

# Utah Department of Commerce



Annual Report **2012**



Our Mission

To protect the public interest by ensuring fair commercial and professional practices.

Our Vision

The Department of Commerce contributes to the success of Utah businesses, professionals and consumers by creating a favorable economic environment.

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Message from Governor Gary R. Herbert



STATE OF UTAH

GARY R. HERBERT  
GOVERNOR

OFFICE OF THE GOVERNOR  
SALT LAKE CITY, UTAH  
84114-2220

GREG BELL  
LIEUTENANT GOVERNOR

As Governor, it is a privilege to present the 2012 Annual Report for Utah’s Department of Commerce. This exceptional state agency supports Utah’s economy, ensuring Utah’s businesses and residents have continued opportunities to grow and prosper.

To all Department of Commerce employees, please accept my appreciation and thanks on behalf of the State of Utah for your consistent hard work and excellent service. Year after year, Utah claims its distinction as one of the best managed states in the nation. The success of Utah’s government agencies and programs is due to the caliber, character, and hard work of state employees. For that, I thank you. Keep up the good work.



Sincerely,  
  
Gary R. Herbert  
Governor

Message from Francine A. Giani, *Executive Director*

Governor Herbert, Members of the Utah Legislature, Citizens of Utah:

It is my pleasure to present the Annual Report for Fiscal Year 2012 for the Utah Department of Commerce, recording how our agency and employees serve the people of Utah.

With responsibility for issuing over 300,000 licenses and regulating hundreds of industries, the Department of Commerce is one of the Utah’s chief regulatory agencies. Our employees are dedicated to fair and efficient regulation across a variety of industries which impact Utah’s citizens.

During fiscal year 2012, our Divisions expanded their efforts to protect Utah consumers, while regulating business and industry to promote healthy commerce in the state. The following are highlighted achievements for each Division:

**Administration** increased revenue 12% while maintaining budget appropriations over the past four fiscal years.

**Office of Property Rights Ombudsman** conducted 131 formal mediations and arbitrations.

**Office of Consumer Services** participated in Rocky Mountain Power rate case negotiations resulting in lower rate increase for consumers.

**Division of Consumer Protection** recovered 1.3 million dollars in benefits for Utah consumers.

**Division of Corporations and Commercial Code** over 90% of all business filings completed online.

**Division of Occupational and Professional Licensing** total licensees increased to 188,023, an increase of 8,716 over FY 2011.

**Division of Public Utilities** helped negotiate lower electricity rate during recent Rocky Mountain Power rate increase request.

**Division of Real Estate** launched Live Chat through its’ website to allow faster response to licensee and public questions surrounding real estate issues.

**Division of Securities** publicized statewide investor education campaign through print, billboards and television ads on “Red Flags” of investment fraud.

These successes made Fiscal Year 2012 one of great progress. Commerce employees look forward to serving the citizens of Utah and building on our accomplishments in the years ahead. I invite you to visit our website at [www.commerce.utah.gov](http://www.commerce.utah.gov) to learn more about the Utah Department of Commerce.

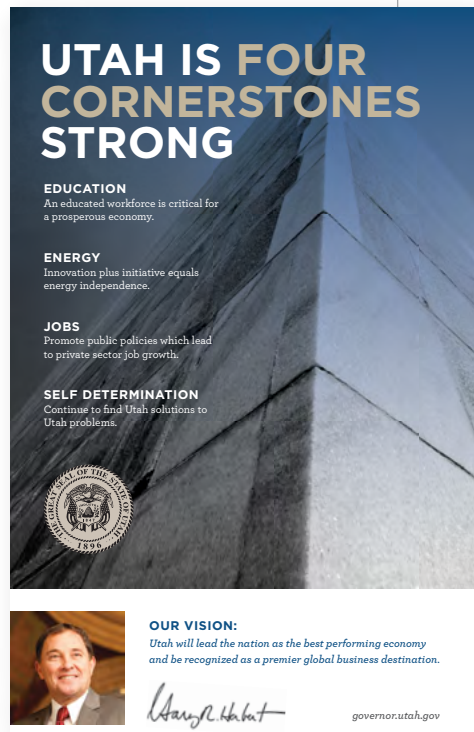
Respectfully yours,

Francine A. Giani, *Executive Director*



Francine A. Giani,  
*Executive Director*

## Department of Commerce Cornerstones | 2012



### Administration

**Education:** The Department's goal is to keep the public and licensees informed on services the agency provides to support a positive business environment.

**Energy:** Administration cut energy costs across the agency by replacing older fleet vehicles with hybrid vehicles, adopted Governor Herbert's "No Idling" policy, and staff pledged to save energy through the state's Utah Clean Air Partnership Pledge (UCAIR) initiative.

**Jobs:** All Commerce Divisions strive to keep Utah a "business friendly" state by ensuring excellent customer service, developing convenient online services and maintaining licensing and registration fees that are lower than most states.

**Self-Determination:** Commerce Administration participated in Governor Herbert's Business Regulation Review Committee with the mission to reduce government waste by identifying 368 state administrative rules that could be changed to eliminate bureaucratic red tape and encourage business growth statewide.

### Office of Property Rights Ombudsman (OPRO)

**Self-Determination:** The Attorneys at the OPRO worked closely with legislators, lobbyists and other stakeholders to ensure laws passed would protect the property rights of Utah citizens.

### Office of Consumer Services

**Energy:** The Office has long supported cost-effective energy efficiency and conservation programs (also known as demand side management or DSM). Over the past year the Office has filed recommendations on a number of proposed changes to existing DSM programs and has actively participated in the DSM Advisory Groups for both Rocky Mountain Power and Questar Gas. The Office was instrumental, along with other stakeholders, in creating a DSM Steering Committee for Rocky Mountain Power to facilitate more effective oversight of DSM issues.

### Division of Consumer Protection

**Education:** The Division is dedicated to consumer outreach through regular presentations at the Utah Senior Expo as well as other events and locations around

Utah to educate the population about scams targeted at the elderly as well as other fraud focusing on consumers in Utah. The Division has also teamed up with the Department of Health to assist educating consumers after the recent data breach.

**Jobs:** The Division monitors business compliance with the Utah Consumer Sales Practices Act to ensure a level playing field for companies that deal fairly with consumers.

### Division of Corporations & Uniform Commercial Code

**Jobs:** The Division of Corporations is constantly upgrading existing online services and adding new programs to support seamless business registration and rapid turn around for end users to enable business and job growth in Utah. The April 2012 upgrade to the OneStop Business Registration (OSBR) program included several new enhancements as well as a new service for "Doing Business As" applications which were highlighted in remarks from Governor Herbert.

### Division of Occupational & Professional Licensing (DOPL)

**Education:** DOPL developed an online quiz for health care practitioners who prescribe controlled substances to focus on prescription drug issues and better protect public health.

**Energy:** The Division processed 29,457 new applications and 100,195 renewals of which 92% were completed online thus saving time and paper consumption.

**Jobs:** The Division's switchboard answered 103,571 phone calls with approximately 98% of them answered within two-minutes allowing those seeking licensing faster response times.

### Division of Public Utilities

**Energy:** The Division's analysis and reports during a recent Rocky Mountain Power rate case helped negotiate a fair and reduced rate settlement among state agencies and the company, thereby protecting consumers from undue rate increases and keeping power costs down for businesses.

### Division of Real Estate

**Education:** The Division continues outreach relations with licensees statewide through its annual Spring Caravan seminars around Utah as well as through its monthly newsletter.

**Energy:** The Division has introduced online renewals for licensees, encouraged staff to scan documents for ease of retrieval and to save on printing/paper costs as well as the use of Dropbox software among commission and board meetings to reduce paper consumption.

**Jobs:** The Division implemented a "Live Chat" online service allowing those seeking licensure a faster response time which enables faster application turn around for those seeking work in real estate professions.

### Division of Securities

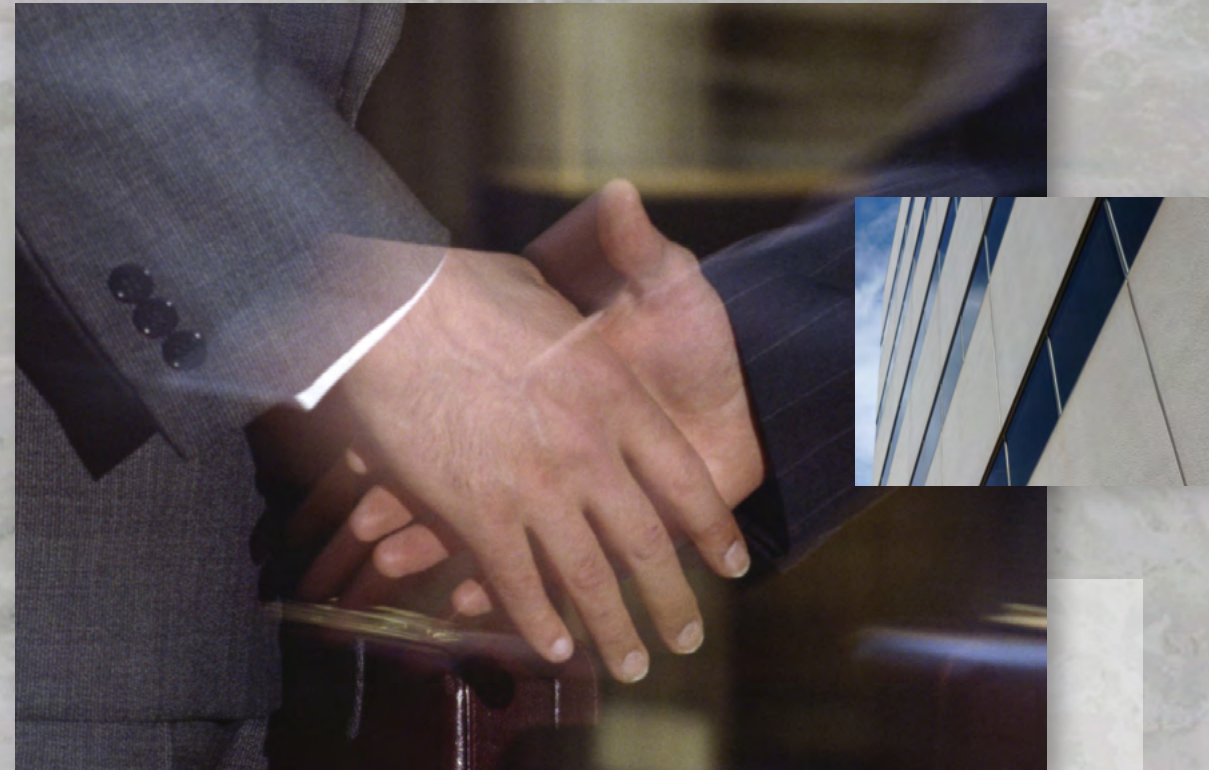
**Education:** The Division of Securities educates investors about fraud through statewide outreach efforts which include the Fraud College where Governor Herbert has been a keynote speaker on the dangers of affinity fraud.

