236,834</u>	<u>236,900</u>	<u>307,075</u>	<u>307,075</u>	
Cash Funds	226,089	230,097	307,075	307,075	
Cash Funds Exempt	10,745	6,803	0	0	
Payments to Department of Health					
Care Policy and Financing	<u>146,812</u>	<u>154,383</u>	<u>14,652</u>	<u>14,652</u>	
Cash Funds	0	0	14,652	14,652	
Cash Funds Exempt	146,812 /c	154,383 /c	0	0	
Indirect Cost Assessment	<u>3,440,022</u>	<u>3,440,022</u>	<u>3,783,139</u>	<u>4,069,374</u>	
Cash Funds	3,208,884	3,208,884	3,783,139	4,069,374	
Cash Funds Exempt	231,138	231,138	0	0	
					Request vs.
					Appropriation
TOTAL - (9) REGISTRATIONS	<u>14,546,847</u>	<u>15,089,673</u>	<u>16,067,225</u>	<u>16,806,054</u>	4.6%
FTE	<u>157.7</u>	<u>157.3</u>	<u>169.5</u>	<u>171.1</u>	0.9%
Cash Funds	12,256,394	12,816,387	13,928,217	14,605,487	4.9%
FTE	135.3	134.9	144.3	145.9	1.1%
Cash Funds Exempt	2,290,453	2,273,286	2,139,008	2,200,567	2.9%
FTE	22.4	22.4	1.5	25.2	n/a
Federal Funds	0	0	0	0	n/a
FTE	0.0	0.0	1.5	0.0	n/a

/a Reflects increases of \$85,755 and 1.6 FTE, pursuant to S.B. 07-107; \$62,755 and 0.7 FTE, pursuant to S.B. 07-137; \$31,267 cash funds and 1.0 FTE, pursuant to S.B. 07-204; and \$118,399 and 1.0 FTE, pursuant to H.B. 07-1331.

/b Reflects increases of \$25,640, pursuant to S.B. 07-107; \$13,901, pursuant to S.B. 07-137; \$1,104 federal funds, pursuant to S.B. 07-204; and \$8,742, pursuant to H.B. 07-1331.

/c Reflects one-time supplemental increases in spending authority of \$132,160 for FY 2005-06 and \$139,731 for FY 2006-07 from excess reserves in the Nurse Aide Certification sub-account of the Division of Registrations Cash Fund, pursuant to S.B. 07-176.

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	Request	FY 2008-09 DI/Notes
(10) DIVISION OF SECURITIES					
Primary Function: monitors the conduct of broker-dealers and sales representatives throughout Colorado and investigates citizen complaints and other indications of investment The funding source is the Division of Securities Cash Fund.					
Personal Services - CF	1,546,865	1,595,217	1,684,692	1,745,359	
FTE - CF	19.3	19.4	20.0	20.0	
Operating Expenses - CF	52,784	45,970	47,816	47,816	
Hearings - CF	18,726	19,317	19,594	19,594	
Board Meetings - CF	3,983	2,936	4,500	4,500	
Securities Fraud Prosecution - CF	370,417	407,797	447,844	447,844	
Indirect Cost Assessment - CF	216,513	219,597	235,468	248,391	
					Request vs.
TOTAL - (10) SECURITIES - CF	2,209,288	2,290,834	2,439,914	2,513,504	Appropriation
FTE - CF	19.3	19.4	20.0	20.0	3.0%
					0.0%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	DI/Notes
--	-----------------------------	-----------------------------	------------------------------------	------------------------------	----------

**Request vs.
Appropriation**

DEPARTMENT OF REGULATORY AGENCIES					
TOTALS	61,701,648	63,645,386	72,918,590	75,945,190	4.2%
FTE	<u>495.1</u>	<u>492.1</u>	<u>558.5</u>	<u>563.7</u>	<u>0.9%</u>
General Fund	1,452,161	1,264,186	1,416,593	1,419,841	0.2%
FTE	15.2	16.4	18.1	19.1	5.5%
Cash Funds	50,623,821	53,055,054	61,899,105	64,567,856	4.3%
FTE	396.3	393.1	446.2	450.4	0.9%
Cash Funds Exempt	8,670,061	8,193,864	8,446,994	8,674,805	2.7%
FTE	75.6	73.5	81.2	81.2	0.0%
Federal Funds	955,605	1,132,282	1,155,898	1,282,688	11.0%
FTE	8.0	9.1	13.0	13.0	0.0%

**FY 2008-09 JBC BUDGET BRIEFING
DEPARTMENT OF REGULATORY AGENCIES**

FOOTNOTE UPDATE

- ▶ Of the 3 footnotes in the Department of 2007 Long Bill appropriation, two were common to all departments statewide and one applied to the Department of Regulatory Agencies specifically.

4. All Departments, Totals -- The General Assembly requests that copies of all reports requested in other footnotes contained in this act be delivered to the Joint Budget Committee and the majority and minority leadership in each house of the General Assembly.

Comments: The Department is in compliance.

5. All Departments, Totals -- Every Department is requested to submit to the Joint Budget Committee information on the number of additional federal and cash funds exempt FTE associated with any federal grants or private donations that are applied for or received during FY 2007-08. The information should include the number of FTE, the associated costs (such as workers' compensation, health and life benefits, need for additional space, etc.) that are related to the additional FTE, the direct and indirect matching requirements associated with the federal grant or donated funds, the duration of the grant, and a brief description of the program and its goals and objectives.

Comments: The Governor vetoed this footnote on May 2, 2007 on the grounds that the footnote violates the separation of powers by attempting to administer the appropriation, constitutes substantive legislation, and requires substantial dedication of resources and constitutes an unfunded mandate. After the General Assembly overrode all Long Bill vetoes, the Department was directed to comply to the extent that this request can be adhered to without adversely impacting the operation of the delivery of government services, pursuant to the August 16, 2007 letter from the director of the Office of State Planning and Budgeting to the leadership of the General Assembly.

The December 6, 2007 report submitted to the Joint Budget Committee indicates that the Department does not have a significant amount of federal or privately funded grants. The Department has no direct or indirect matching requirements prior to receipt of federal funds, however the Department does have two agreements through the Colorado Civil Rights Division (CCRD) that are based on maintenance of effort, as these federal awards are of a cost-sharing nature.

