

BEARHFTI

Bureau of  
Electronic and  
Appliance Repair,  
Home Furnishings  
and Thermal  
Insulation



# SUNSET REVIEW

DECEMBER 2017

STATE OF CALIFORNIA  
**dca**  
DEPARTMENT OF CONSUMER AFFAIRS

 17-232

# **BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM As of December 1, 2017**

## **Section 1**

### **Background and Description of the Bureau and Regulated Profession**

**Provide a short explanation of the history and function of the Bureau. Describe the occupations/professions that are licensed and/or regulated by the Bureau (Practice Acts vs. Title Acts).**

The Department of Consumer Affairs (Department), Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's (BEARHFTI or Bureau) mission is to protect and serve California consumers while ensuring a fair and competitive marketplace. The Bureau provides consumer protection by enforcing the provisions of the Electronic and Appliance Repair Law (Business and Professions Code sections 9800 et seq.) and the Home Furnishings and Thermal Insulation Act (Business and Professions Code sections 19000 et seq.).

The Bureau was initially established as two distinct bureaus, most recently known as the Bureau of Home Furnishings and Thermal Insulation (HFTI) and the Bureau of Electronic and Appliance Repair (EAR). The bureaus officially merged in 2009 with the enactment of ABX4 20 (Strickland, Chapter 18, Statutes of 2009-10 Fourth Extraordinary Session) though the programs continue to operate under separate funds. Currently, BEARHFTI licenses and registers nearly 48,000 businesses across the globe from small single-person businesses to major corporations.

The HFTI program was originally established under the Bureau of Labor Statistics in 1911 in response to unscrupulous manufacturing in the mattress industry which contributed to the fires following the 1906 San Francisco earthquake. Mattress manufacturers were required to label their products to disclose the mattresses' concealed filling materials. These requirements extended to upholstered furniture manufacturers in 1927.

In 1935, HFTI (initially named the Bureau of Furniture and Bedding Inspection) was established under the Department of Professional and Vocational Standards, which later became the Department of Consumer Affairs. The HFTI's jurisdiction expanded to include retailers, wholesalers, and importers. This provided HFTI a mechanism to trace the origin of a product to remove products deemed dangerous from the marketplace. Today, BEARHFTI's jurisdiction includes supply dealers, custom upholsterers, thermal insulation manufacturers, and bedding sanitizers.

The HFTI program provides consumer protection by developing and enforcing minimum performance standards for upholstered furniture and insulation products. These requirements have been a part of HFTI's jurisdiction since 1970 and 1984, respectively. Products amenable to HFTI's jurisdiction are randomly secured and tested in BEARHFTI's laboratory to ensure compliance. In addition, Senate Bill (SB) 1019 (Leno, Chapter 862, Statutes of 2014) enacted a requirement for HFTI to coordinate with the Department of Toxic Substances Control for chemical analysis testing to ensure manufacturers properly label their products to disclose whether any components contain flame retardant chemicals.

The Bureau Chief is given authority, with the Director's approval, to exempt upholstered furniture products that are deemed to not pose a serious fire hazard from these requirements.

The EAR program (initially named the Bureau of Repair Services) was established in 1963 under the Department of Professional and Vocational Standards. This was in response to fraudulent and negligent practices taking place within the television repair industry that were jeopardizing the welfare of California consumers. The EAR's regulatory authority expanded to include the repair of major home appliances in 1973. Today, EAR's regulatory authority also includes microwave ovens, residential satellite equipment, audio and video playback equipment, video cameras, video games, copiers, computer systems (including smartphones, tablets and other web-enabled devices), auto stereo and alarm equipment, interlock ignition devices, and other items normally used or sold for personal, family, household or home office use.

Since its establishment, EAR has enforced statutes prohibiting service dealers from making any untrue or misleading statements or advertisements and from making any false promises that would likely influence the consumer to authorize a repair or service. Statutes enacted in 1986 require consumers to be provided with a written estimate, which is to be consented to prior to the performance of any repairs or services. In addition, whether any guarantee is provided on parts or labor is to be fully disclosed on invoices. The disclosure prevents service dealers from providing an oral agreement, which could later be refuted once the consumer returns to seek services under that agreement.

Service contracts over consumer electronic and home appliance products were added to EAR's regulatory authority in 1994 in response to companies selling or administering contracts without providing adequate financial backing or properly disclosing the terms and conditions as required in the California Song-Beverly Consumer Warranty Act (Song-Beverly). Since 2004, the products covered under service contracts have expanded to include furniture, jewelry, small kitchen appliances and tools, lawn and garden products, optical products, and many other items used in homes and for personal use.

On July 1, 2018, BEARHFTI will assume licensing and enforcement of the Household Movers Act per SB 19 (Hill, Chapter 421, Statutes of 2017). Household movers are currently licensed by the Public Utility Commission (PUC) under the Household Good Carriers Act, which SB 19 will rescind. In addition, this bill creates a Division of Household Movers within the Bureau, as well as a Household Movers Fund to be administered by the Bureau. More information regarding implementation is included in Section 11, New Issues.