**Jobs:** The Division of Securities and Salt Lake City were chosen as host site for the 2013 National Association of Securities Regulators (NASAA) annual meeting. The NASAA conference will attract around 500 attendees estimated to boost local economy by \$1M as referenced in remarks from Governor Herbert.



# Utah Department of Commerce Administration

www.commerce.utah.gov



## Mission Statement

Administration's mission is to provide administrative support (*financial, human resources, information technology, public relations, and adjudicative*) to the following Divisions within the Department of Commerce:

- ▶ Office of Consumer Services (OCS)
- ▶ Occupational and Professional Licensing (DOPL)
- ▶ Consumer Protection (DCP)
- ▶ Public Utilities (DPU)
- ▶ Corporations and Commercial Code (CORP)
- ▶ Securities (DS)
- ▶ Real Estate (DRE)



## Internal Efficiencies

The Department of Commerce is continually looking for ways to increase operating efficiency and has implemented new programs to lower costs. The following are measures taken by the entire Department during fiscal year 2011-2012. Additional cost-saving programs are in each Division's report.

## Budget Highlights FY 2012

- ▶ Budget appropriations for the new fiscal year 2013 are equal to department appropriations in FY 2008 with revenues increasing over the same period.
- ▶ Department expenditures in FY 2012 are at the same level they were in FY 2009 despite increased personnel costs and sustained workload growth over the same period.
- ▶ IT expenses per employee were reduced by 5% during FY 2012 through increased diligence in minimizing purchasing, storage usage, and variable DTS charges.
- ▶ Decreased supplemental daily rental of fleet vehicles by 25% in FY 2012 by more efficiently scheduling the use of existing fleet vehicles.



## Serving the Public

*Commerce Administration oversees the following programs and procedures:*

- ▶ *Office of the Property Rights Ombudsman*
- ▶ *New Automobile Franchise Act*
- ▶ *Powersport Vehicle Franchise Act*
- ▶ *Agency Review of Administrative Actions*

Activities of government often conflict with the property rights of private citizens. The Office of the Property Rights Ombudsman was created by the Utah Legislature to respond to this conflict.



Questions specific to the Property Rights Ombudsman may be directed to:

**Brent Bateman**, *Lead Attorney*  
(801) 530-6391  
[bbateman@utah.gov](mailto:bbateman@utah.gov)  
[www.propertyrights.utah.gov](http://www.propertyrights.utah.gov)

Office of the Property Rights Ombudsman

Introduction

The Utah Legislature created the Office of the Property Rights Ombudsman (OPRO) to protect the property rights of citizens when state and local government condemns or regulates private land. The OPRO consists of three attorneys who advise citizens of their property rights, assist government agencies to follow the law, and mediate disputes between citizens and government entities.

Fiscal Year 2012 Highlights

The OPRO provides a balance in property rights protection, so government agencies can further the public good by building roads or other infrastructure without placing an unfair burden on individuals, families and businesses. The Attorneys at the OPRO work every day with the citizens of Utah to help them understand and to protect their property rights. Their efforts help save the hard-earned money of citizens and avoid difficulty and delay by providing property owners with a resource to turn to when their property rights are threatened. In addition, the dispute resolution efforts of the OPRO save both citizens and state and local government untold volumes of public funds by avoiding litigation and other costs.

Dispute Resolution in Eminent Domain Cases

During the 2012 Fiscal Year, the attorneys at the OPRO

- ▶ Logged 529 telephone calls from citizens and government agencies where questions were answered or concerns resolved with one or two phone calls;
- ▶ Opened 179 cases;
- ▶ Closed 190 cases;
- ▶ Conducted 131 formal mediations and arbitrations.

Dispute Resolution in Land Use Cases

During the 2012 fiscal year, the OPRO

- ▶ Issued 19 formal Advisory Opinions.
- ▶ Successfully implemented a link on the OPRO Webpage to include full public access to previously issued Advisory Opinions, so that those Advisory Opinions could be reviewed and used to prevent future disputes.

Other Significant Accomplishments

- ▶ The Attorneys at the OPRO provided 33 formal legal training sessions in locations around Utah to organizations such as the Utah State Bar, UDOT, the Utah Transit Authority, municipalities and counties, and various citizens groups;

- ▶ The Attorneys at the OPRO worked closely with legislators, various lobbyists and other interested parties to ensure laws were passed to protect the property rights of citizens;
- ▶ OPRO Attorney Su J. Chon was confirmed by Governor Herbert’s nomination for Third District Court Judge.

New Automobile Franchise Act and Powersport Vehicle Franchise Act

The New Automobile Franchise Act (NAFA) and the Powersport Vehicle Franchise Act (PVFA) protect the public interest by helping ensure fair business practices between vehicle franchisors and franchisees. The Acts establish a standard of conduct and clarify the duties of a franchisor (generally a manufacturer) and franchisee (a dealer). In addition, they establish a right to notice and hearing for franchisees with regards to a franchisor’s intent to terminate, relocate, or establish a new franchised dealership. Franchisors and franchisees must pay an annual registration fee to cover the cost of adjudication.

Franchise Cases Ajudicated	FY 2010		FY 2011		FY 2012	
Adjudicated	Filed	Closed	Filed	Closed	Filed	Closed
Motor Vehicle	3	3	1	1	4	4
Powersport Vehicle	0	0	1	1	0	0

Administrative Actions

A business registrant or licensee, having been adversely impacted by a Department of Commerce Division action, may request agency review by the Executive Director. Upon review, the decision could be upheld, reversed, modified, or remanded to the Division for further consideration.

Division Cases Fiscal Year	TOTAL		DCP		CORP		DOPL		DRE		DS	
	'11	'12	'11	'12	'11	'12	'11	'12	'11	'12	'11	'12
Filed	73	68	2	5	0	0	69	59	2	4	0	0
Closed	57	82	2	6	0	0	52	72	3	4	0	0
Affirmed	11	24	0	2	0	0	11	20	0	2	0	0
Remanded	22	19	0	1	0	0	22	18	0	0	0	0
Dismissed	22	37	1	3	0	0	18	33	3	1	0	0
Reversed	1	2	0	0	0	0	1	1	0	1	0	0
Modified	1	0	1	0	0	0	2	0	0	0	0	0



Questions specific to Commerce Administration may be directed to:

**Francine A. Giani**,  
*Executive Director*  
(801) 530-6431  
[fgiani@utah.gov](mailto:fgiani@utah.gov)  
**Thad LeVar**,  
*Deputy Director*  
(801) 530-6431  
[tleva@utah.gov](mailto:tleva@utah.gov)



# Office of Consumer Services

www.commerce.utah.gov



The Office of Consumer Services is Utah's utility consumer advocate, representing residential, small commercial and agricultural consumers of natural gas, electric and telephone service. Utah's utility consumer advocate was first established as the Committee of Consumer Services in 1977 by the Utah Legislature, reorganized into the Office of Consumer Services in 2009. The Office has a staff of five led by a Director. The Director, on behalf of the Office, represents the interests of residential and small commercial consumers in regulatory proceedings. A nine member layperson committee advises the Office on its regulatory and advocacy work and helps establish policy objectives.

## Utility Regulatory Filings

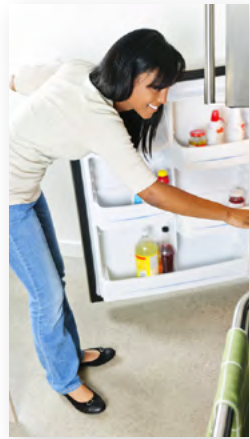
The core work of the Office is to evaluate the impact of utility rate proposals and other regulatory actions and to advocate positions advantageous to residential and small commercial customers. Regulatory filings occur throughout the year and include a wide range of issues such as: requests for rate increases, proposals for energy efficiency and conservation programs, and presentation of long-term resource plans to meet customer's future electricity and natural gas needs. Some of the Office's accomplishments for FY2012 include:

- ▶ **Integrated Resource Planning:** This year included the biennial evaluation of PacifiCorp's (the parent company of Rocky Mountain Power) integrated resource plan. The Office actively participated in numerous public meetings and technical workshops and prepared extensive comments on the long-term plan filed by the utility. The Office raised concerns that least-cost, least-risk resource planning must not be based on incomplete analysis and untested assumptions. Ultimately, the Public Service Commission accepted many of the Office's recommendations, concluding that the resource plan did not meet the established planning guidelines and directed the utility to make improvements in a number of areas. The Office will continue to work with the utility and other stakeholders to encourage effective planning that meets the growing electricity needs of Utahns while maintaining reasonable rates.
- ▶ **"Cost of Service" calculations for residential customers:** One of the technical elements of a utility rate case filed with the Public Service Commission is the determination of how much it costs to serve the different customer classes (such as industrial, residential, or irrigation customers.) This fiscal year, the Office focused on several initiatives studying the appropriate cost of service methodology for determining residential rates. One such initiative has resulted in an agreement regarding cost of service methodology for Questar Gas. This agreement will lead to rates that lower subsidies among customer classes and is anticipated to reduce disputes among the stakeholders in future rate cases.
- ▶ **Energy Efficiency and Conservation programs:** The Office has long supported cost-effective energy efficiency and conservation programs (also known as demand side management or DSM). Over the past year the Office has filed recommendations on a number of proposed changes to existing DSM programs and has actively participated in the DSM Advisory Groups for both Rocky Mountain Power and Questar Gas. The Office was instrumental, along with other stakeholders, in creating a DSM Steering Committee for Rocky Mountain Power to facilitate more effective oversight of DSM issues. The Office is optimistic that this new steering group will lead to better collaboration and ultimately, an even better portfolio of DSM programs offered to Utah customers.



*The Office serves Utah consumers by making certain that small consumer interests are fully represented in electric, natural gas, and telecommunication matters — which includes vigilant assessment of regulatory actions impacting customer rates, reliability of service, and public policy issues.*





► **Rocky Mountain Power's general rate cases:** Rocky Mountain Power has continued to annually file for large rate increases. This fiscal year began with the hearings from the 2010 Rocky Mountain Power rate case in which the utility initially requested that residential and small commercial rates be increased by 14.6% and 12.6%, respectively. The active involvement by the Office in the case limited the rate increases to residential and small commercial rates to 4.7% and 3.7%. Another request for a large rate increase was filed midway through the fiscal year. The Office engaged its team of experts, including staff and consultants, to thoroughly review the new rate case as it has done with past cases. This rate case has fewer controversial issues, but does propose significant rate increases for customers. The case will wrap up in early fall 2012.

► **Utility fuel cost hedging practices:** One outcome of the 2010 Rocky Mountain Power rate case was the creation of a collaborative effort to address hedging practices and policies used in managing fuel costs. This collaborative work resulted in an agreement for increased transparency and reporting as well as some positive changes to the actual hedging policies. The benefits are expected to include both lower costs and less controversy in future cases.

► **New regulatory mechanism:** An important focus of this fiscal year was the implementation of the new Energy Balancing Account granted by the Public Service Commission to Rocky Mountain Power. This new mechanism allows the utility to pass along its actual power costs, rather than just setting rates based on forecasts. The Office developed a cost allocation methodology that was adopted by the Commission and ensures that small customers are not allocated more than their fair share of these costs.