The table below gives a brief overview of the FTE supported by federal grants within the Department:

Grant Description	Award Amount Spent in FY 06-07	Number of FTE Supported	Division
Housing Discrimination: U.S. Housing and Urban Development (HUD) grant for investigating and adjudicating housing discrimination complaints.	\$308,985	max of 11.0 FTE	Civil Rights
Employment Discrimination: Equal Employment Opportunity Commission (EEOC) grant for investigating and adjudicating employment discrimination complaints.	\$330,960	max of 11.0 FTE	Civil Rights
Senior Health Counseling: State Health Insurance Assistance (SHIP) program funding through Centers for Medicare and Medicaid Services (CMS) and the Administration on Aging to train older adult volunteers and aging network agency staff about Medicare and related health insurances to assist older adult inquiries.	\$492,337	2.0 FTE	Insurance
Prescription Drug Monitoring: U.S. Dept. of Justice, Bureau of Justice Assistance to develop, operate, and maintain a prescription drug monitoring program. Funding is one-time. Implemented with H.B. 05-1130 and subsequently the funding mechanism was modified by S.B. 07-204.	\$400,000	1.0 FTE	Registrations

120. Department of Regulatory Agencies, Executive Director's Office and Administrative Services -- The Department is requested to submit a report to the Joint Budget Committee by October 1, 2007 on the Office of Expedited Settlement within the Division of Registrations. The report shall include quantitative measures that can be used to assess the program and a recommendation, based on those measures, to continue, modify or discontinue the program.

Comments: The Governor vetoed this footnote on May 2, 2007 on the grounds that the footnote violates the separation of powers by attempting to administer the appropriation, constitutes substantive legislation, and requires the department to provide a sunset review and report for which there is a separate statutory citation. After the General Assembly overrode all Long Bill vetoes, the Department was directed to comply to the extent that this request can be adhered to without adversely impacting the operation of the delivery of government services, pursuant to the August 16, 2007 letter from the director of the Office of State Planning and Budgeting to the leadership of the General Assembly.

The October 18, 2007 report submitted by the department to the Joint Budget Committee provides an assessment of the Expedited Settlement Program (ESP) over the last three fiscal years that the program has been in existence and included quantitative measures of the program's efficacy. The report from the Department estimates that the program intrinsically serves as a cost-avoidance mechanism to more costly avenues of disciplinary action which require agency legal services appropriations. The Department asserts that the full benefits of the program have not yet been realized and indicates that the cost-avoidance benefit realized from the program provide support to not only continue, but expand the program.

Staff has prepared an issue on the brief on the Expedited Settlement Program within the Division of Registrations which provides an analysis of the program's efficacy and is inclusive of the performance measures accompanying the footnote report. However, the following aspects of the report require further discussion here.

Cases: Settled versus Closed. Within the footnote report when data is presented for "settled" cases, errantly, the Department is including not only cases settled in ESP, but also referred to the OAG. While cases that are settled and that are referred to the OAG are considered "closed" within ESP, the cases referred to the OAG are not settled and thus should not be included in the calculation. This errant inclusion then has an impact on the cost-avoidance estimates provided in the footnote report. Specifically, the report indicates that in FY 04-05, FY 05-06, and FY 06-07, the number of cases settled were 590, 771, and 668, respectively. However the actual number of cases settled were 570, 723, and 551. This impact is described below.

Results. The report estimates that the ESP program has avoided \$829,727 in legal fees over the first three years of the program. This calculation is based on the assumption that the average case settled in ESP, would require approximately 10 hours for the AGO to settle. The estimate of 10 hours is based on calculations made by the OAG for the State Auditor for a 2005 performance audit of the Division of Registrations that the average case referred to the OAG requires approximately 20-25 hours of legal services. The assumption is that the average case in ESP requires approximately 50% the resources of the average case referred to the OAG, thus approximately 10 hours was used for calculating the numbers used for this comparison.

A the analysis provided in the footnote report makes a further comparison between the hypothetical cost of settling the same cases in the AGO versus the costs of settling the same cases in ESP. Staff recognized a problem with this calculation as indicated by staff above. Namely, the number of cases settled by ESP is not correct for each fiscal year analyzed. This omission affects the cost-avoidance total. The footnote report calculates a cost-avoidance of legal fees to be \$829,728. Staff calculates a cost-avoidance total, based on the assumption given in the footnote report, of \$707,187, a difference of \$122,541.

**FY 2008-09 JBC BUDGET BRIEFING
DEPARTMENT OF REGULATORY AGENCIES**

Expedited Settlement Process Inefficiencies

ISSUE:

The success of the Expedited Settlement Process (ESP) program in the Division of Registrations has waned.

SUMMARY:

- The ESP is designed to: (1) expedite the resolution of disciplinary actions; and (2) minimize the associated legal costs of settling these actions.
- There has been a decline in the number of cases referred to ESP and an increase in the cost of administering the program.
- Staff identified programmatic performance gaps and recommends the development of a process improvement plan to remedy these inefficiencies.

RECOMMENDATION:

Staff recommends that the Department of Regulatory Agencies and the Office of the Attorney General collaborate to address programmatic inefficiencies and consider the drafting of an updated Memorandum of Understanding (MOU) which will provide for an efficient application of legal resources, but which will ultimately serve the public through responsible regulation and the vigorous and fair enforcement of Colorado Law. The MOU should seek to bolster stronger avenues of communication between agencies in an effort to minimize the time required to fully administer disciplinary action.

Staff also recommends that the JBC ask the Department to respond to the following questions at its hearing before the JBC:

1. Beyond discussions pertaining to the operations and procedures manual, has the Department had further discussions with representatives at the Department of Law regarding ways in which the program can be improved? If so, what was learned? If not, why have no efforts been made?
2. Has the Department had discussions with representatives at the Department of Law regarding ways to build greater efficiencies into the Expedited Settlement Process? If so, what have these discussions revealed? If not, why not?

3. Do other states implement similar methods to expedite enforcement? If so, what states are having successes with their expedited settlement processes? Are there any strategies being used elsewhere that Colorado could adopt and benefit from?
4. Does the Department intend to apply the Expedited Settlement to any other Divisions? If so, why? If not, why not?
5. What limitations does the Department foresee to applying the Expedited Settlement Process in other Divisions within the purview of the Department?
6. To what extent does the Department effectively inform, educate, and advise members of the various professionals it regulates as well as the general public? Would an increase in resources to inform, educate, and advise these individuals act as a preventative measure, also mitigating legal services expenditures? If not, why not?