**1. Describe the make-up and functions of each of the Bureau's committees (cf., Section 12, Attachment A).**

The Bureau's Consumer Advisory Council (Advisory Council) is a voluntary council dedicated to assisting BEARHFTI by providing perspective, information, and insight into the electronic and appliance repair, service contract, and the upholstered furniture, bedding, and thermal insulation markets in California. Members of the Advisory Council serve in an advisory capacity on policy matters making recommendations to the Bureau Chief. The purpose of the Council is to:

- Provide perspective and advice on consumer and market issues;
- Research and recommend creative solutions to consumer and industry problems;
- Advise the Bureau Chief on outreach efforts to consumers, the public, licensees, and the industry; and
- Provide information and comments to the Chief on a broad range of policy issues including consumer education, industry outreach, and regulatory compliance.

In October 2015, BEARHFTI expanded the Advisory Council’s membership from nine members to eleven (6 professional and 5 public). The Director of the Department appoints members who typically serve two-year terms. Meetings are held at least twice a year and a notice and agenda of each meeting is distributed and posted on the Bureau’s website at least 10 days prior to each meeting. A copy of the current member orientation and reference manual is included in Section 12, Attachment A.

<b>TABLE 1a: ATTENDANCE</b>			
<b>SHARRON BRADLEY</b>		<b>DATE APPOINTED: February 2006</b>	
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Council	03/03/2015	Sacramento	Yes
Advisory Council	07/30/2015	Sacramento	Yes
Advisory Council	10/29/2015	Sacramento	Yes
Advisory Council	02/10/2016	Riverside	Yes
Advisory Council	06/23/2016	Sacramento	Yes
Advisory Council	11/15/2016	Sacramento	Yes
Advisory Council	02/23/2017	Sacramento/Riverside	No
Advisory Council	07/20/2017	Sacramento	Yes
<b>DONALD ERWIN</b>		<b>DATE APPOINTED: October 2015</b>	
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Council	10/29/2015	Sacramento	Yes
Advisory Council	02/10/2016	Riverside	Yes
Advisory Council	06/23/2016	Sacramento	No
Advisory Council	11/15/2016	Sacramento	No
Advisory Council	02/23/2017	Sacramento/Riverside	No
Advisory Council	07/20/2017	Sacramento	Yes
<b>BURT GRIMES</b>		<b>DATE APPOINTED: October 2005</b>	
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Council	03/03/2015	Sacramento	Yes
Advisory Council	07/30/2015	Sacramento	Yes
Advisory Council	10/29/2015	Sacramento	Yes
Advisory Council	02/10/2016	Riverside	Yes
Advisory Council	06/23/2016	Sacramento	Yes
Advisory Council	11/15/2016	Sacramento	Yes
Advisory Council	02/23/2017	Sacramento/Riverside	Yes
Advisory Council	07/20/2017	Sacramento	Yes
<b>TIMOTHY HAWKINS</b>		<b>DATE APPOINTED: October 2008</b> <b>RESIGNED: November 2016</b>	
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Council	03/03/2015	Sacramento	Yes
Advisory Council	07/30/2015	Sacramento	Yes
Advisory Council	10/29/2015	Sacramento	Yes
Advisory Council	02/10/2016	Riverside	Yes
Advisory Council	06/23/2016	Sacramento	Yes

JUDY LEVIN		DATE APPOINTED: October 2015	
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Council	10/29/2015	Sacramento	Yes
Advisory Council	02/10/2016	Riverside	Yes
Advisory Council	06/23/2016	Sacramento	Yes
Advisory Council	11/15/2016	Sacramento	Yes
Advisory Council	02/23/2017	Sacramento/Riverside	Yes
Advisory Council	07/20/2017	Sacramento	Yes
DONALD LUCAS		DATE APPOINTED: October 2015	
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Council	10/29/2015	Sacramento	Yes
Advisory Council	02/10/2016	Riverside	Yes
Advisory Council	06/23/2016	Sacramento	Yes
Advisory Council	11/15/2016	Sacramento	Yes
Advisory Council	02/23/2017	Sacramento/Riverside	Yes
Advisory Council	07/20/2017	Sacramento	Yes
JOANNE MIKAMI		DATE APPOINTED: October 2013	
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Council	03/03/2015	Sacramento	Yes
Advisory Council	07/30/2015	Sacramento	Yes
Advisory Council	10/29/2015	Sacramento	Yes
Advisory Council	02/10/2016	Riverside	Yes
Advisory Council	06/23/2016	Sacramento	Yes
Advisory Council	11/15/2016	Sacramento	Yes
Advisory Council	02/23/2017	Sacramento/Riverside	Yes
Advisory Council	07/20/2017	Sacramento	No
LEONARD PRICE		DATE APPOINTED: October 2015	
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Council	10/29/2015	Sacramento	Yes
Advisory Council	02/10/2016	Riverside	Yes
Advisory Council	06/23/2016	Sacramento	Yes
Advisory Council	11/15/2016	Sacramento	Yes
Advisory Council	02/23/2017	Sacramento/Riverside	Yes
Advisory Council	07/20/2017	Sacramento	No
DAVID SPEARS		DATE APPOINTED: October 2013	
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Council	03/03/2015	Sacramento	Yes
Advisory Council	07/30/2015	Sacramento	Yes
Advisory Council	10/29/2015	Sacramento	Yes
Advisory Council	02/10/2016	Riverside	Yes
Advisory Council	06/23/2016	Sacramento	No
Advisory Council	11/15/2016	Sacramento	Yes
Advisory Council	02/23/2017	Sacramento/Riverside	Yes
Advisory Council	07/20/2017	Sacramento	No