### Legislation

The Office worked collaboratively with other stakeholders on several legislative efforts, one of which led to the passage of SB12. This new law allows large customers to purchase renewable energy directly from the source. The Office supported the bill in its intent to facilitate the energy preferences of customers and ensured in the drafting that it did not have any unintended consequences of increasing costs to other customers.

### Federal Regulatory Issues

While the majority of the Office's work is focused on state regulatory proceedings and state/regional policy initiatives, the Office also monitors federal actions that play a key role in utility regulation. This year, both the federal agency that oversees energy regulation (*the FERC – Federal Energy Regulatory Commission*) and the federal agency that oversees telecommunication regulation (*the FCC – Federal Communications Commission*) issued landmark decisions that will have a significant impact on Utah consumers. The Office is working in multiple forums to influence the implementation of these decisions in a manner that best protects Utah utility customers.

► **FERC Order 1000:** FERC Order 1000 creates requirements for regional electricity transmission planning and mandates the development of a cost allocation methodology to require all entities that benefit from new transmission to pay a share of the costs. The Northern Tier Transmission Group is the regional transmission planning group that includes Utah's electric utilities. The Office is participating in that group's efforts to ensure compliance with the new Order 1000. In particular, the new cost allocation requirement could have a significant impact on electricity customers in Utah since large transmission investments are currently being planned. The Office is working to ensure that Utah's electric customers are well represented and are allocated no more than their fair share of costs.

► **FCC transformation orders:** The FCC oversees the Universal Service Fund (USF), a federal fund designed to ensure that all Americans have access to basic telephone service by providing funds to help develop high cost areas and to provide discounted service to qualifying low-income families. The USF is funded by all telephone customers through a surcharge on their bills. Market and technology changes in the telecommunications industry have led to significant pressures on the USF as participation in the fund has increased and the contribution base is less certain (as the number of landlines continues to decline.) The low-income "Lifeline" program has also experienced growing pains as many wireless carriers have become certified to provide this service. Thus, the FCC issued two separate orders to reform the USF. The final impact on Utahns remains uncertain. The Office is expanding its telecommunications expertise and increasing its participation in telecom cases to ensure that it is prepared to address these issues and advocate effectively for Utah's residential and small business telecommunications consumers.



Questions specific to the Office of Consumer Services may be directed to:

**Michele Beck, Director**  
(801) 530-6674 | [ocs@utah.gov](mailto:ocs@utah.gov)



# Division of Consumer Protection

www.commerce.utah.gov

DIVISION OF CONSUMER PROTECTION



## Mission Statement

The Division of Consumer Protection's mission is to respond to consumer complaints, protect consumers from unfair and deceptive practices, encourage businesses to develop fair practices, and to provide consumer education.

## About the Division

The Division has a staff of twenty employees who accomplish the Division's mission through a three-pronged approach: education, registration, and enforcement.

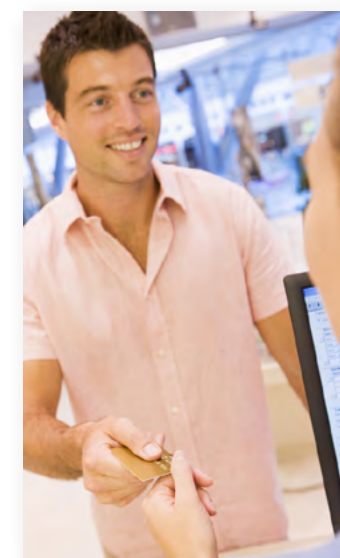
## Education:

The Division works with the Federal Trade Commission, the U.S. Consumer Product Safety Commission, the AARP, local schools and universities, and other consumer groups to ensure consumer awareness of deceptive business practices and to distribute brochures and other educational materials to the public. The Division also works with trade groups in explaining their obligations to consumers under state and federal consumer protection laws.

## Registration:

*The Division regulates the following business organizations:*

- ▶ Charitable Organizations
- ▶ Credit Service Organizations
- ▶ Debt-Management Service Providers
- ▶ Health Spas
- ▶ Immigration Consultants  
(beginning July 1, 2012)
- ▶ Postsecondary Proprietary Schools
- ▶ Professional Fund Raisers
- ▶ Sellers of business opportunities
- ▶ Telemarketers



## Enforcement:

*The Division administers the following statutes:*

- ▶ Business Opportunity Disclosure Act
- ▶ Charitable Solicitations Act
- ▶ Child Protection Registry
- ▶ Consumer Sales Practices Act
- ▶ Credit Services Organizations Act
- ▶ Health Spa Services Protection Act
- ▶ Immigration Consultant Registration Act (beginning July 1, 2012)
- ▶ Music Licensing Act
- ▶ New Motor Vehicle Warranties Act
- ▶ Pawnshop Transaction Information Act
- ▶ Postsecondary Proprietary School Act
- ▶ Price Controls During Emergency Act
- ▶ Prize Notices Regulation Act
- ▶ Telephone and Facsimile Solicitation Act
- ▶ Telephone Fraud Prevention Act
- ▶ Unfair Practices Act
- ▶ Uniform Debt-Management Services Act





FY2012 Highlights

**Benefits recovered for consumers.** The Division recovered over \$1.3 million in benefits for consumers during FY2012.

**The Division worked with state and federal enforcement agencies to protect consumers.** The Division worked with the U.S. Consumer Product Safety Commission in investigating ATV dealerships, as well as the FTC's Consumer Sentinel Network on the continuing issue of immigration service provider fraud. The Division's enforcement staff also participated on a task force organized by the U.S. Attorney's Office and comprised of federal and state law enforcement agencies involved in health care fraud.

**The Division is responding to increased telemarketing violation complaints.** With the downturn in the economy, consumers are increasingly looking to work-from-home opportunities to supplement their income, and telemarketers are cashing in on this trend with "coaching" products sold over the phone. The Division is increasingly seeking enhanced penalties against telemarketing companies who fail to register with the Division, fail to inform consumers of the three day right to cancel, and fail to provide refunds in conformance with the companies' stated refund policies.



Top Ten Consumer Complaints

The top consumer complaints received by the Division during FY2012 are as follows:

- 1 Coaching Services/Telemarketing:** Typically involve misrepresentations and deceptive refund policies, failure to abide by do-not-call provisions.
- 2 Retail Sales/Deposits/Refunds:** False advertising and other deceptive practices, defective merchandise, problems with rebates, coupons, gift cards and gift certificates, failure to deliver, and failure to honor stated refund policies.
- 3 Internet Offer/Sales:** Misrepresentations or other deceptive practices, failure to deliver online purchases.
- 4 Model/Talent/Acting Agencies:** Misrepresentation or other deceptive practices, deceptive refund policies, failure to deliver services purchased.
- 5 Personal Services:** Typically involve failure to render or deliver the services purchased in the time frame represented or in the manner it was advertised.
- 6 Alarm Systems:** Aggressive sales tactics used in door-to-door solicitations, failure to allow cancellations within stated time period.
- 7 Auto Repair/Sales: Repairs:** Failure to disclose refund policies, failure to obtain consumer's express authorization prior to repair, unnecessary repairs. **Sales:** Misrepresentations in advertising or sales, aggressive sales practices, contracts with incapacitated or vulnerable purchaser.
- 8 Home Improvement/Repair:** Shoddy work, failure to start or complete job, refusal of job completion until consumer agrees to a higher price than originally agreed upon.
- 9 Debt Collection:** Billing and fee disputes, mortgage-related fraud, credit repair, debt relieve services, illegal or abusive debt collection tactics.
- 10 Unauthorized Debit:** Negative option internet purchases or failure to obtain express authorization prior to charging a credit or debit card.



Legislative Highlights

**House Bills passed by the 2012 Legislature:**

HB 78, Utah Division of Consumer Protection Amendments, Rep. D. Brown; co-sponsored by Sen. P. Jones.

*This bill clarified two kinds of deceptive acts by suppliers as set forth in the Consumer Sales Practices Act, increased the monetary amount from \$300 to \$500 for Assisted Marketing Plan registration filings in the Business Opportunity Disclosure Act, and significantly modified the Debt-Management Services Act by requiring increased disclosures and banning up front ("advance") service fees by providers.*





Questions specific to the Division of Consumer Protection may be directed to:

Traci Gundersen, Director  
(801) 530-6303  
[tgundersen@utah.gov](mailto:tgundersen@utah.gov)

Statistics

Complaints	FY2010	FY2011	FY2012
Complaints received	4,632	2,729	2,408
Complaints opened	3,610	2,083	1,917
Complaints closed	3,319	2,080	1,744
Cases Not Assigned	1,022	643	491

Active Registrations	FY2010	FY2011	FY2012
Business Opportunities	12	14	10
Business Opportunity Exemptions	996	1,001	893
Charitable Organizations	2,627	3,135	3191
Charitable Organizations Exempt	1,092	1,199	1313
Credit Service Organizations	13	10	14
Debt Management Service Providers	30	30	30
Health Spas	243	241	265
Pawnshops	117	115	110
Secondhand Merchandise Dealers	228	320	217
Professional Fundraisers	208	262	277
Proprietary Schools	65	65	78
Proprietary Schools Exempt	360	479	573
Proprietary Schools Private Nonprofit		8*	18
Proprietary Schools Accredited Institution Exempt		31*	14
Telemarketers	81	79	97
Telemarketers Exempt	110	116	5

	FY2010	FY2011	FY2012
Total Consumer Benefits Recovered	\$2,422,858	\$1,920,069	\$1,318,954
Total Fines Collected	\$ 363,985	\$ 207,314	\$ 334,915

\* New registrations for the Division as of May 10, 2011

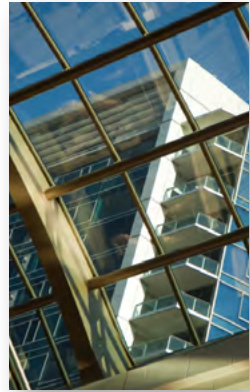
# Division of Corporations and Commercial Code



Mission Statement

The Division of Corporations and Commercial Code serves business enterprises by providing registration and informational assistance. Additionally, the Division serves the public by facilitating access to all of its records and data. The Division functions as Utah’s filing office and repository for all corporations, commercial code filings, business registrations, limited partnerships, limited liability companies, limited liability partnerships, collection agencies, and trademarks.





### About the Division

The Division of Corporations and Commercial Code in the Utah Department of Commerce registers all statutory business entities, state trademarks, and article 9 (UCC) and agricultural (CFS) lien notice filings. There are other less noticeable, but equally important filings.