DISCUSSION:

1. **Public Protection through Effective Licensure and Enforcement.** This is the mission of the Division of Registrations (DOR). The DOR regulates approximately 295,000 licensees in more than 42 professions and occupations through associated boards and licensing programs. There are 196 board and commission members serving on 29 boards. The goals of these boards and programs is to ensure a minimal level of licensee competence and to protect the public from unsafe products or services. The boards within the DOR are empowered to: (1) identify and license qualified practitioners, facilities, programs, and equipment; (2) conduct investigations and inspections to ensure compliance with generally accepted standards of practice, conduct, and safety; (3) restrict, suspend, or revoke licenses when those generally accepted standards are not met; and (4) communicate to effectively inform, verify, educate, and advise.
2. **Definitions for Reference**
 - a. *Disciplinary Action.* The process whereby the Board or Director seeks to impose a disciplinary sanction against a person, business or entity's license for violating the relevant practice act. This process begins after the Board or Director has found and determined that a violation of the relevant practice act exists, and referred the complaint to be processed in accordance with the Administrative Procedures Act (Section 24-4-101, C.R.S.).
 - b. *Disciplinary Sanction.* Is the reprimand, admonishment or resolution of the complaint when a respondent is found to have violated the statute governing licensee's conduct. The typical sanctions permitted under most practice acts are letters of admonition, fines, probation, suspension, and revocation/relinquishment. The Board and Director are able to negotiate and impose a wide range of disciplinary

sanctions outside those listed in the relevant practice act such as written reports, continuing education courses, practice audits, etc. However, such sanctions should be approved by the Board or Director with the input and advice of Board counsel.

- c. *Expedited Settlement Process (ESP)*. Is the process whereby complaints are referred for disciplinary action and settlement is first attempted within the Division of Registrations prior to referring the complaint to the Office of the Attorney General (OAG).
- d. *Respondent*. The licensee, applicant, or unlicensed person who is the subject of the complaint and resulting disciplinary action within the jurisdiction of the Division.

3. Legal Expenses

- a. **DORA: Significant Legal Expenses.** The Department of Regulatory Agencies is the largest consumer of legal services among state agencies. The following table reflects the amount of legal services expenditures, by state agency:

State Agency	FY 03-04 Actual	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Approp.
Regulatory Agencies	\$4,984,120	\$5,075,682	\$5,310,731	\$5,767,024	\$7,083,214
Percent of Total	28.3%	28.2%	27.5%	28.5%	29.4%
Natural Resources	2,229,281	2,198,168	2,471,139.0	2,680,439	3,165,863
Personnel	2,152,987	2,315,498	2,548,690	2,391,739	2,584,869
Public Health & Envirmt.	1,464,533	1,354,044	1,599,380	1,872,485	1,974,054
Corrections	959,650	1,095,811	1,012,821	1,036,745	1,328,161
Human Services	1,050,906	1,173,984	1,301,464	1,249,611	1,181,076
Transportation	978,367	981,602	1,098,635	1,113,597	1,101,915
Other	3,767,120	3,821,461	3,950,421	4,142,129	5,637,932
Total	\$17,586,964	\$18,016,250	\$19,293,281	\$20,253,769	\$24,057,084
Annual Variance	-1.7%	2.4%	7.1%	5.0%	18.8%

- b. **Legal Expenses by Division.** The Division of Registrations accounts for 48.6 percent (\$2.8 million) of DORA's total FY 2006-07 legal expenditures (\$5.7 million). ESP is currently only applied within the Division of Registrations, thus, the majority of the Department's total legal expenditures (51.5 percent) are not mitigated by means of ESP (see Appendix A, Table 1). While many divisions have applied a variety of alternative dispute resolution (ADR) methods to expedite case resolution and mitigate legal services expenditures, the dominant reason given by the DORA for not applying the ESP in other Divisions is that cases are not as frequent, but when they

do occur they are very complex. As an example, the Public Utilities Commission (PUC) is the second biggest user of legal services in DORA (19.7 percent; \$1.1 million). Cases are often highly contested by large public utility organizations, involving many iterations of litigation with a multitude of co-respondents and as such are obviously too complex making the various disciplinary sanctions utilized by the ESP not applicable.

- c. **Legal Expenses by Board.** Since the inception of ESP in FY 2004-05, three boards account for approximately 60.9 percent of the \$7.7 million in legal services used by boards administered by the Division of Registrations (see Appendix A, Table 2). The Board of Medical Examiners (\$1.9 million), the Board of Nursing (\$1.8 million), and the Board of Dental Examiners (\$0.9 million) consistently require significant legal services expenditures, given the higher than average complexity of the cases that are brought before the board, requiring legal expertise.
- d. **Autonomy of Type 1 Boards.** DORA administers 20 "type 1" boards in the Division of Registrations. Type 1 boards are authorized to exercise its prescribed statutory powers, duties, and functions, including regulation, *independently* of the principal department within it is administered, pursuant to Section 24-1-105 (1), thus in these instances where a type 1 board is regulating a professional entity, the expenditure of legal resources is independent from the Department in which the board is operating. In FY 2006-07, the Division of Registrations had legal expenditures of \$2.8 million. Of this amount, \$2.5 million, or 89.2 percent of the expenditures were the result of action taken by type 1 boards.
- e. **Higher Hourly Billing Rate.** The current blended hourly billing rate for state legal services is \$72.03 (\$74.64 for attorneys; \$60.79 for paralegals) and is the basis for the total Legal Services appropriation for each state agency. The blended rate is based upon a weighted average of legal hours used for both paralegal and attorney costs for all departments. Because DORA has a complex caseload that often requires specialized expertise that paralegals are not able to provide, it must resource attorneys more so than the statewide average. As a result of this favorable use of attorneys over paralegals, DORA is charged for legal services by the Department of Law at a slightly higher rate. Based on DORA's FY 2006-07 legal expenditures, this equates to approximately 0.4 percent more, or \$22,685 (see Appendix A, Table 3). This increased rate, albeit small, causes the absorption of their appropriation at a slightly faster pace than other Departments.

4. **Expedited Settlement Process**

- a. **ESP Mission.** The mission of the ESP is to: (1) expedite the resolution of disciplinary actions; and (2) minimize the associated legal costs of settling these actions.