DAVID VELAZQUEZ		DATE APPOINTED: October 2013	
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Council	03/03/2015	Sacramento	No
Advisory Council	07/30/2015	Sacramento	Yes
Advisory Council	10/29/2015	Sacramento	No
Advisory Council	02/10/2016	Riverside	Yes
Advisory Council	06/23/2016	Sacramento	Yes
Advisory Council	11/15/2016	Sacramento	Yes
Advisory Council	02/23/2017	Sacramento/Riverside	No
Advisory Council	07/20/2017	Sacramento	No
DAVID YARBROUGH		DATE APPOINTED: October 2015	
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Council	10/29/2015	Sacramento	Yes
Advisory Council	02/10/2016	Riverside	Yes
Advisory Council	06/23/2016	Sacramento	Yes
Advisory Council	11/15/2016	Sacramento	Yes
Advisory Council	02/23/2017	Sacramento/Riverside	No
Advisory Council	07/20/2017	Sacramento	No

**TABLE 1b. ADVISORY COUNCIL MEMBER ROSTER**

Member Name (Include Vacancies)	Date First Appointed	Date Re-Appointed	Date Term Expires	Appointing Authority	Type (Public or Professional)
Pascal Benyamini	10/2017	-	10/2019	DCA Director	Public
Sharon Bradley	02/2006	10/01/2017	10/2019	DCA Director	Professional
Burt Grimes	10/2005	10/01/2017	10/2019	DCA Director	Professional
Judy Levin	10/2015	10/01/2017	10/2019	DCA Director	Public
Michael Lipsett	10/2017	-	10/2019	DCA Director	Public
Donald Lucas	10/2015	10/01/2017	10/2019	DCA Director	Public
Antoinette Stein	10/2017	-	10/2019	DCA Director	Public
Stephen McDaniel	10/2017	-	10/2019	DCA Director	Professional
Brandon Wilson	10/2017	-	10/2019	DCA Director	Professional
David Yarbrough	10/2015	10/01/2017	10/2019	DCA Director	Public

**2. In the past four years, was the Bureau unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?**

The Bureau's Advisory Council is not mandated by statute and has no quorum requirements for meetings, therefore, no meetings were postponed for lack of a quorum.

**3. Describe any major changes to the Bureau since the last Sunset Review, including, but not limited to:**

- **Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning).**

**Reorganization**

In October 2015, a Staff Services Manager I (Enforcement Manager) position was reclassified to the Staff Services Manager II classification to serve as Deputy Chief to assist the Chief with the day-to-day operations while also continuing to provide direct supervision over the Enforcement Unit. This change provides continuity at the executive level.

In July 2016, an interagency agreement was entered with the Department, which transferred three Consumer Services Representative (CSR) positions from the Department's Complaint Resolution Program (CRP) to BEARHFTI. In July 2017, BEARHFTI's authorized positions were increased by adding one CSR position to HFTI's budget and two CSR positions to EAR's budget. The addition of the CSR's was a result of the Department's budget change proposal that discontinued its Complaint Resolution Program and officially transferred the positions to some of the affected programs. The reorganization provides BEARHFTI with in-house complaint service capabilities and reduces the pro rata costs paid to the Department.

The CSR positions have since been reclassified to the Staff Services Analyst classification and redirected to the BEARHFTI's Enforcement Unit to combine duties. The reclassification provides the most efficient method of absorbing the new positions and the increased resources will optimize the unit's capabilities and future performance. The Bureau's Enforcement Unit, which has been renamed the Compliance Unit, will be able to minimize any potential backlog, ensure an even distribution of assignments, and ensure a continuous workflow within the unit.

On September 28, 2017, Nicholas Oliver was appointed by the Governor as Bureau Chief and was sworn in on October 16, 2017.

**Strategic Planning**

The Bureau is in the process of finalizing its Strategic Plan for 2017-2021. The new Strategic Plan will be in place by January 2018.