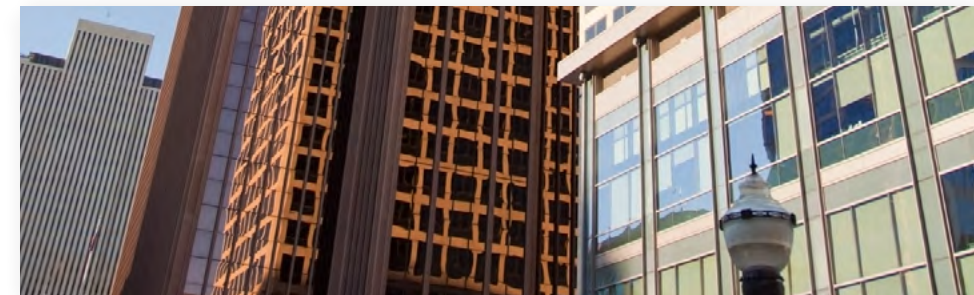
Those businesses which should register with the Division are: profit and non-profit corporations, limited liability companies, limited partnerships, limited liability partnerships, unincorporated cooperative associations, general partnerships & sole proprietors who have an assumed name, business trusts, real estate investment trusts, tribal businesses, and any other assumed business name.

Out-of-state motorist service of process is also filed with the division. Certain bankruptcy filings are sent to the division for notice only.

### The Division is charged with a variety of small filings, such as:

- ▶ The Governmental Entity Database – an online directory of contact for any governmental entity;
- ▶ One Stop Business Registration web site – a partnership with multiple agencies from local, state and federal level; Verify Utah – an online voluntary registry of businesses that have complied with the federal e-Verify program;
- ▶ Archival business research– searching old stock certificates to find disposition of business entity; and
- ▶ Individual name searches – those people involved as principals in businesses.

The Division staffs an information and help/phone center that answers an average of 7,000 phone calls per month. The help staff also provides an online information chat for those using online services. The agency has two customer service counters for walk-in assistance and partners with the Tax Commission to provide walk-in Assistance at the satellite offices in Washington County (Hurricane), Provo, and Ogden, Utah.



The Division of Corporations and Commercial Code continues to look for innovative ways to give business filers access to services 24 hours a day, 7 days a week.

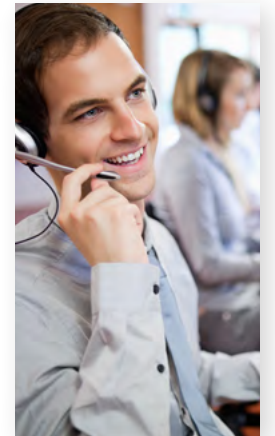
### Help Center

The Help Center answers an average of 1750+ calls a week. The five member Help Center fields questions ranging from “How do I start up a new business?” to “How do I reinstate an old business?”. With courtesy and understanding, the members of the Help Center educate citizens of Utah on business filings over the phone and in live online chats.

### Service Center

The Division has two service centers; one in the first floor lobby and one on the second floor with public access computers, which have streamlined the process of filing documents so customers face a minimal wait time. As a result, the Division of Corporations and Commercial Code usually keeps within the 24 to 48 hour turnaround time on all incoming documents.

Customer service is not something we can achieve with systems and processes alone. The Division’s goal is to empower our employees, particularly those on the front line, to make a difference as they are the face of the Division. The Division of Corporations and Commercial Code continues to be committed to adopting new technology for online services that especially help all businesses meet regulatory obligations quickly and efficiently.







Uniform Commercial Codes

FY	UCC I	UCC I Addendum	UCC II	UCC III	UCC III Addendum
2006	24,322	9,609	1,145	19,145	1,567
2007	24,744	10,629	1,365	18,311	2,098
2008	23,115	7,805	1,265	18,748	3,278
2009	18,295	4,565	1,113	17,394	1,525
2010	15,967	4,801	1,570	17,034	2,341
2011	15,367	6,875	1,302	17,167	905
2012	16,752	4,020	1,393	17,887	1,242

Uniform Commercial Codes

UCC 1	2006	2007	2008	2009	2010	2011	2012
In-house Filings	10,394	10,564	8,281	4,391	4,137	6,500	4,380
Online Filings	13,928	14,180	14,834	13,904	11,830	8,867	12,372
Total	24,322	24,744	23,115	18,295	15,967	15,367	16,752
Adoption Rate	57.27%	57.31%	64.17%	76.00%	74.09%	57.70%	73.85%
Difference from previous year	-254	252	654	-930	-2,074	-2,963	3,505
% Increase	-1.79%	1.81%	4.61%	-6.27%	-14.92%	-25.05%	39.53%

UCC 2	2006	2007	2008	2009	2010	2011	2012
In-house Filings	115	206	146	164	121	143	112
Online Filings	1,030	1,159	1,119	949	1,449	1,159	1,281
Total	1,145	1,365	1,265	1,113	1,570	1,302	1,393
Adoption Rate	89.96%	84.91%	88.46%	85.27%	92.29%	89.02%	91.96%
Difference from previous year	-300	129	-40	-170	500	-290	122
% Increase	-22.56%	12.52%	-3.45%	-15.19%	52.69%	-20.01%	10.53%

UCC 3	2006	2007	2008	2009	2010	2011	2012
Terminations/Continuations							
In-house Filings	6,782	5,687	2,659	1,915	2,208	7,253	1,999
Online Filings	7,437	8,731	11,376	10,603	10,796	6,057	11,501
Total	14,219	14,418	14,035	12,518	13,004	13,310	13,500
Adoption Rate	52.30%	60.56%	81.05%	84.70%	83.02%	45.51%	85.19%
Difference from previous year	526	1,294	2,645	-773	193	-4,739	5,444
% Increase	7.61%	17.40%	30.29%	-6.80%	1.82%	-43.90%	89.88%

Upgrades for 2011

The Division of Corporations and Commercial Code has implemented the following changes;

- ▶ One Stop Business Registration Phase 4 launch with better services
- ▶ Online DBA filing for quick and efficient small business registration
- ▶ Update current online services in response to public input
- ▶ Move more services online

New Filings

FY	Corp.	% Change	DBA	% Change	LLC	% Change	LP	% Change	Total	% Change
2005	11,423	5%	17,325	-1%	19,018	39%	556	-1%	48,322	13%
2006	12,674	11%	7,296	0%	23,320	23%	618	11%	53,908	12%
2007	12,633	0%	16,780	-3%	27,643	19%	744	20%	57,800	7%
2008	11,491	-9%	16,793	0%	27,283	-1%	618	-17%	56,185	-3%
2009	9,256	-19%	15,659	-7%	24,344	-11%	515	-17%	49,774	-11%
2010	8,566	-7%	15,747	1%	24,143	-1%	378	-27%	48,834	-2%
2011	8,043	-6%	15,284	3%	24,976	3%	436	15%	48,739	0%
2012	8,102	1%	15,667	3%	27,693	11%	622	43%	52,084	7%

FY	Average No. of Entities Gained per Month	Total	% Change
2006	1,503	18,036	8%
2007	1,669	20,030	11%
2008	1,512	18,144	-9%
2009	494	5,928	-67%
2010	516	6,192	4%
2011	791	9,492	53%
2012	823	9,876	4%

FY	CFS I	CFS III
2006	419	724
2007	319	612
2008	303	668
2009	361	537
2010	436	613
2011	375	511
2012		





Other Data Entry

FY	Reinstatements	Amendments	Mergers	Conversions	Renewals	Change Forms
2006	4,504	4,001	413	1,298	15,629	20,590
2007	5,009	4,132	296	1,293	13,844	13,578
2008	3,232	4,401	499	1,618	22,111	6,288
2009	2,259	4,042	463	1,458	22,132	5,371
2010	2,665	3,049	352	617	19,498	4,617
2011	2,433	2,828	320	997	17,752	3,895
2012	2,191	2,971	299	1,006	17,041	3,462

Legislative Update from 2012 General Session

HB 295 Trademark Renewal Revisions (effective date May 8, 2012):

This bill enables trademarks to renew up to six months before expiration and six months after expiration.

SB 36 Utah Revised Business Corporation Act Amendments Related to Transfer of Corporations (effective date May 18, 2012):

This bill specifically states that Utah will allow a domestic corporation to transfer or domesticate to another jurisdiction.

SB 256 Unincorporated Business Entity Uniform Acts (effective date: see dates below):

This bill updates the effective dates for the changes made in SB 131 2011 General Session to *delayed effective date of July 1, 2013 for new filings and January 1, 2015 for existing entities to come in to compliance.*

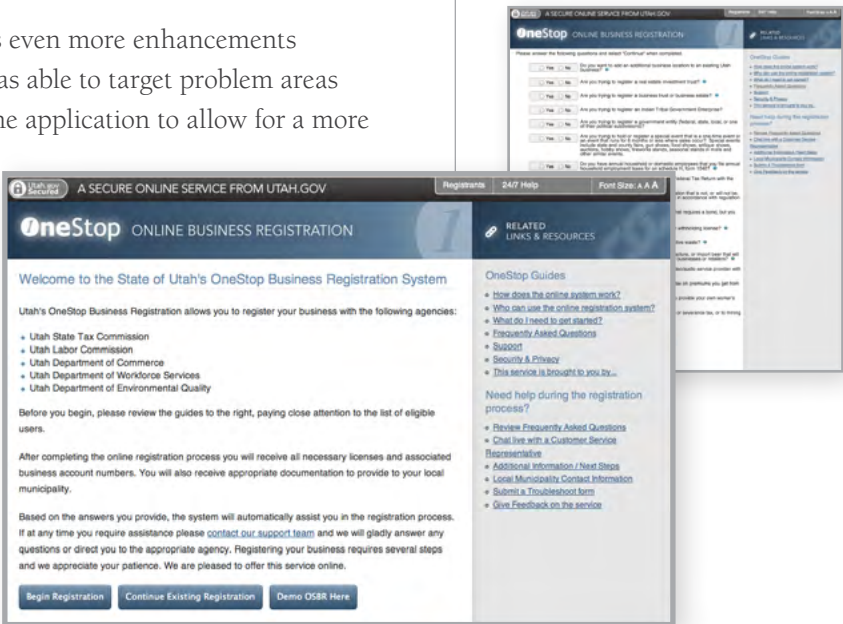


One Stop Business Registration

The One Stop Business Registration portal continues to improve and be recognized in the national and international community. Representatives from foreign countries continue to look at this site as a model of government filing efficiency.

The One Stop Business Registration program has even more enhancements with the launch of Phase IV. The OSBR Group was able to target problem areas based on customer input and adapt the flow of the application to allow for a more user-friendly experience.

- ▶ better user navigation
- ▶ improved glossary and FAQ
- ▶ live help
- ▶ improved owners (principals) section
- ▶ ability to preview articles
- ▶ ability to upload certificates
- ▶ enhanced receipting system
- ▶ faster name approval during business hours



This encouragement of online filings helps the Division manage growth in business without requiring growth of government.

The following local partners offer business licensing services through OSBR; Salt Lake City, Salt Lake County, Sandy City, Provo, Logan, Murray, West Jordan, South Logan, and Springville.

Beginning this year, the Division has put a system online to register DBAs (Doing Business As). This allows existing businesses that use an alternate or assumed name to conduct business, or small businesses, an opportunity to have a quick and simple registration process. In less than 30 minutes an assumed business name can be registered and available to the business filer. In the first month after launch the Division received over 400 registrations.