- b. **The Process.** (See Appendix B) After the Board or Director determines a complaint is legally sufficient, and the allegations are identified as violations of the practice act, a member of the ESP staff shall attempt to settle the cases referred to the Office of Expedited Settlement in accordance with the Board or Director's initial guidance. If a respondent agrees to the settlement terms, or the Board/Director agrees to a proposed counter offer, then a OAG-approved stipulation (approved by Assistant Attorneys General or in template format, which ever is more applicable) and final agency order is drafted by the ESP staff and signed by respondent. In the event the case is not resolved, ESP staff shall send the case back to the Board staff for transmittal to the Office of the Attorney General for initiation of formal disciplinary proceedings.
- c. **Role of ESP Staff: Conduit not Negotiator.** The proper role of ESP staff is to include factual admissions, legal citations, and information pertaining to the discipline desired by the Board or Director in the form stipulations, and make verbal or written contact with the respondent to ascertain whether the respondent desires to resolve the case on the conditions set forth by the Board or Director. ESP Staff shall not negotiate the terms of the stipulation but may accept modifications requested by the respondent or respondent's agent or counsel that fall within the Board's or Director's guidance.
- d. **ESP Operations and Procedures Manual.** In October 2007, the Department coordinated with the Office of the Attorney General to produce a manual outlining the operations and procedures of the expedited settlement process. The goal of the manual is to serve as a guide regarding standards of conduct for ESP staff, efficiently resolve cases, develop confidence in the process, and educate ESP staff about their ethical, appropriate, and effective dispute resolution duties. The manual includes: (1) definitions of the most common terms used in ESP; (2) general operating procedures; (3) a discussion and examples of the forms and templates used to ensure the completion of duties and measure the effectiveness of the program; (4) time limits imposed on the various steps of the process; (5) rules to abide by; (6) standards of practice to preserve the integrity of the process; and (7) common problems that the ESP encounters.
- e. **Time Limits: 90-120 days.** As provided in the ESP Operations and Procedures Manual, and again reiterated in the Footnote 120 Report to the 2007 Long Bill (more detail below), it is the goal of ESP to resolve cases within 90 days of referral. The time limit is flexible depending on the Board's meeting schedule. However, it is preferable for no case to remain open in ESP for more than 120 days.

f. **Program Funding.**

- i. In 2004, the General Assembly appropriated \$147,133 cash funds and 2.0 FTE (FY 04-05 Budget Request Decision Item #2) for the creation a new Office of Expedited Settlement, in the Division of Registrations.
- ii. In 2007, the General Assembly approved funding for 1.0 FTE (FY 07-08 Budget Request Decision Item #3), funded with \$75,360 cash funds transfer from the Department's legal services appropriation to the Division of Registrations.

g. **Program Expenditures.**

ESP Program	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Est.
Expenditures	\$138,592	\$156,549	\$188,008	\$252,345
FTE	2.0	2.0	2.0	3.0

- h. **ESP Daily Cost Per Case.** The 3-year average for the cost of each case in ESP is estimated to be \$238.54 per day, however this marks an increase of \$43.91 per case per day, 19.0 percent more per case since program's inception. Further, what is not included in the program's expenditures are "conferring" costs in which ESP staff will resource the OAG staff assigned to a particular Board when addressing technical aspects of the stipulations for any given case. At this time, these costs are not included in the expenditures made by ESP, however these costs should be included for informational purposes within the program's expenditures as this would present a more realistic cost of administering the program.

Calculations of the Daily Cost per Case in ESP					
Item	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	3 Year Average	3 Year Variance
Program Expenditures	\$138,592	\$156,549	\$188,008	\$156,549	\$49,416
ESP Cost per Day	\$533.05	\$602.11	\$723.11	\$619.42	\$190.06
Cases Opened in ESP	598	752	682	677	84
Cases per Day in ESP	2.3	2.9	2.6	2.6	0.3
ESP Daily Cost per Case	\$231.76	\$208.18	\$275.67	\$238.54	\$43.91

- i. **Applied only in the Division of Registrations.** The ESP is currently applied only in the Division of Registrations and not in any other DORA division.

5. **Footnote 120 of the 2007 Long Bill.** This footnote requested the Department to submit a report to the JBC regarding the efficacy of the Office of Expedited Settlement within the Division of Registrations. The report was to include quantitative measures that can be used to assess the program as well as a recommendation, based on those measures, to continue, modify or discontinue the program. The October 18, 2007 report submitted by the Department includes results reflecting the number cases referred to the ESP, cases settled in ESP, cases referred from ESP to the OAG, the settlement rate, and the average number of days cases spend in ESP. The following aspects of the report require further analysis:

a. **Results.** The following table provides some key performances measures with which the Department measures the effectiveness of the program.

ESP Performance Measures					
Item	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	Four Year Variance	Four Year Var %
Cases Opened in ESP	682	752	598	(84)	-12.3%
Cases Settled in ESP	570	723	551	(19)	-3.3%
Settlement Rate	83.6%	96.1%	92.1%	8.6 pts	n/a
ESP Cases Referred to OAG	20	48	117	97	485.0%
Avg Days in ESP	53	75	120	67	126.4%

- i. Since the program's inception, the decreases in cases opened (84 cases; 12.3 percent) and cases settled (19 cases; 3.3 percent) indicate a decrease in programmatic efficacy.
- ii. Since the program's inception, the increases in cases referred to the OAG (97 cases; 485.0 percent) and average days in ESP (67 cases; 126.4 percent) indicate the increasing complexity of cases requiring the legal guidance of the AGO.
- iii. The Department indicates that the cases that are substantially greater than 120 days in ESP were due to staff turnover and a policy of goodwill by the previous ESP director to work with defense counsel, granting long extensions to respond to inquiries.

b. **Additional Programmatic Changes:**

- i. **All Cases to ESP.** The Executive Director of DORA has mandated that the Boards that the Department administers shall implement processes to refer all of their disciplinary cases to ESP.

- ii. **90-day ESP Policy.** ESP is now strictly enforcing a policy to refer cases to OAG after a maximum of 90 days in ESP in order to best use ESP resources. The philosophy of the previous ESP direct was "settlement no matter how long it took", part of the reason why in the past ESP cases remained in the process longer than 90 days.
- iii. **Phased Program Expansion.** Boards will be phased in to allow ESP to accommodate the increased case load and to formulate an expeditious process of urgent cases. The Footnote report describes enhanced efforts during the current fiscal year and beyond to implement a phased approach in order to maximize the number of cases proceeding through ESP. The first phase includes Boards which have already used ESP or were transitioning over to utilizing the program. Phases II and III include boards that deal with increasingly more complex cases.