Since the 2013 Sunset Review, BEARHFTI achieved the following major goals related to the 2013-2017 Strategic Plan:

- The Bureau held three Advisory Council meetings during 2015 and 2016 in an effort to keep the Council apprised of the BEARHFTI's activities and garner input.
- The Bureau implemented a new website in April 2016 with stakeholders' input. The new website removes duplicative and outdated information and allows for a more user-friendly experience.

- The Bureau implemented a fee increase for all home furnishings license categories in December 2016. The thermal insulation manufacturer's license fee was not affected.
- The Bureau implemented a fee increase for all EAR registration types in February 2017.
- The Bureau increased its outreach and communications with stakeholders by participating in public/community events, publishing articles to educate stakeholders on BEARHFTI's statutes and regulations, and using social media to disseminate various articles regarding consumer protections and rights. In 2016-2017 the Bureau participated in more than 20 community events for consumers and businesses, including:
  - Senior Scam Stopper
  - North Hollywood Fire Department Public Event
  - Meadowbrook Senior Living (with Assemblymember Richard Bloom)
  - California Women's Conference
  - Norwalk Business Resources Seminar
  - State Board of Equalization Small Business Events
  - Asian Heritage Day

**- All legislation sponsored by the Bureau and affecting the Bureau since the last sunset review.**

The Bureau does not sponsor legislation; however, legislation that has affected BEARHFTI since the last sunset review are as follows:

2014 Legislation

AB 1702 (Maienschein, Chapter 410, Statutes of 2014) prohibits licensing boards and bureaus within the Department from denying a license or delaying the processing of applications based solely on some or all of the licensure requirements having been completed while the applicant was incarcerated.

AB 1711 (Cooley, Chapter 779, Statutes of 2014) requires state agencies to include an economic impact assessment of any proposed regulation in its published initial statement of reasons document. The bill also requires the Department of Finance to include and update instructions on how to prepare the economic impact assessment in the State Administrative Manual.

AB 2396 (Bonta, Chapter 737, Statutes of 2014) prohibits a licensing authority under the Department from denying a license based solely on a prior conviction if the conviction has been dismissed pursuant to Penal Code expungement procedures.

AB 2740 (Bonilla, Chapter 428, Statutes of 2014) extended BEARHFTI's sunset review date to January 1, 2019, and required BEARHFTI to provide further review on its fiscal deficit, pro rata costs, frequency of license renewals, possible license consolidation, product failure rates, market conditions, labeling and furniture standards, and the scheduled implementation of BreZze by July 1, 2015. The Bureau's review and responses were provided to the Legislature in the supplemental report entitled, Response to Issues and Recommendations Pursuant to the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation 2014 Sunset Review. The report can be reviewed in Section 12, Attachment C.

SB 1019 (Leno, Chapter 862, Statutes of 2014) requires upholstered furniture manufacturers to disclose whether their products contain added flame retardant chemicals, maintain



documentation to substantiate that products do not contain added flame retardant chemicals, and provide those documents upon BEARHFTI's request.

SB 1159 (Lara, Chapter 752, Statutes of 2014) requires all programs within the Department to accept an individual taxpayer identification number from applicants in lieu of a social security number and explicitly directs the Department's licensing programs to issue licenses to individuals qualified for licensure, but not legally present in the United States.

SB 1226 (Correa, Chapter 657, Statutes of 2014) authorizes programs under the Department to expedite and assist the licensure process for individuals honorably discharged from the United States Armed Forces who return to California and seek professional and occupational licensure.

SB 1243 (Lieu, Chapter 395, Statutes of 2014) allows entities within the Department, including BEARHFTI, to disconnect the phone of unlicensed companies advertising regulated services. The previous version of the law limited the advertisement to printed directories, which did not reflect current industry advertising practices.

#### 2015 Legislation

AB 1175 (Ridley-Thomas, Chapter 187, Statutes of 2015) increases the fee cap for BEARHFTI licenses and registrations. The maximum fees were increased by approximately 25 percent.

SB 467 (Hill, Chapter 656, Statutes of 2015) requires the Attorney General to submit an annual report to the Department, Governor, and Legislature disclosing specified case aging data for Department referrals to the Attorney General. In addition, this bill requires the Department's Division of Investigation to work with the Department's programs, with the exception of the Medical Board, to implement complaint prioritization guidelines described in the Department's Consumer Protection Enforcement Initiative.

SB 560 (Monning, Chapter 389, Statutes of 2015) allows boards and bureaus within the Department to report specified licensee information to the Employment Development Department (EDD). In addition, this bill prohibits the Department and its programs from processing initial license applications that do not contain a Social Security Number, Individual Taxpayer Identification Number, or Employer Identification Number.

#### 2016 Legislation

AB 1887 (Low, Chapter 687, Statutes of 2016) prohibits state funded or sponsored travel to any state that passed a law on or after June 26, 2015, to repeal existing laws that protect against discrimination on the basis of sexual orientation, gender identity, or gender expression or has enacted a law that authorizes or requires discrimination against same-sex couples or their families.