Questions specific to the Division of Corporations and Commercial Code may be directed to:

Kathy Berg, Director  
(801) 530-4849  
kberg@utah.gov



### OneStop Business Registration

	2006	2007	2008	2009	2010	2011	2012
In-house Filings	41,237	43,052	36,690	30,365	28,736	26,964	23,449
Online Filings	11,600	14,030	18,751	19,613	20,329	21,994	28,861
Total	52,837	57,082	55,441	49,978	49,065	48,958	52,310
Adoption Rate	21.52%	24.58%	34.13%	39.24%	41.43%	44.92%	55.17%
Difference from previous year	2,144	2,430	4,721	862	716	1,665	6,867
% Increase	22.67%	20.95%	33.65%	4.60%	3.65%	8.19%	31.22%

### All Online Services

	2006	2007	2008	2009	2010	2011	2012
Total Online Filings	83,800	212,497	255,616	332,613	331,080	339,710	411,905
Adoption Rate	35.00%	64.00%	77.00%	81.00%	82.00%	82.00%	84.00%
Difference from previous year	15,573	128,697	43,119	76,997	-1,533	8,630	72,195
% Increase	22.83%	153.58%	20.29%	30.12%	-0.46%	2.61%	21.25%

### Certificates of Existence

	2006	2007	2008	2009	2010	2011	2012
In-house Certificates	856	682	678	422	482	492	440
Online Certificates	10,116	12,163	11,337	10,530	10,716	12,369	12,152
Total	10,972	12,845	12,015	10,952	11,198	12,861	12,592
Adoption Rate	92.20%	94.69%	94.36%	96.15%	95.70%	96.17%	96.51%
Difference from previous year	1,515	2,047	-826	-807	186	1,653	-217
% Increase	17.61%	20.24%	-6.79%	-7.12%	1.77%	15.43%	-1.75%

### Annual Business Renewal

	2006	2007	2008	2009	2010	2011	2012
In-house Renewals	103,296	35,790	22,111	22,132	19,498	18,360	17,588
Online Renewals	39,308	113,733	149,447	160,163	166,964	175,246	183,899
Total	142,604	149,523	171,558	182,295	186,462	193,606	201,487
Adoption Rate	27.56%	76.06%	87.11%	87.86%	89.54%	90.52%	91.27%
Difference from previous year	11,561	74,425	35,714	10,716	6,801	8,282	8,653
% Increase	41.67%	189.34%	31.40%	7.17%	4.25%	4.96%	4.94%

# Division of Occupational and Professional Licensing



### Mission Statement

The mission of DOPL is to protect the public and to enhance commerce through licensing and regulation.

### DOPL Objectives

- ▶ Provide courteous customer service that is responsive, accurate & informative
- ▶ Collaborate with stakeholders to balance regulation and commerce
- ▶ Administer programs and applications efficiently
- ▶ Enforce laws effectively and in a timely manner
- ▶ Promote a positive working environment where employees can participate and develop as teams and individuals.





Licensing Statistics

One of the primary purposes of the Division is to protect the public by ensuring that an applicant for a professional license achieves a minimal level of competence.

Total Licensees

	2009	2010	2011	2012
Total Licensees	169,380	169,597	179,307	188,023
New Applications Submitted	31,954	29,879	35,325	29,457
License Renewal				
Online	64,264	84,391	71,077	92,320
Manual	7,905	7,831	9,045	7,875
Total	72,169	92,222	80,122	100,195
% of Renewals online	89.05%	91.51%	88.71	92.14

Licensees by Profession (Including Temporary Licenses)

	2009	2010	2011	2012
Acupuncturists	102	108	104	103
Alternative Dispute Resolution Providers	49	49	na	na
Architects	2,286	2,371	2,194	1,992
Athlete Agents	9	16	28	33
Athletic Trainer	214	264	281	366
Building Inspectors	702	608	687	608
Burglar Alarm Company Agents	4,126	5,265	5,644	10,205
Burglar Alarm Companies	160	172	175	185
Certified Court Reporters	137	141	126	111
Certified Public Accountants	4,183	4,335	4,400	4,710
Certified Public Accountancy Firms	612	651	646	685
Chiropractic Physicians	813	873	841	789
Clinical Mental Health (Formally Professional Counselors)	917	953	1080	1,207
Contractors & Handyman	22,261	17,283	20,314	16,888
CS Handler: Facility and Individual	92	101	87	101
Controlled Substance Precursors: Purchaser and Distributor	10	11	6	7
Cosmetologist/Barbers	24,025	23,752	25,650	27,044
Cosmetology/Barber Schools	52	46	55	52
Deception Detection Examiners and Interns	29	29	23	24
Dental Hygienists	2,074	2,157	2,316	2,821
Dentists	2,528	2,604	2,608	2431
Dietitians, Certified	579	622	594	670
Direct-Entry Midwives	21	20	25	22
Electricians	9,354	9,869	8,799	9,894
Electrologists	131	115	137	135
Electrology Schools	1	1	1	1
Elevator Mechanics	na	na	111	128
Engineers: Professional and Structural	7,439	7,933	8,129	8,896
Environmental Health Scientists	227	235	225	236
Estheticians and Master Estheticians	2,685	2,687	3,351	3,857

Licensees by Profession (continued)

	2009	2010	2011	2012
Esthetics Schools	28	23	30	24
Factory Built Housing Dealers	45	44	35	37
Funeral Directors and Apprentices	348	387	353	332
Funeral Service Establishments	108	113	114	106
Genetic Counselors	43	48	47	68
Geologists	843	863	836	878
Health Facility Administrators	301	339	308	339
Hearing Instrument Specialists	108	114	106	125
Hunting Guides/Outfitters	na	51	286	285
Land Surveyors	692	735	725	768
Landscape Architects	426	441	388	361
Marriage and Family Therapists	528	553	584	645
Massage Therapists	4,405	4,983	4,754	5,789
Medical Language Interpreter	na	4	16	24
Nail Technicians	3,924	3,538	4,170	4,190
Nail Technician Schools	9	8	12	11
Naturopathic Physicians	31	40	44	47
Nurses	27,676	28,567	29,980	31,833
Occupational Therapists and Assistants	684	732	762	854
Online Internet Facilitator	Na	Na	Na	2
Optometrists	457	468	458	482
Osteopathic Physicians	429	457	508	537
Pharmacists, Interns, and Technicians	7,499	8,220	8,449	8,359
Pharmacies	1,304	1,263	1,431	1,724
Physical Therapists	1,714	1,973	2,061	2,348
Physician Assistants	771	836	921	932
Physician / Surgeons	8,221	8,512	8,734	8399
Plumbers	4,294	4,455	4,094	4426
Podiatric Physician	191	196	186	198
Preneed Funeral Arrangement Providers and Sales Agents	361	438	319	225
Private Probation Providers	37	67	62	81
Psychologists	840	866	867	922
Radiology Technologists and Practical Technicians	2,450	2,655	2,538	2306
Recreational Therapists	659	705	676	745
Respiratory Care Practitioners	1,220	1,293	1,342	1,437
Security Companies	68	87	76	79
Security Personnel: Armed and Unarmed Officers	3,715	4,259	3,702	5,193
Social Workers	5,776	6,005	5,888	6,291
Speech-Language Pathologists and Audiologists	712	779	777	916
Substance Use Disorder (Formally Substance Abuse Counselors)	415	443	404	455
Veterinarians and Interns	649	670	673	712
Vocational Rehab Counselor	na	98	205	217
Total	169,380	169,597	79,307	188,023







State Construction Registry

The State Construction Registry provides full disclosure to property owners, contractors, and other interested parties, of people or entities providing goods and services to a construction project. The registry is a standardized statewide system for protecting construction lien rights through preliminary notices, notice of completions and notices of commencements.

Due to legislative changes, Notices of Commencement are no longer filed for non-government jobs and Original Contractors were required to file Preliminary Notice to maintain lien rights. This led to a significant changes in filing volumes and changes in our tracking of SCR statistics.

	2010	2011	2012
Notice of Commencement Filings	44,165	44,464	5,987
Filed by Municipalities	39,185	38,445	na
Filed by Users	4,980	6,019	na
Building Permits	na	na	36,151
Preliminary Notice Filings	109,551	99,526	140,167
Notice of Completion Filings	4,192	3,422	2,955

Residence Lien Recovery Fund

The Utah Residence Lien Recovery Fund, in certain circumstances, bans a person from maintaining a lien on a residence and serves as a payment source for contractors, suppliers, and laborers, if a contractor fails to pay costs on a covered project.

	2012	Since Program's Inception
Number of Claims Filed	69	2,756
Amount of Claims	\$316,218.52	\$19,465,022.07
Number of Claims Paid	100	1,941
Amount of Paid Claims	\$388,216.25	\$13,138,033.29
Number of Claims Denied	4	553
Number of Claims Dismissed	14	240



Prelitigation

The Division's prelitigation program is intended to expedite early evaluation and settlement, or other appropriate disposition, of medical malpractice claims. Parties in a medical malpractice suit are legally required to present their claims prior to filing in District Court. The program's duties and responsibilities are to provide medical malpractice prelitigation hearing panels when properly requested by a party initiating a medical malpractice action.

Prelitigation Action

	2009	2010	2011	2012
Cases Opened	338	295	270	284
Requests Denied	37	35	64	56
Hearings Scheduled	196	194	163	173
Cases Closed	361	312	271	263

Outcome of Prelitigation cases

No Merit	144	162	126	118
Meritorious	20	13	5	13
Stipulated	72	50	63	47
Dismissed	67	61	42	41
Dismissed-arbitration	na	na	na	17
Split Decision	29	18	14	24
Jurisdiction	29	8	8	2
Other	na	na	na	1







Questions specific to the Division of Occupational and Professional Licensing may be directed to:  
**Mark Steinagel**, *Director*  
(801) 530-6626  
[msteinagel@utah.gov](mailto:msteinagel@utah.gov)

Investigations

One of the Division’s most important functions is to investigate violations of Utah’s professional licensing laws. Investigative efforts are intended to protect the public from fraud and ensure compliance with the law.

Complaints	2009	2010	2011	2012
Complaints Received	4,549	3,687	3,139	3,777
Complaints Assigned	3,995	2,991	2,787	3,405
Closed Cases	4,147	3,523	3,144	3,352

Actions	2009	2010	2011	2012
Felony Filings	47	27	43	31
Misdemeanor Filings	15	8	23	19
Administrative Filings	245	334	390	389
Letters of Concern	501	435	416	525
Diversion Referrals	32	28	25	25
Citations Issued	510	715	582	754

Utah Recovery Assistance Program (URAP) and Probation

For license holders who commit or are likely to commit unlawful or unprofessional conduct but who are not a serious offenders, the Division offers two types of programs to correct behavior while allowing the individual an opportunity to make a living. URAP currently offers the option of diversion to any licensee who needs rehabilitative assistance and who has not been previously sanctioned by a licensing board. The URAP program is a confidential program designed to assist and guide licensees to full recovery.