6. Program Strengths

- a. **Cost-avoidance.** By resolving more cases within the Division of Registrations, the OAG is available to handle more complex, contested cases that require its legal counsel and expertise.
- b. **Centers of Excellence.** Both the Division of Registrations and the AGO can better focus on their statutory charges and core competencies.
- c. **Quick Resolution.** By providing a quicker resolution to disciplinary action, there are several additional advantages, including:
 - i. legal services expenditures are mitigated;
 - ii. respondents are brought to justice without further delay;
 - iii. consumer complaints are acted upon without further delay
 - iv. improvement of the economic environment of the state
- d. **Increased Latitude in Sanctions.** ESP provides a broad range of sanctions (probation, practice limitations, fines, letters of admonition, etc.) which facilitates settlements by providing greater latitude for both parties in disciplinary proceedings.

7. Program Weaknesses

- a. **Case Complexity.** The Division of Registrations has witnessed an increase in the complexity of cases requiring legal services, which may account for why the average days in the expedited settlement process went from 75 in FY 2005-06 to 120 days in FY 2006-07. While the Department is encouraging the utilization of the Office of Expedited Settlement among the Division of Registration's various professional boards, some professions, namely the Physicians and Dentists, are inherently more

complex as cases involving these types of professionals often have representation provided by malpractice carriers when a disciplinary action is initiated by their boards. Cases of the nature of these require more time due to the complexity of dealing with third party malpractice representation. Other Boards which also have a higher level of complexity include Pharmacy, Nursing, Nursing Home Administrators, and Accountancy.

- b. **Cost-compounding Inefficiencies.** As mentioned above in Items 5b (i-iii), the Executive Director of DORA has mandated that the Boards shall implement processes to refer all of their disciplinary cases to ESP. Prior to this mandate, the Boards could elect to send some cases to the OAG without allowing ESP an opportunity to attempt resolution. This operational change could have the following consequences:
 - i. **Stale Cases.** As time passes licensees become less likely to settle; whereas, their interest in settlement is usually higher when the case is initially referred for disciplinary action. The net result is that aging cases do not adequately protect the public from negligent practitioners. Cases that if are identified as complex and needing the legal expertise of the AGO might sit dormant until the mandatory 3 month waiting period elapses.
 - ii. **Cases seen both by ESP and AGO.** In FY 2004-05 20 cases, 47 cases in FY 2005-06, and 117 cases in FY 2007-08 were first sent to ESP and then eventually sent to OAG. This "overlapping" of expenses in such a way that both ESP and OAG incur expenses on the same case points to some inefficiencies in handling these cases.
- 8. **Experts versus Generalists.** The AGO has attorneys that are experts serving one or two boards, whereas the ESP staff are generalists which work with over 30 boards, thus do not become as familiar with the individual boards, and the various issues the board adjudicates, as the assigned attorneys in the AGO.
- 9. **MOU.** In September 2006, DORA and the OAG signed a memorandum of understanding (MOU) which outlined the relationships between the Office of the Attorney General and the Division of Registrations (DOR), regarding the manner in which cases are processed through the Office of Expedited Settlement on behalf of the regulatory boards and programs currently within the DOR. In early 2007, the Department indicated that it will no longer be constrained by the MOU and provided this as their formal position, "The Department continues to work with the AGs office as is customary, and respects the role they play as our counsel. OAG was consulted and collaborated in the development of our detailed procedure manual on ESP; since DOR follows this manual, an additional MOU delineating procedures has become unnecessary at this time. While the MOU was an important first step at

collaboration regarding the program, it is no longer required as a result of subsequent cooperative efforts."

10. **ESP Process Improvement Plan.** Staff recommends that the Division of Registrations and The Office of the Attorney General collaborate beyond the operations and procedures manual and to seek a more flexible and responsive ESP program designed for efficiency. Staff notes the following inefficiencies that the Division of Registrations should take note of and seek to remedy with the assistance of the OAG:
- i. The decrease in the number of cases opened in ESP. This is either an indicator of a lack of programmatic efficacy or a lack of awareness of the program's existence.
 - ii. The increased duration of days that cases are in ESP indicate an inefficiency as the program is designed to expedite. If this is not possible, the cases should be referred to the OAG for litigation.
 - iii. The mandate requiring all cases go to ESP will create an increased backlog. In FY 2004-05 the request to establish and fund the ESP was designed in part to relieve a backlog of cases at the OAG. However, by requiring all cases, regardless of substance to the ESP, will over-burden the program, and thus create a new backlog. The program should reevaluate the continuance of this policy.
 - iv. The number of cases that are assigned to ESP, but which are eventually referred to the OAG is increasing. Staff interprets this as indicating that the program needs to develop better methodologies for recognizing those cases which will not be settled in ESP. By mis-assigning these cases to ESP, these cases not only require ESP resources, but eventually that of the OAG. Further, the longer these cases are not with the OAG, the greater the chance for the case to become stale, witnesses unavailable, and the need for additional investigation to be needed. It would be cost-beneficial if those cases went directly to the OAG at the earliest opportunity.
 - v. ESP should include the costs of conferring with OAG in its operations for informational purposes. This factors into the costs associated with the program and its inclusion would provide a clear indicator of the program's efficacy in mitigating legal expenses.
 - vi. ESP should seek to improve their data reporting capabilities, and should consider including historical data for reference and performance tracking.

**FY 2008-09 JBC BUDGET BRIEFING
DEPARTMENT OF REGULATORY AGENCIES**

State-Led Initiatives Related to Foreclosures

ISSUE:

In an effort to confront the high mortgage foreclosure rate in Colorado, the Division of Real Estate, the Colorado Civil Rights Division, and the Division of Housing have initiated a joint communications plan in an effort to collaborate resources on consumer outreach regarding pre- and post-purchase and financial education.

SUMMARY:

- Since 2003, Colorado has observed an 185.0 percent increase in foreclosure filings.
- Federal aid to will benefit only 12 percent of all subprime borrowers.
- DOLA and DORA are in the process of collaborating to address pre- and post-purchase strategies to educate and assist homeowners at-risk for or presently dealing with foreclosure and should continue their efforts.

RECOMMENDATION:

JBC staff recommends that the two agencies continue their efforts to develop strategies to educate housing consumers in an effort to mitigate the increasing numbers of foreclosures in Colorado.

JBC staff also recommends that the JBC ask the Department to respond to the following questions at its hearing before the JBC:

1. How does the increase in foreclosures in the State affect the Division of Real Estate? Does this increase affect the Division's delivery of service? If so, can work processes be reorganized to accommodate the changes necessary or does the Division require additional resources?
2. What kinds and amounts of federal moneys are available to support a collaborative multiple-agency led initiative to address the high mortgage foreclosure rate in Colorado? If there are federal moneys available, what resources would the interagency foreclosure committee require to attain these funds?
3. If an interagency initiative to address the high mortgage foreclosure rate in Colorado were created, how long would this entity need to be in place to offer Colorado a positive and sustainable outcome?