AB 2859 (Low, Chapter 473, Statutes of 2016) allows all programs within the Department to establish, by regulation, a system to issue retired licenses, with specified limitations.

SB 66 (Leyva, Chapter 770, Statutes of 2016) authorizes the Department, in accordance with state and federal privacy laws, to provide specific licensure data to the Chancellor's Office of the California Community Colleges in order to measure employment outcomes of students who partake in a college's career technical education programs. Additionally, this bill requires the Chancellor of the California Community Colleges to align performance accountability measures with the federal Workforce Innovation and Opportunity Act.

SB 1046 (Hill, Chapter 783, Statutes of 2016) authorizes the Director to suspend, revoke, or place on probation the registration of a service dealer who installs, calibrates, services, maintains, or monitors ignition interlock devices if the installer does not comply with the specified income-based pricing model.

SB 1130 (Wieckowski, Chapter 38, Statutes of 2016) allows a County Counsel to take the same actions as the Director of the Department, the Attorney General, any City Attorney or any District Attorney when the failure of the advertiser to adequately substantiate a claim within a reasonable time occurs, or if the requesting official has reason to believe that the advertising claim is false or misleading.

#### 2017 Legislation

AB 208 (Eggman, Chapter 778, Statutes of 2017) revises the existing deferred entry of judgment program for controlled substance cases involving nonviolent defendants to a renamed pretrial diversion program. Under the revised pretrial diversion program, a qualified defendant would enter a “not guilty” plea and would begin to fulfill the requirements of the program. If the defendant does not meet the terms of the program, the court would be required to terminate the program and reinstate the criminal proceedings.

SB 19 (Hill, Chapter 421, Statutes of 2017) transfers administration of the household goods carrier’s licensing program from the Public Utilities Commission to the Bureau, and creates the Division of Household Movers within the Bureau effective July 1, 2018.

SB 547 (Hill, Chapter 429, Statutes of 2017) requires the Department to submit an annual report to the Legislature on the status of BreEZe Release 3 entities’ transitions to a new licensing technology platform.

- **All regulation changes approved by the Bureau since the last sunset review. Include the status of each regulatory change approved by the Bureau.**

#### Approved and Effective January 1, 2014

The California Code of Regulation (CCR), Title 4, Division 3, Sections 1126, 1373.2, 1374, and 1374.3 were amended to establish a new flammability standard and labeling requirements for upholstered furniture. The new standard, Technical Bulletin (TB) 117-2013, is a smolder resistant standard that supersedes TB 117, which had been in effect since 1975. The CCR, Title 4, Division 3, Sections 1370 and 1374.1 were repealed to remove obsolete and unnecessary label requirements. In addition, CCR, Title 4, Division 3, Section 1374.2 was amended to allow for articles manufactured in accordance with a written prescription and to exempt fifteen baby and infant products from having to meet the TB 117-2013 standard.

#### Approved and Effective October 1, 2015

The CCR, Title 16, Division 27, Sections 2744 and 2744.1 were adopted to establish standards for allowing service dealers to install, calibrate, maintain, monitor, or service ignition interlock devices.

#### Approved and Effective September 28, 2016

The CCR, Title 4, Division 3, Section 1107 was amended to implement a fee increase for the home furnishings license categories and to adopt the thermal insulation manufacturer’s license fee.

Approved and Effective January 1, 2017

The CCR, Title 16, Division 27, Section 2760 was amended to implement a fee increase for all service dealer and service contractor registration categories.

**4. Describe any major studies conducted by the Bureau (cf. Section 12, Attachment C).**

Market Condition Assessment - 2014

The Bureau contracted with CPS HR Consulting to perform a market condition assessment of the specific issues identified by the Legislature in AB 2740. CPS HR Consulting conducted an extensive review of BEARHFTI's existing statutes, regulations, testing procedures, and its budget and administrative practices. Interviews and/or surveys were conducted with BEARHFTI management, Advisory Council members, industry officials, and a representative sample of California consumers. The market condition assessment is included in the supplemental report, *Response to Issues and Recommendations Pursuant to the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation 2014 Sunset Review*, which can be reviewed in Section 12, Attachment C.

Service Contract Working Group (Working Group) - 2015

After BEARHFTI conducted the market assessment related to AB 2740, it determined further inquiry was necessary to evaluate the regulatory needs of the service contract industry to ensure improved consumer protection. In order to gain a solid perspective on the marketplace, BEARHFTI formed a Working Group consisting of members representing key industries (service contract administrators, manufacturers, retailers, servicers, and other affected participants), and the California Department of Insurance (CDI), to prepare a report to BEARHFTI that explores this issue in greater detail. The Working Group's full report, *Recommendations of the Service Contract Working Group October 2016*, can be reviewed in Section 12, Attachment C.