Probation may occur when a public disciplinary approach is warranted against a licensee. When a licensee enters either the URAP or Probation program, they are required to formally agree to the terms and conditions of the program and the consequences of their failure to meet those terms and conditions.

	2010	2011	2012
Total Number of Active Licensees	169,597	179,307	188,023
Total Number of Diversionees (URAP)	149	138	148
Total Number of Probationers	489	556	565
Percent of Licensees Managed by Diversion or Probation Agreement	.360	.387	.38

Controlled Substance Data Base

The Utah Controlled Substance Database Program tracks and collects data on the dispensing of Schedule II-V drugs by all retail, institutional, and outpatient hospital pharmacies, and in-state/out-of-state mail order pharmacies. The data is disseminated to medical and law enforcement professionals and used to identify potential cases of drug over-utilization, misuse, and over-prescribing of controlled substances throughout the state.

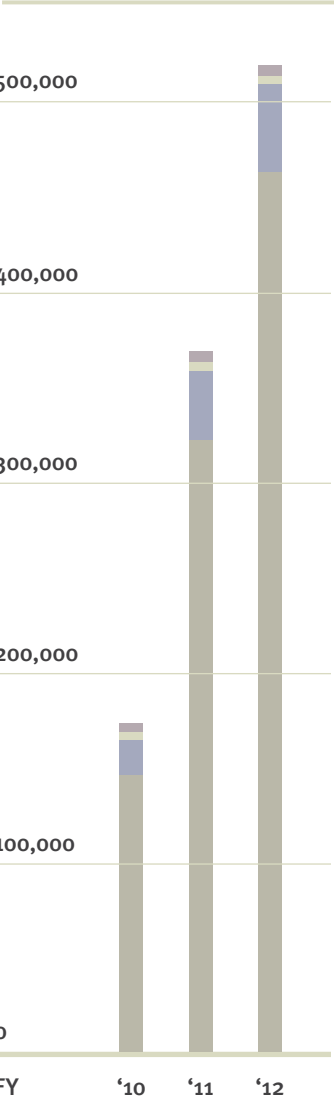
Total prescription	
Records since inception	46,357,267
Total Prescriptions Processed   2012	5,399,941
Total Searches	528,044
Reporting Pharmacies	596
Cases vs. Non-Reporting Pharmacies	1,856
Number of doctor shopper Letters Sent to Practitioners	1,379
Number of doctor shopper letters sent to Pharmacies	14,068
Cases Referred to other agencies	444
Letters Regarding Forged Prescriptions	34
Denial Letters	15

Active Online Users	
Law Enforcement	730
Pharmacist	1,355
Prescribing Practitioners	13,460
Others	119
Total	15,664

CSD Activity (annual)	2010	2011	2012
Law Enforcement Searches	5,229	5,675	5,700
DOPL Searches	4,117	3,768	4,703
Pharmacy Searches	18,079	37,263	46,383
Prescriber Searches	146,217	320,960	463,753
Total	173,642	367,666	520,539

CSD Annual Searchges by User Group

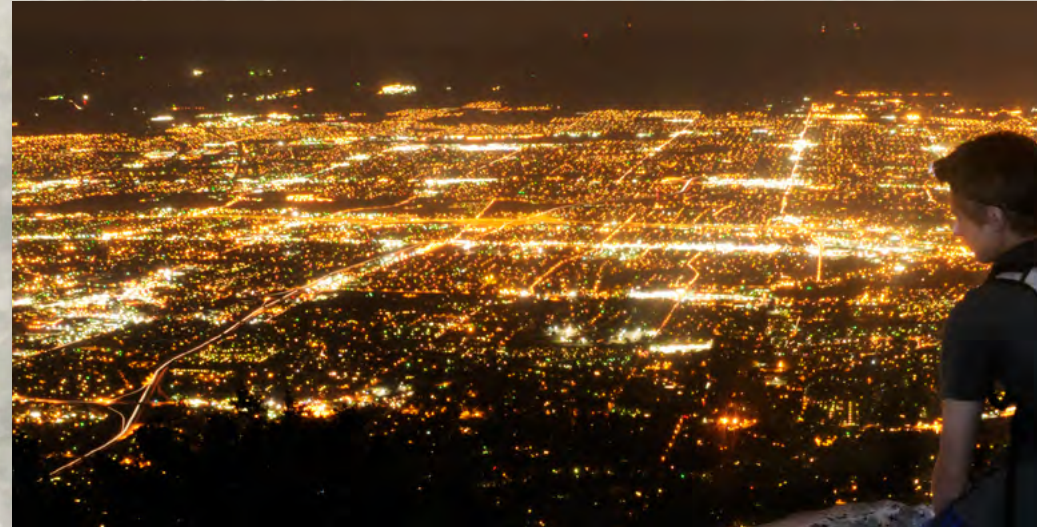
Total Utah CSD Searches





# Division of Public Utilities

www.commerce.utah.gov



## Mission Statement

The Division of Public Utilities promotes the public interest in public utility regulation and works to assure that all customers of regulated gas, electric, telephone and water utilities have access to safe, reliable service at reasonable rates. Division activities include:

- ▶ Investigating applications for certificates to provide utility service or to build new utility facilities;
- ▶ Auditing, analyzing, and investigating proposed rate increases or changes;
- ▶ Investigating and resolving complaints of utility customers;
- ▶ Monitoring the safety of natural gas pipelines within the state;
- ▶ Auditing the finances and activities of utilities doing business in Utah;
- ▶ Assisting in the monitoring and management of the Universal Service Fund, which provides support for telecommunications customers in high-cost areas;
- ▶ Monitoring compliance with Utah law and Public Service Commission (PSC) rules and orders;
- ▶ Coordination and consultation with other state agencies in developing and implementing utility and other state policies.

DIVISION OF PUBLIC UTILITIES

## About the Division

The Division's staff of approximately thirty employees works with the PSC, the Office of Consumer Services and other state agencies, regulated telecommunications, electric, natural gas and water utilities, the public, outside experts, attorneys, and other states' utility regulators. Staff members have expertise in accounting, auditing, business, finance, economics, statistics, customer service, and engineering.

## Highlights

### Energy

#### Rocky Mountain Power General Rate Increases

Early in FY2012, the Division reached a settlement on Rocky Mountain Power's request for a general rate increase. The initial request was for a \$232.4 million increase. The settlement allowed an increase of \$117 million, representing an increase of approximately seven percent. The settlement also resolved numerous other controversies then pending before the PSC.

In February 2012, Rocky Mountain Power again filed a request for a general rate increase. The initial request was for a \$172.3 million increase. At the close of FY2012, parties to the case were analyzing the filing and filing testimony in support of various adjustments to the company's filed case.

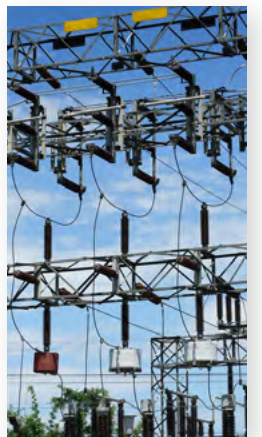
#### Generation Plant Additions

In FY2012, Rocky Mountain Power, with input from the Division, began a competitive bidding process to acquire generation resources beginning in 2016. This solicitation continues a trend of generation acquisitions to meet growing demand and replace existing generation. Construction is currently underway on a natural gas plant scheduled to open in Utah County in 2014.

### Telecommunications

#### Universal Service Fund and FCC Issues

The Division participated in numerous matters filed by telecommunications companies in compliance with an order issued by the FCC in November, 2011. The so-called Transformation Order restructures the system of federal support for high-cost, mostly rural providers of telecommunications service. The Division and affected companies continue to analyze the Transformation Order and its impacts in Utah. As changes to federal support levels occur, it is anticipated that demands on the state universal service fund will increase.

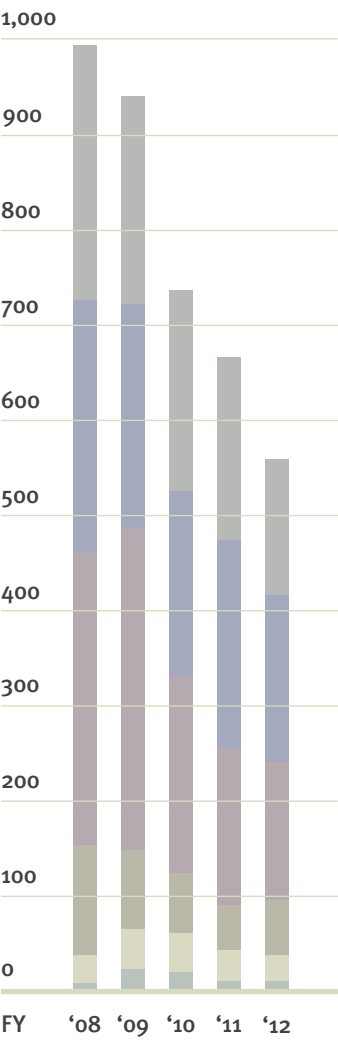






Five-Year History of Utility Complaints

Number of Complaints



Customer Service Section

The Customer Service Section helps to answer utility customer questions and works with customers and utilities to resolve informal complaints. Unresolved disputes are referred to the PSC for formal action. The Division’s goal is to try to help resolve customers’ issues as seamlessly as possible.

During FY 2012, the Customer Service Section fielded 552 informal complaints from utility customers, a large decrease from the previous year. Most complaints involve billing and service shut off issues.

In all cases, the Division first works with customers and utilities to resolve complaints informally. As shown below, most complaints were resolved by the Division working with the customer and the utility company. The unresolved disputes are referred to the PSC for formal action or hearing

Five-Year History of Utility Complaints

Utilities	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Electric	265	229	209	193	169
Natural Gas	261	233	193	212	145
Telecomm – ILEC* & Century-Link	306	333	204	165	149
Telecomm – CLEC**	112	84	63	47	51
Telecomm – Long Distance	35	44	43	34	30
Water/Sewer	4	20	17	8	8
TOTAL	983	943	729	659	552

\* - Incumbent Local Exchange Carriers, e.g. Century Link, All West, Frontier, Beehive

\*\* - Competitive Local Exchange Carrier, e.g. AT&T, McLeod USA, Integra

Utility Complaints Resolved Fiscal Year 2012

	UTILITIES INFORMAL/RESOLVED WITHOUT HEARING	RESOLVED BY HEARING OFFICER
Electric	168	1
Natural Gas	143	2
Telecomm – ILEC* & Century Link	149	0
Telecomm – CLEC**	51	0
Telecomm – Long Distance	30	0
Water/Sewer	4	0
TOTAL	545	3

\* - Incumbent Local Exchange Carriers, e.g. Century Link, All West, Frontier, Beehive

\*\* - Competitive Local Exchange Carrier, e.g. AT&T, McLeod USA, Integra



Pipeline Safety

The Pipeline Safety Section operates under federal law to investigate safety and other conditions relative to the piping of natural gas within Utah. The section works with local natural gas distribution companies, such as Questar Gas Company, as well as municipal operators, intrastate transmission operators and master meters.