4. Are there any existing governmental or non-governmental organizations which already exist that provides an all-inclusive resource for at-risk mortgage foreclosure citizens? If so, please identify these organizations. Does the State already have relationships with the organizations? If so, what are these relationships? Does the State already fund, wholly, in-part, or indirectly any of these extant organizations?

DISCUSSION:

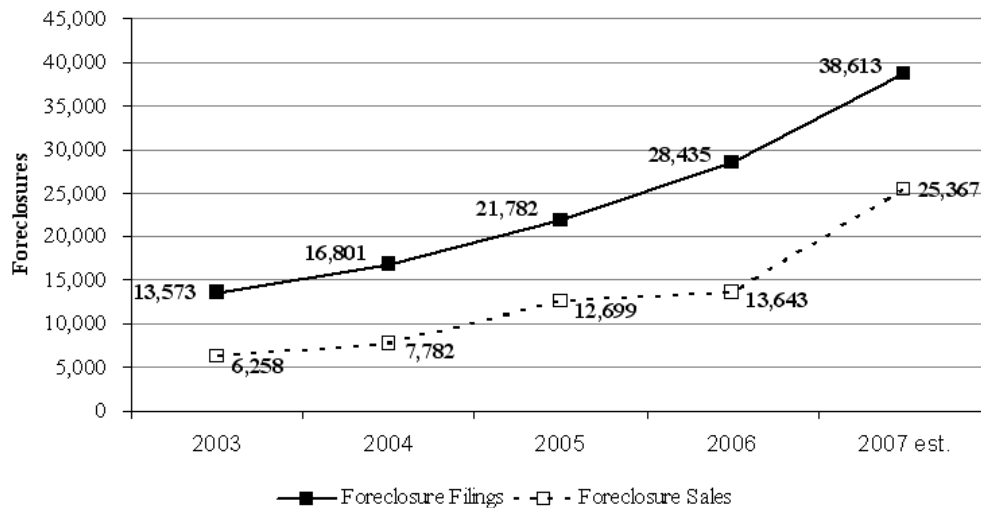
1. **Foreclosure.** There are two statistics used to measure foreclosures: foreclosure filings and foreclosure sales.

i. **Foreclosure Filing Statistic.** Once a borrower is approximately three months late with payments, the Public Trustee of the county will send the borrower a Notice of Election and Demand. At this point, the property is officially in foreclosure. This is an objective measure of the number of foreclosure proceedings have been initiated in a given county.

ii. **Foreclosure Sale Statistic.** After 45-60 days after the initial filing, the property may be sold to a third party or the mortgage company. After the sale has taken place, there is a 75-day period during which the homeowner can retain the equity in the property by buying off the amount bid at auction plus "allowable fees". However in most cases, borrowers are unable to get in possession of enough cash to perform this action and thus at this point the homeowner is almost certain to lose the home.

iii. **Data.**

Colorado Foreclosure Filings and Sales (2003 - 3Q07)



- (1) Statewide foreclosure filing rate was 1 per 64 households from January 1 to September 30, 2007.
 - (2) The most significant foreclosure activity in 3Q07 was on the Front Range. Adams had 1 filing per 32 households and Pueblo had 1 per 40. Weld County saw 1 per 41, and Denver and Arapahoe counties had 1 per 43 and 1 per 47, respectively.
 - (3) Boulder, Larimer, and Broomfield counties had the lowest foreclosure rates among metropolitan counties with 1 per 163, 1 per 97, and 1 per 97, respectively.
 - (4) The mountains and the Western Slope reported lower foreclosure filings with Mesa, Summit, and La Plata counties having 1 per 187, 1 per 112, and 1 per 281, respectively.
- b. **Foreclosure is expensive for all participants** - lenders and homeowners – and this expense is an incentive to avoid foreclosure when a homeowner has the financial wherewithal to own a home. For lenders, it has been estimated that foreclosures often cost approximately \$35,000 to \$50,000 on each home. And the consequence to homeowners is obvious that they lose their home and all equity they have accrued.
- c. **Colorado Consistently Leads in Foreclosure Filings.** According to RealtyTrac, a foreclosure tracking organization, Colorado has been in the top 10 states for foreclosure for several years. Appendix C includes a map of the highest rates of foreclosure filings in the United States.
- d. **Ripple Effect.** In areas with high rates of foreclosures, there is also a significantly higher rate of crime, homelessness, and increased need for social assistance. In areas where there is a large supply of for-sale housing, it is more difficult to sell a house. When more houses foreclose, this problem compounds. In Cleveland, Ohio, which has observed a significant increase in foreclosures, squatters and looters target these areas and move in. Some effects of this activity include the removal of gutters and downspouts, the stripping of aluminum siding, doors, moldings, and appliances which are sold for scrap. The restoration of abandoned and derelict homes is very costly, as is demolition work. In Colorado, Denver's foreclosure rate through the end of the Third Quarter of 2007 is 1 foreclosure filing per 43 households.
2. **Subprime Lending.** The practice of making loans to borrowers who do not qualify for the best market interest rates because of their deficient credit history. The term "subprime" refers to the credit status of the borrower, not the interest rate on the loan itself. Because subprime loans carry greater risk, this risk is offset with higher interest rates. These loans can take the form of including "teaser" introductory rates, with potentially significant

increases to the interest rates after an agreed to period of time (i.e. 2-28, 3-27, and 5-25 loans). These loans can provide a borrower a certain level of "credit repair"; if borrowers maintain a good payment record, they should be able to refinance a better rate in the future. Due to a borrowers less than ideal credit status, this has led to predatory lending practices placing certain individuals at risk including the aged and other protected groups.