Barrier Research Study – Anticipated Completion Date 2018

The Bureau is conducting a study on fire barrier technologies to examine their open flame fire resistant properties, to monitor and evaluate cost effectiveness, and to determine their applicability in the open flame testing of upholstered furniture. In October 2014, BEARHFTI developed a draft standard named, "Open Flame Test Method for Barrier Materials," which is designed to assess the response of a barrier material test specimen to an open-flame ignition source. A workgroup was formed to assist with conducting the research on the fire barriers and provide inter-laboratory testing. The workgroup is comprised of a collective group of manufacturers, testing laboratories, material suppliers, and the fire science community.

During the second phase of the study, BEARHFTI obtained 25 different types of barrier materials and examined them under the proposed test method. The Bureau contracted with a laboratory to conduct flame retardant chemical analysis on the 25 barriers. Test results indicated that the barriers do not contain flame retardant chemicals according to the most recent list of chemicals of concern. During the third phase of the study, BEARHFTI contracted with outside sources to study the economic impact of implementing a barrier technology. The study will survey furniture and fire barrier manufacturers to determine whether the expected benefits of using the fire barriers exceed their expected costs.

**5. List the status of all national associations to which the Bureau belongs.**

- American Association of Laboratory Accreditation (A2LA) - Accredited member
- American Society for Testing and Materials (ASTM) - Organizational member

- International Association of Bedding and Furniture Law Officials (IABFLO) – Organizational member
- National Voluntary Laboratory Accreditation Program (NVLAP) - Accredited member

**- Does the Bureau’s membership include voting privileges?**

The Bureau currently has voting privileges with IABFLO and ASTM.

**- List committees, workshops, working groups, task forces, etc., on which the Bureau participates.**

The Bureau participates in the IABFLO Laboratory Committee for which three of the four committee members are BEARHFTI employees. The Committee meets whenever necessary to discuss terminology, testing of components, or other laboratory-related issues. The Bureau also participates in the ASTM C-16 Committee, which is the insulation standard committee.

**- How many meetings did Bureau representative(s) attend? When and where?**

The Bureau attended IABFLO’s last four annual meetings, which was most recently held in Newport, Rhode Island, April 25-28, 2017, via teleconference. Given many of the meetings hosted by these associations are out of state, the Bureau’s primary participation throughout the year is via email and telephone regarding product amenability, terminology, law label issues, regulation requirements, and other related topics.

**- If the Bureau is using a national exam, how is the Bureau involved in its development, scoring, analysis, and administration?**

The Bureau does not use a national exam nor does it have licensure examination requirements.

**Section 2  
Performance Measures and Customer Satisfaction Surveys**

**6. Provide each quarterly and annual performance measure report for the Bureau as published on the DCA website.**

Quarterly and annual performance measure reports can be reviewed in Section 12, Attachment E.

**7. Provide results for each question in the Bureau’s customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.**

The Bureau collects data from an online consumer satisfaction survey relating to the handling of consumer complaints. The data is typically collected on a quarterly basis. The data below reflects the average score per fiscal year. The data collected between FY 2014-2016 is reflective of when the CRP existed under the Department and is used for comparison purposes of when the CSR positions transitioned to BEARHFTI at the beginning of FY 2016-17. During FY 2014-2016, the structure of the survey allowed respondents to leave questions unanswered resulting in skewed data. The Bureau redesigned the survey to more efficiently capture the appropriate data beginning FY 2016-2017.

The Performance Measure Score indicates the majority of the consumers are satisfied with the overall handling of their complaint. The general summary of the consumers' responses are as follows:

- Most responses were positive in stating that the CSR staff were very helpful, timely, and that the consumer would not have been able to reach the same outcome without the assistance from staff.
- A few responses indicated that although the outcome was not in their favor, they were still satisfied with the way their complaint was handled by staff.
- Very few responses indicated that they were unsatisfied with their experience and that staff were not helpful in achieving the results they were hopeful for since their only alternative was small claims court.

<b>FY 2014-15 Consumer Complaint Performance Survey</b>			
<b>Performance Measure Score: 86%</b>			
<b>How did you contact the Bureau?</b>	<b>Number</b>	<b>% of Total</b>	
Website	0	0%	
Regular Mail	7	15%	
E-mail	13	28%	
Phone	26	57%	
In-person	0	0%	
Total	46		
<b>How satisfied were you with the format and navigation of our website?</b>	<b>Number</b>	<b>% of Total</b>	
Very Satisfied	4	67%	
Somewhat Satisfied	2	33%	
Neither Satisfied nor Dissatisfied	0	0%	
Somewhat dissatisfied	0	0%	
Very dissatisfied	0	0%	
Total	6		
<b>How satisfied were you with information pertaining to your complaint available on our website?</b>	<b>Number</b>	<b>% of Total</b>	
Very Satisfied	2	33%	
Somewhat Satisfied	3	50%	
Neither Satisfied nor Dissatisfied	1	17%	
Somewhat dissatisfied	0	0%	
Very dissatisfied	0	0%	
Total	6		
<b>How satisfied were you with the time it took to respond to your initial correspondence?</b>	<b>Number</b>	<b>% of Total</b>	
Very Satisfied	2	67%	
Somewhat Satisfied	0	0%	
Neither Satisfied nor Dissatisfied	1	33%	
Somewhat dissatisfied	0	0%	
Very dissatisfied	0	0%	
Total	3		