During fiscal year 2012, Pipeline Safety personnel conducted comprehensive inspections of Questar Gas Company operations, municipal gas distribution operators, and intrastate transmission operators. The section also inspected pipeline construction projects and investigated incidents on pipelines. These inspections assure that operator procedures and operations are consistent with federal regulations for safe functioning of natural gas systems.

Pipeline Safety Inspections FY 2012

Questar Gas Company Regions	7
Municipal Gas Distribution Operators	6
Intrastate Transmission Operators	5
Gathering Operators	3
Small Gas System Operators (Master Meters)	51
Construction	18
Incident	51



Questions specific to the Division of Public Utilities may be directed to:

Chris Parker, Director

(801) 530-7622  
[chrisparker@utah.gov](mailto:chrisparker@utah.gov)



# Division of Real Estate

www.commerce.utah.gov



## Mission Statement

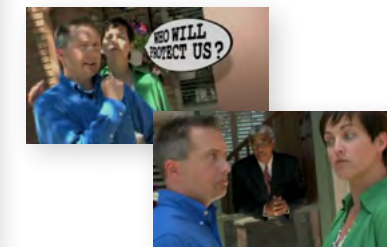
The mission of the Division of Real Estate is to protect the public and promote responsible business practices through education, licensure, and regulation of real estate, mortgage, and appraisal professionals.

DIVISION OF REAL ESTATE

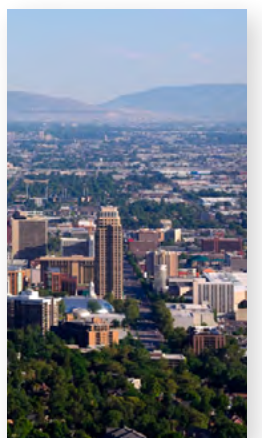
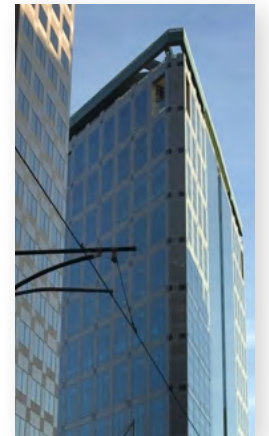


## 2012 Outreach

The Division makes every effort to be available to the public, to professional organizations, and to the individuals licensed or registered to practice in real estate-related industries. In fiscal year 2012, the Division sponsored several educational events. In addition, Division staff spoke at numerous meetings sponsored by industry groups.



The Division of Real Estate also launched a public service announcement campaign titled "Make Sure your Deal is Real" to remind consumers about risks and traps of buying or selling real estate without a licensed professional. The television spots ran on all local news broadcasts and on comcast cable shows centered around home improvement/lifestyle topics and encouraged consumers to contact the Division of Real Estate for assistance.







**Live Chat**

In November 2011, the Division started a new Live Chat service to better serve the public and our licensees. Live Chat allows anyone from the public to instantly connect with Division staff via a link on the Division’s website. The Division feels that by opening up new lines of communication, we are better able to meet the needs of those we serve.

**Statutory Changes**

Representative Gage Froerer sponsored the 2012 legislation requested by the Division.

**Highlights include the following:**

For APPRAISAL, MORTGAGE, and REAL ESTATE, the 10-day reporting requirement only applies to Felonies; and Misdemeanors related to theft and financial fraud.

**For REAL ESTATE:**

- ▶ Sales Agents will no longer be required to report personal bankruptcies to the Division within 10 days of filing.
- ▶ All licensing decisions based solely on criminal history will be made initially by the Division, appealable to the Commission.

**For MORTGAGE:**

- ▶ Processors who operate as independent contractors will be required to be licensed.
- ▶ The Division will report all violations to NMLS.
- ▶ Licensees will be required to report all closed loans in call reports, and licensed entities will be required to submit call reports to the NMLS quarterly.
- ▶ All licensing decisions based solely on criminal history will be made initially by the Division, appealable to the Commission.

**For APPRAISAL:**

- ▶ An appraiser may not appraise a property for which the appraiser has also acted under a real estate or mortgage license.
- ▶ The Division will no longer approve expert witnesses.
- ▶ Licensees and trainees will no longer be required to report personal bankruptcies to the Division within 10 days of filing.
- ▶ The Division or Board may issue a Cease and Desist Order, with a Division-issued order appealable to the Board.



**For APPRAISAL MANAGEMENT:**

- ▶ Subsidiaries owned and controlled by a federally-regulated financial institution will be exempted from Appraisal Management Registration requirements.
- ▶ Trigger for Appraisal Management Company registration will be modified so that a company must register if it:
  - Orders more than 10 Utah appraisals in a year; or
  - Maintains a panel of more than 15 Utah appraisers.
- ▶ An appraisal management company will be required to secure and maintain a surety bond with one or more corporate sureties authorized to do business in the state in the amount of at least \$25,000, as the Division provides by rule.

**For TIMESHARE**

- ▶ Rescission period will be changed from five calendar days to five business days.
- ▶ Dissemination of owner information will be restricted.





Education

The Division’s three education coordinators certify prelicensing courses, schools, and instructors in the real estate, mortgage, and appraisal industries. They also certify continuing education courses for real estate and appraisal professionals. The following tables give historical data as to the number of certifications issued by the Division, as well as the number of prelicensing examinations that have been administered:

Certifications Issued

FY	2009	2010	2011	2012
Educational Programs	53	31	51	36
Real Estate Pre-Licensing Instructors	129	47	44	40
Real Estate CE Courses	1,111	970	1,039	1,015
Real Estate CE Instructors	503	383	69	360
Mortgage Pre-Licensing Instructors	40	36	22	14
Mortgage CE Courses	503	371	32*	0*
Mortgage CE Instructors	159	122	67	7**
Appraisal CE Courses	—	412	491	491
Appraisal Instructors	94	07	54	49
Appraisal Pre-Licensing Instructors	—	—	24	28

*\*Under the licensing program that has been adopted across the country in order to comply with the federal S.A.F.E. Act, continuing education courses for mortgage professionals are now reviewed and approved at the national level by the Nationwide Mortgage Licensing System (NMLS).*

*\*\*Now requires NMLS approval. All Division-approved CE expired December 31, 2010.*

*\*\*\*Now requires NMLS Approval. All Division-issued CE instructor certifications expired December 31, 2010.*

Pre-licensing Examinations Administered

FY	2009	2010	2011	2012
Real Estate Agent Exams	1536	1865	1,114	795
Real Estate Broker Exams	304	275	233	124
Mortgage Originator Exams	1152	713	*	*
Mortgage PLM Exams	163	98	278	242
Appraiser Exams	189	202	186	44

*\* Exams are now scheduled and administered through NMLS.*

Licenser

The difficult real estate economy continues to impact the total number of licenses issued and renewed in the real estate, mortgage, and appraisal industries. The following tables show the number of licenses and registrations granted over the past six years in all industries regulated by the Division.

Total Number of Licenses/Registrations

FY	2007	2008	2009	2010	2011	2012
Real Estate	28,833	28,735	26,425	23,655	21,559	20,754
Mortgage	15,702	12,354	10,416	8,385	4,308	4,241
Appraiser	1,859	2,064	2,094	2,021	1,457	1,393
Appraisal Management Co. (AMCs)	—	—	—	88	133	143
Subdivision/ Timeshare	489	477	571	352	400	393
Total	46,883	43,630	39,506	34,501	27,857	26,924

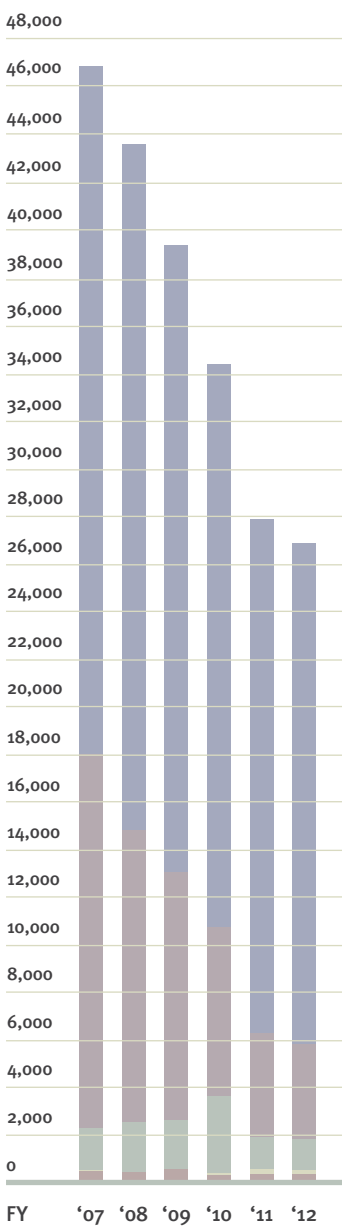
New Licenses/Registrations Issued

FY	2007	2008	2009	2010	2011	2012
Real Estate	5,697	3,591	2,209	2,050	1,362	1,401
Mortgage	3,649	2,032	1,028	1,113	853	665
Appraiser	481	531	307	347	196	236
Appraisal Management Companies (AMCs)	—	—	—	88	50	26
Timeshare	199	216	173	115	71	115
Total	10,026	6,370	3,717	3,713	2,532	2,443

Licenses/Registrations Renewed

FY	2007	2008	2009	2010	2011	2012
Real Estate	8,071	9,340	9,550	9,049	8,388	8,475
Mortgage	3,065	3,367	3,086	1,283	3,704	4,137
Appraiser	544	463	586	511	626	597
Timeshare	135	185	140	88	36	63
Total	11,815	13,355	13,362	10,931	12,754	13,272

Total Number of Utah Licenses/Registrations







Enforcement

The Division has worked hard to increase the efficiency and accuracy of all investigations. Division investigators have worked closely with prosecutors from the Attorney General’s office to screen and file criminal charges. Rather than handing over investigative files to prosecutors, investigators are working with prosecutors to file criminal charges. As a result, the Division of Real Estate filed criminal charges in two separate cases and continues to work with prosecutors to file criminal charges in other cases. The Division continues to pursue administrative actions as needed in these cases. The following tables provide data about the type and number of disciplinary sanctions obtained by the Division, either through stipulation or by disciplinary action in an administrative hearing. Through these actions, the Division ordered a total of \$347,170.00 in fines during fiscal year 2012

Enforcement Statistics

FY	2007	2008	2009	2010	2011	2012
Complaints Received						
Real Estate	559	675	440	539	645	436
Appraiser	89	142	145	146	129	129
Mortgage	345	401	278	319	493	154
Cases Opened						
Real Estate	289	215	189	127	254	491
Appraiser	47	85	118	93	101	123
Mortgage	71	104	53	93	170	212
Cases Closed						
Real Estate	329	220	153	170	172	412
Appraiser	26	106	12	937	124	122
Mortgage	91	136	71	98	128	275
Total Open Cases as of June 30, 2012						
Real Estate	179	175	112	69	142	208
Appraiser	121	100	91	91	68	55
Mortgage	99	68	49	44	85	18

FY 2012 Sanctions

	Appraisal	Mortgage	Real Estate	Total
Remedial Education	4	0	13	17
Fines	15	31	64	110
Probation	2	16	69	87
Suspension	5	6	17	28
Revocation/Surrender	3	4	4	11
Cease and Desist Orders	1	7	7	15
Criminal referrals	1	5	2	8



Questions specific to the Division of Real Estate may be directed to:

Jonathon Stewart, Director

(801) 530-6751  
[jstewart@utah.gov](mailto:jstewart@utah.gov)

Division of  
Securities



Mission Statement

The Division of Securities enhances Utah’s business climate by protecting Utah’s investors through education, enforcement, and fair regulation of Utah’s investment industry while fostering opportunities for capital formation.