3. **State Led Education and Enforcement.**

a. **DOLA: Education.** State educational efforts are concentrated primarily in the Department of Local Affairs (DOLA), Division of Housing.

i. **Division of Housing.** The Division of Housing has spearheaded efforts to educate the public and at risk individuals of foreclosure by means of the Colorado Foreclosure Hotline, started in October 2006, it is a product of a consortium of private-sector and government organizations (Division of Housing, Division of Real Estate, Colorado Attorney General's Office), and operated by Brothers Redevelopment. Colorado homeowners who have questions about their home loans can talk directly with a trained, professional housing counselor free of charge. Counselors can offer assistance in helping homeowners navigate the foreclosure process and can act as a facilitator between homeowners and their mortgage lenders. The Hotline encourages the following homeowners to contact the hotline (1-877-601-HOPE):

- ii. Borrowers who have not yet missed a mortgage payment but are concerned they may miss future payments.
- iii. Borrowers who are already behind on the payments.
- iv. Borrowers who have received a notice of foreclosure.
- v. Borrowers having trouble communicating with their mortgage lenders.

vi. **Division of Taxation.** The Division of Taxation prepares and publishes appraisal manuals, appraisal procedures and instructions. It conducts schools and seminars regarding all areas of appraisal. It conducts field studies; provides statewide assistance in agricultural land classification, natural resources and personal property valuation in addition to assistance in the valuation of residential, commercial, and industrial properties. The section assists in reappraisal efforts, reviews internal appraisal forms used by assessors, and investigates and responds to taxpayer complaints.

b. **DORA: Enforcement.** The enforcement of professions impacting the housing market in Colorado is administered by the following divisions:

- i. **Division of Real Estate.** The Division of Real Estate is the licensing, regulation and enforcement agency for the real estate broker, appraiser and mortgage broker industries. During the 2007 Legislative Session, the Colorado General Assembly passed several key pieces of legislation which put in place more rigorous regulation and enforcement of mortgage brokers, land title companies, and real estate appraisers, including the relationships between these and other associated professions.
 - ii. **Colorado Civil Rights Division.** The Colorado Civil Rights Division (CCRD) is charged with enforcing the State's Anti-Discrimination laws with respect to housing. The CCRD is charged with investigating claims of alleged discrimination. Discrimination is defined as differential treatment based upon a person's protected group status. Enforcement activities are conducted by the Division's Compliance Investigators.
4. **Federal Initiatives.** The Federal Government has announced a plan to freeze interest rates for up to 2 years for a portion of homeowners who bought houses in the with subprime loans. The plan would allow distressed borrowers who are current on their payments to keep their low introductory rates and escape an increase of approximately 30 percent or more in their monthly payments when the rates expire. The plan will exclude borrowers who are currently delinquent on their payments and borrowers whose introductory rates will expire prior to January 1, 2008. The plan will only cover mortgages resetting from January 1, 2008 through July 31, 2010. It is estimated that 1.8 million homes have subprime mortgages that are expected to reset in the next two years. It should be noted that this federal plan will cover approximately 12 percent of all subprime borrowers, or 240,000 homeowners, leaving most at risk borrowers unaffected.
5. **DORA/DOLA Joint Communications Plan.** In October 2007, the Division of Real Estate (DRE) and the Colorado Civil Rights Division (CCRD) in the Department of Regulatory Agencies (DORA) began discussions about developing a communications plan between these state agencies designed to address the pre- and post-purchase of a home, as well as the financial education to make an informed decision. These aspects are described in greater detail in what follows.
 - a. **Pre-Purchase.** This is seen as the most critical element of the plan which would lay the foundation for a consumer to make the most informed decision about home ownership. This phase would include the following:
 - i. Preparations of Home Ownership
 - ii. Rights as Home Owners
 - iii. Expectations and what to look for in Mortgage Brokers and Appraisers (possibly collaborate with Divisions of Banking and Financial Services)
 - iv. Preventing Foreclosure

- v. Home Owners Insurance (collaborate with Division of Insurance)
 - vi. Title Insurance (collaborate with Division of Insurance, and private industry, i.e. Land Title Association)
 - vii. How to Learn More
 - viii. Fair Housing Protection (Colorado Civil Rights Division)
- b. **Post-Purchase**
- i. How to Protect Your Investment
 - ii. Foreclosure: the Process
 - iii. Title Policy Analysis
 - iv. Refinancing Options
 - v. Home Equity Line of Credits
- c. **Financial Literacy**
- i. Predatory Lending (collaborate with CCRD)
 - ii. How to Improve Credit Score, Enhance Financial Literacy (collaborate with Banking, Financial Services, Federal Reserve, FDIC Program, MoneySmart, MyMoney.gov, (new HOPE from HUD))
- d. **Target Audience.** The joint communication plan has identified the following audience for this initiative:
- i. First-time home buyers
 - ii. Existing home owners
 - iii. Delinquent borrowers
 - iv. Students
 - v. Seniors
 - vi. General Public
 - vii. Industry Partners/Regulated Community
- e. **Strategies to Develop Inter-Agency Collaboration**
- i. **Phase 1: Through end of 2007**
 - (1) Research the training opportunities and resources that are now available.
 - (2) Develop fact sheet with information on both agencies
 - (3) Develop a speaker's bureau and identify speaking opportunities
 - (4) Identify other partners
 - (5) Propose a joint board meeting between the Real Estate Commission and the Housing Board in November
 - ii. **Phase 2: January 1 - June 30, 2008**
 - (1) Develop a Leasing Guide

- (2) Enhance online tools to provide training free for the public
- (3) Develop a campaign
- (4) Develop collateral
- (5) Counselor Training
- (6) Enhanced media outreach

iii. **Phase 3: July - December 2008**

- (1) Audio/Video/DVD mass production
- (2) Social Media
- (3) Train Seniors/College Campus outreach
- (4) Core curriculum development for colleges
- (5) Develop train the trainers sessions
- (6) Develop classes with other non-governmental and governmental organizations
- (7) Accredited classes given by outside vendors that can be considered "state-approved"

f. **Measuring Success.** Develop meaningful performance measures.

g. **Sustainability.** Design the educational efforts with an eye to the future. If necessary establish a permanent entity to maintain and preserve these efforts outlined.