How satisfied were you with the time it took to speak to a representative of our Bureau?	Number	% of Total
Very Satisfied	0	0%
Somewhat Satisfied	1	50%
Neither Satisfied nor Dissatisfied	0	0%
Somewhat dissatisfied	0	0%
Very dissatisfied	1	50%
Total	2	
How satisfied were you with our representative's ability to address your complaint?	Number	% of Total
Very Satisfied	1	50%
Somewhat Satisfied	0	0%
Neither Satisfied nor Dissatisfied	0	0%
Somewhat dissatisfied	0	0%
Very dissatisfied	1	50%
Total	2	
How satisfied were you with the time it took to resolve your complaint?	Number	% of Total
Very Satisfied	87	71%
Somewhat Satisfied	9	7%
Neither Satisfied nor Dissatisfied	4	3%
Somewhat dissatisfied	5	4%
Very dissatisfied	17	14%
Total	122	
Overall, how satisfied were you with the way in which we handled your complaint?	Number	% of Total
Very Satisfied	85	69%
Somewhat Satisfied	7	6%
Neither Satisfied nor Dissatisfied	5	4%
Somewhat dissatisfied	3	2%
Very dissatisfied	23	19%
Total	123	
Would you contact us for a similar situation?	Number	% of Total
Definitely	89	72%
Probably	6	5%
Maybe	6	5%
Probably Not	7	7%
Absolutely Not	15	12%
Total	123	
Would you recommend us to a friend or family member experiencing a similar situation?	Number	% of Total
Definitely	92	73%
Probably	1	1%
Maybe	6	5%
Probably Not	7	6%
Absolutely Not	18	15%
Total	124	

**FY 2015-16 Consumer Complaint Performance Survey****Performance Measure Score: 95%**

How well did we explain the complaint process to you?	Number	% of Total
Very Poor	1	1%
Poor	3	2%
Good	26	15%
Very Good	143	83%
Total	173	

How clearly was the outcome of your complaint explained to you?	Number	% of Total
Very Poor	4	2%
Poor	5	3%
Good	22	13%
Very Good	144	82%
Total	175	

How well did we meet the timeframe provided to you?	Number	% of Total
Very Poor	7	4%
Poor	6	3%
Good	22	13%
Very Good	139	80%
Total	174	

How courteous and helpful was staff?	Number	% of Total
Very Poor	2	1%
Poor	0	0%
Good	12	7%
Very Good	161	92%
Total	176	

Overall, how well did we handle your complaint?	Number	% of Total
Very Poor	8	5%
Poor	8	5%
Good	15	9%
Very Good	137	82%
Total	168	

If we were unable to assist you, were alternatives provided to you?	Number	% of Total
Yes	37	79%
No	10	21%
Not Applicable	0	0%
Total	47	

Did you verify the provider's license prior to service?	Number	% of Total
Yes	34	25%
No	52	39%
Not Applicable	48	36%
Total	134	

**FY 2016-17 Consumer Complaint Performance Survey****Performance Measure Score: 93%**

How well did we explain the complaint process to you?	Number	% of Total
Very Poor	3	3%
Poor	3	3%
Good	12	12%
Very Good	85	83%
Total	103	

How clearly was the outcome of your complaint explained to you?	Number	% of Total
Very Poor	4	4%
Poor	1	1%
Good	13	13%
Very Good	85	83%
Total	103	

How well did we meet the timeframe provided to you?	Number	% of Total
Very Poor	3	3%
Poor	5	5%
Good	12	12%
Very Good	81	80%
Total	101	

How courteous and helpful was staff?	Number	% of Total
Very Poor	4	4%
Poor	3	3%
Good	4	4%
Very Good	92	89%
Total	103	

Overall, how well did we handle your complaint?	Number	% of Total
Very Poor	6	6%
Poor	3	3%
Good	11	11%
Very Good	82	80%
Total	102	

If we were unable to assist you, were alternatives provided to you?	Number	% of Total
Yes	17	71%
No	7	29%
Not Applicable	0	0%
Total	24	

Did you verify the provider's license prior to service?	Number	% of Total
Yes	22	23%
No	36	37%
Not Applicable	39	40%
Total	97	

In addition to the Bureau's consumer satisfaction surveys, the market condition assessment conducted by CPS HR Consulting includes performance data related to overall outreach and



communications to promote awareness of consumer protections and rights. Online surveys were conducted containing questions that required scaled responses and open-ended questions that required short-written responses.