*The Utah Division of Securities is working to update its rules to work smoothly with the new federal regulations and make the transition as easy as possible.*





Educating Utah on the “Red Flags” of Investment Fraud

The Division of Securities ran a state-wide public service announcement campaign to educate Utah’s investors on the “Red Flags” of potential investment scams. Too many unsuspecting investors are falling prey to bogus promises of outstanding returns with little or no risk attached. In most cases of investment fraud the subtle warning signs of a fraud are present from the beginning: pressure to invest immediately or lose out the chance of a lifetime; bogus or exaggerated credentials of the promoter; guarantees against loss; “secret” or “exclusive” investment opportunities.

Of particular concern are the continued cases of affinity fraud. Affinity fraud means marketing a fraudulent investment scheme to members of an identifiable group or organization. A recent national study of Ponzi schemes over the past decade found that one in four were marketed to affinity groups to increase the scheme’s credibility and build the fraud. The most commonly exploited groups are religious congregations, professional organizations, ethnic groups, and even family members. Investment decisions should always be made based on careful evaluation of the underlying merits rather than common affiliations with the promoter.

Licensing

The Division of Securities licenses and regulates those in the securities industry that sell securities, offer advice about securities, or manage the investments of others. These include: broker-dealers, securities agents, investment advisers, investment adviser representatives, issuer agents, and certified dealers and their agents.

The Division works closely with the U.S. Securities and Exchange Commission (SEC) and securities regulators from other states to streamline the licensing process and to ensure consistency.



Securities Licensing

FY	2007	2008	2009	2010	2011	2012
Broker – Dealers	1,815	1,819	1,775	1,641	1,621	1,590
Broker – Dealer Agents	97,506	103,174	100,677	88,947	96,660	99,499
Investment Advisers	176	148	183	156	142	145
Federal Covered Advisers	877	945	985	926	906	925
I.A. Representatives	3,711	4,445	4,189	3,577	3,881	4,156
Certified Broker – Dealers	20	21	15	10	12	16
Certified Investment Advisers	—	—	4	3	4	4
Certified Broker – Dealer Agents	97	72	63	73	74	82
Certified Investment Advisers:	—	—	—	—	—	4
Certified Investment Adviser Representatives:	—	—	—	—	—	25
Issuer Agents	117	109	102	85	87	84
Total	104,319	110,908	107,993	95,418	103,397	106,526

Corporate Finance/Securities Registration

Another key component of the Division’s efforts to promote legitimate capital markets is to register securities offerings that are qualified to be sold in this state and review the adequacy of disclosures to potential investors by companies offering certain types of securities. In addition, Division employees meet with companies seeking to raise capital to explain the many options for raising capital and to discuss how to improve the quality of disclosure to potential investors.

The chart below lists the number of registrations, exemption offerings, and other filings reviewed by the Corporate Finance Section of the Division.

Securities Filings

FY	2007	2008	2009	2010	2011	2012
Registrations						
Coordination	123	116	102	92	106	120
Qualification	1	0	0	1	0	1
Exemptions	40	50	27	31	53	48
Opinion / No Actions Letters	4	3	4	1	2	2
Mutual Funds	4,911	5,150	5,541	5,330	5,589	5,749
Rule 506	1,032	1,076	712	588	690	651
Total	6,111	6,395	6,386	6,043	6,440	6,571





Compliance and Enforcement

The Compliance Section of the Division of Securities conducts routine and “for cause” examinations pertaining to the operations of licensed broker-dealers, investment advisers, and their agents. If misconduct is found, the Division will work with the licensed individual or firm to bring them into compliance with the applicable laws or initiate disciplinary proceedings against the licensee depending upon the nature of the violation or misconduct.

The Division of Securities actively seeks to identify those investment offerings that are fraudulent or otherwise fail to comply with the law’s requirements. Enforcement is a key component in promoting legitimate capital markets by preventing the loss of investor monies to fraudulent schemes and promoting investor confidence in the integrity of the markets.

Compliance and Enforcement

FY	2007	2008	2009	2010*	2011	2012
<b>Activity</b>						
New Investigations/Audits						
Complaints Received	115	162	283	191	202	226
Audit Files Opened	23	34	41	34	45	62
Investigation Files Opened	77	149	66	40	83	58
<b>Administrative Cases</b>						
New Cases Filed	108	123	78	65	94	87
Stipulations & Consent Orders	—	—	—	34	34	35
Adjudicated Orders	—	—	—	4	8	0
<b>Criminal Cases</b>						
Criminal Charges Filed	24	34	31	16	34	18
Convictions	12	9	19	18	13	5
Pleas in Abeyance	4	3	2	6	7	3
<b>Fines &amp; Restitution</b>						
Fines Assessed	\$3,698,905	\$4,409,235	\$1,736,378	\$5,363,698	\$1,822,484	\$5,239,452
Fines Paid	\$690,066	\$210,090	\$56,460	\$2,676,796	\$1,176,116	\$550,223
Restitution Ordered	\$25,026,659	\$31,036,757	\$31,906,009	\$21,484,942	\$5,256,191	\$2,435,430

\*Disclaimer: In 2010, the Utah Division of Securities adopted a new database “progress” to track enforcement, licensing and statistics.



Investor Education

The Division’s mission includes a mandate to educate Utah investors regarding the securities laws and to help increase public awareness of the problem of investment fraud. The Division hosts educational events throughout the state and uses various media outlets to run public service announcements, all designed to help give Utah investors the tools they need to take control of their savings and investments and recognize and avoid investment fraud. The Division partners with several other government agencies and non-profit groups in the state who also work to increase the financial literacy of all Utahns.

FY	2010	2011	2012
Investor Education Presentations	47	44	55
Total Number of People Attending Investor Education Presentations	3,424	8,290	11,920

*The Division of Securities hosts educational events and uses various media outlets to run public service announcements, all designed to help give Utah investors the tools they need to take control of their savings and investments and recognize and avoid investment fraud.*



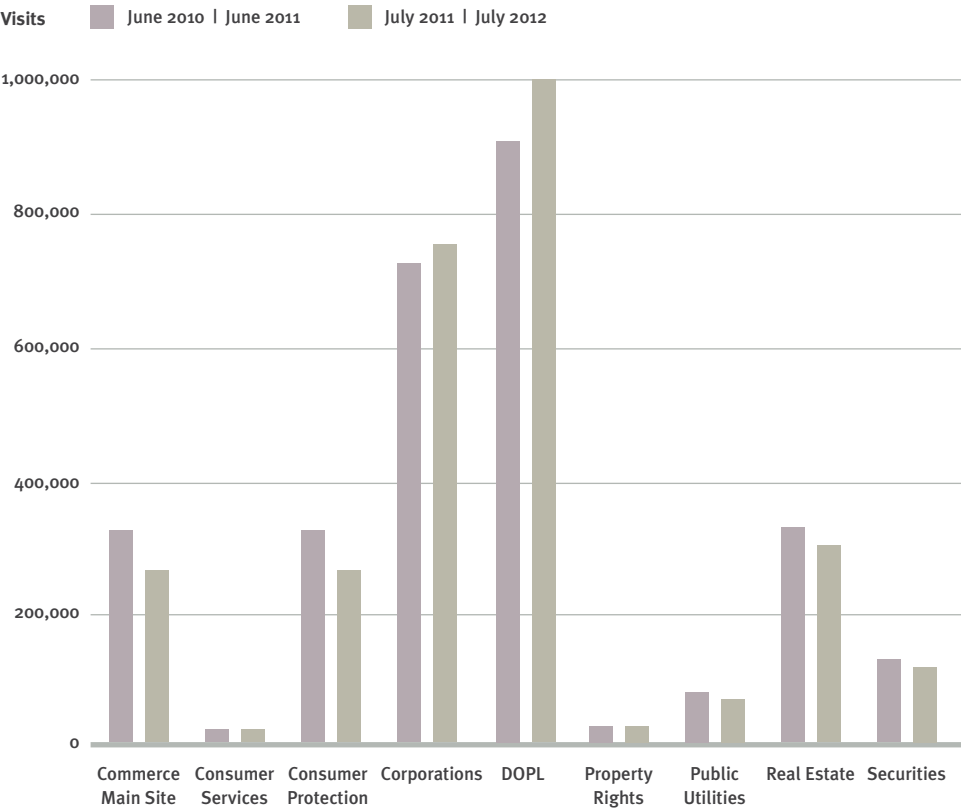
Questions specific to the Division of Securities may be directed to:

Keith Woodwell, Director  
(801) 530-6600  
[kwoodwell@utah.gov](mailto:kwoodwell@utah.gov)





Fiscal Year Web Trends across Divisions, Years 2011 | 2012



	Jul - Sep 2011    2012		Oct - Dec 2011    2012		Jan - Mar 2011    2012		Apr - Jun 2011    2012	
Commerce Main Site	87,371	68,203	82,275	63,194	79,957	65,903	71,434	63,519
Consumer Services	3,794	6,177	5,957	5,140	6,590	5,395	6,087	5,676
Consumer Protection	28,553	36,623	30,260	29,599	35,567	34,225	33,702	36,708
Corporations	159,461	178,168	168,656	171,440	210,639	203,654	184,896	199,347
DOPL	225,332	264,241	223,303	248,261	239,062	244,987	219,162	242,400
Property Rights	4,995	7,544	7,247	5,812	7,740	6,200	7,531	6,989
Public Utilities	17,827	18,023	20,748	16,118	20,904	15,787	18,664	17,890
Real Estate	75,209	75,110	85,697	69,241	85,696	78,162	78,431	76,846
Securities	32,244	30,478	32,746	26,783	32,300	28,973	29,465	30,022
Total	634,786	684,567	656,889	635,588	718,455	683,286	649,372	679,397

FY 2012 Expenditure Summary

Department of Commerce Expenditures | Fiscal Year 2012 | July 1, 2011 through June 30, 2012

Expenditures by Division	
Commerce Administration	\$3,948,612.64
Property Rights Ombudsman	\$464,834.48
Occupational & Professional Licensing	\$7,094,801.24
Securities	\$1,684,606.67
Consumer Protection	\$1,490,331.98
Corporations & Commercial Code	\$1,988,812.65
Real Estate	\$1,865,901.94
Public Utilities	\$3,126,290.14
Consumer Services	\$1,108,498.27
Building Operations & Maintenance	\$277,732.89
Total	\$23,050,422.90





**Utah Department of Commerce**

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