Appendix A: Department of Regulatory Agencies Legal Expenses

Table 1 . FY 2006-07 Legal Expenditures for the Division of Registrations, by Division		
Division	Legal Expenditures	Percent of Total Legal Expenditures
Registrations	\$2,789,424	48.6%
PUC	1,128,435	19.7%
Real Estate	464,722	8.1%
Securities	464,434	8.1%
Consumer Counsel	406,707	7.1%
Insurance	399,766	7.0%
Civil Rights	48,654	0.8%
Banking	25,494	0.4%
Financial Services	8,246	0.1%
EDO	3,408	0.1%
Total	\$5,739,290	100.0%

Table 2. Legal Expenditures for the Division of Registrations, by Board (Fiscal years 2004-05, 2005-06, and 2006-07 combined)		
Board	Legal Expenditures	Percent of Total Legal Expenditures
Medical Examiners	\$1,879,741	24.4%
Nursing	1,794,101	23.3%
Dental Examiners	917,099	11.9%
Accountancy	472,836	6.1%
Pharmacy	420,713	5.5%
Nursing Home Administrators	348,642	4.5%
Chiropractic Examiners	256,273	3.3%
Professional Engineers and Land Surveyors	196,438	2.5%
Electrical	144,718	1.9%
Other	1,285,301	16.7%
Total	\$7,715,862	100.0%

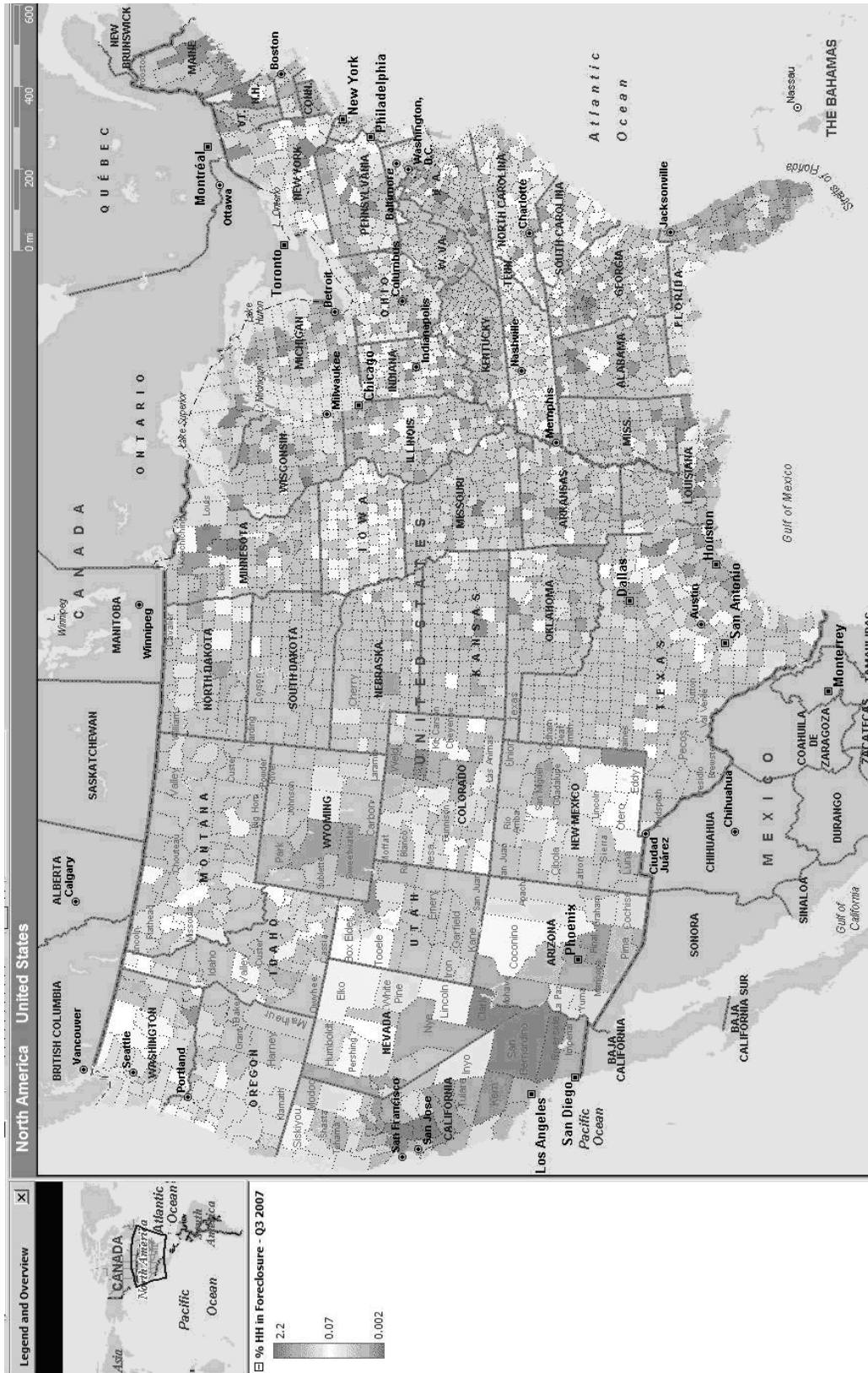
Table 3. DORA's Higher Hourly Billing Rate as Compared to the Statewide Average			
Agency	Legal Service	Hours	Amount Billed
Regulatory Agencies Actual Legal Services Usage	Attorney	83.1%	\$4,955,929
	Paralegal	16.9%	805,172
Statewide Average: Applying DORAs Legal Services Usage	Attorney	81.2%	4,844,476
	Paralegal	18.8%	893,936
Variance	Attorney	1.9	111,453
	Paralegal	(1.9)	(88,764)
	Net	0.0	\$22,689
	Net Hours	n/a	335

Appendix B: The Expedited Settlement Process

Process Step	Action Taken	
1. Complaint of professional misconduct received by the Board ¹ .	go to Step 2	
2. Board staff investigates the legal sufficiency of the complaint received.	Case is legally sufficient. Go to Step 3	Case is not legally sufficient. Case Dismissed.
3. The case is heard before the Board. Are the allegations of the complaint identified as violations of the practice act?	Yes. Determine the case complexity. Go to Step 4.	No. Case dismissed.
4. Is the case complex (highly contested, has correspondents, companion criminal/civil cases)?	Yes. Case Referred to the OAG. ESP case closed.	No. Initiate ESP. Go to Step 5.
5. Board staff attempts to settle in accordance with the Board's initial settlement guidance.	Respondent agrees to settlement. Case settled. Go to Step 8.	Respondent provides a counter-offer . Needs Board approval. Go to Step 6.
6. Board receives a counter-offer from a respondent case in ESP.	Board accepts counter-offer. Case settled. Go to Step 8.	Board rejects counter-offer. Go to Step 7.
7. Board staff attempts to settle in accordance with the Board's initial settlement guidance.	Respondent agrees to settlement. Case settled. Go to Step 8.	Respondent rejects settlement offer. Case referred to OAG. ESP case closed.
8. Form stipulation and Final Agency Order Drafted and Signed by Respondent.	Completed. Case settled. Case closed.	Not completed. Case referred to OAG. ESP case closed.

¹ This is a template prescribed to by most boards administered by DORA.

Appendix C: Map of U.S. Third Quarter 2007 Foreclosure Activity



Map provided by RealtyTrac, Foreclosure Activity Report dated November 1, 2007.