The survey queried 650 California consumers and asked if they had any comments on areas for improvement for BEARHFTI's overall outreach and communications to promote awareness of protections and rights in California. The survey also requested consumer feedback that would contribute to BEARHFTI's mission and/or consumer protection. The general summary of the consumer's responses are as follows:

- Most responses are generally positive about BEARHFTI's role and consumer protections provided; relatively few responses were negative or dismissive of BEARHFTI's mission and roles.
- Many responders are not very informed about BEARHFTI's specific programs and services outside the limited scope of the consumer survey.
- Many responders believe there is a need for stronger and more varied outreach, visibility, communication, and publicizing of BEARHFTI programs and services using a wide variety of media.
- A moderate number of responders expressed the view that, in retrospect, they wished they had more knowledge of BEARHFTI when they experienced consumer issues or problems in the past.

The CPS HR Consulting's final report is included as Appendix A in the report, *Response to Issues and Recommendations Pursuant to the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's 2014 Sunset Review*, which is included in Section 12, Attachment C.

## Section 3 Fiscal and Staff

### Fiscal Issues

**8. Is the Bureau's fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.**

The Bureau's fund is not continuously appropriated. The Department prepares BEARHFTI's annual budget for inclusion in the Governor's proposed budget and BEARHFTI's appropriation is part of each year's Budget Act.

**9. Describe the Bureau's current reserve level, spending, and if a statutory reserve level exists.**

At the conclusion of FY 2016-17, the HFTI program's reserve level was approximately \$2.9 million (7.1 months) and the EAR program's reserve level was approximately \$2.8 million (12.4 months). The Bureau had significantly reduced spending, which contributed to the increased reserve levels compared to previous years. In addition, the recent fee increases implemented by both programs also contributed to the increased levels. The Business and Professions Code (BPC) Section 128.5 requires BEARHFTI to reduce fees when the reserve level reaches the equivalent of 24 months or more; however, there is not a statutory minimum reserve level that the Bureau must maintain.

**10. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the Bureau.**

The Bureau recently raised its HFTI fees in September 2016 (with the exception of the Thermal Insulation Manufacturer's fees) and its EAR fees in January 2017, but the current fee levels are still below the statutory ceilings. Since the implementation of the fee increases are still recent, the Bureau will continue to monitor the fund conditions to see if an increase or decrease is necessary.

**TABLE 2. FUND CONDITION - HFTI**

(Dollars in Thousands)	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	CY 2017/18*
Beginning Balance	\$2,271	\$1,847	\$3,287	\$2,606	\$2,876	\$2,908
Revenues and Transfers	\$3,879	\$5,890	\$4,103	\$4,711	\$4,769	\$5,250
<b>Total Revenue</b>	<b>\$6,150</b>	<b>\$7,737</b>	<b>\$7,390</b>	<b>\$7,317</b>	<b>\$7,645</b>	<b>\$8,158</b>
Budget Authority	\$4,648	\$4,858	\$5,024	\$5,014	\$4,866	\$4,828
Expenditures	\$4,340	\$4,454	\$4,855	\$4,433	\$4,355	\$4,543
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund	\$0	\$16	\$0	\$0	\$0	\$0
Loans Repaid from General Fund	\$0	\$1,500	\$0	\$0	\$0	\$0
<b>Fund Balance</b>	<b>\$1,781</b>	<b>\$3,261</b>	<b>\$2,530</b>	<b>\$2,876</b>	<b>\$2,908</b>	<b>\$3,232</b>
<b>Months in Reserve</b>	<b>4.8</b>	<b>8.1</b>	<b>6.8</b>	<b>7.3</b>	<b>7.1</b>	<b>7.9</b>

\* Projected

**TABLE 2. FUND CONDITION - EAR**

(Dollars in Thousands)	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	CY 2017/18*
Beginning Balance	\$1,935	\$2,182	\$2,378	\$2,056	\$2,435	\$2,775
Revenues and Transfers	\$2,373	\$2,564	\$2,199	\$2,554	\$2,736	\$2,990
<b>Total Revenue</b>	<b>\$4,308</b>	<b>\$4,746</b>	<b>\$4,577</b>	<b>\$4,610</b>	<b>\$5,171</b>	<b>\$5,765</b>
Budget Authority	\$2,412	\$2,677	\$2,841	\$2,875	\$2,945	\$2,613
Expenditures	\$2,141	\$2,370	\$2,541	\$2,170	\$2,165	\$2,463
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Loans Repaid from General Fund	\$0	\$0	\$0	\$0	\$0	\$0
<b>Fund Balance</b>	<b>\$2,151</b>	<b>\$2,365</b>	<b>\$2,033</b>	<b>\$2,435</b>	<b>\$2,775</b>	<b>\$3,071</b>
<b>Months in Reserve</b>	<b>10.8</b>	<b>11.2</b>	<b>11.2</b>	<b>12.2</b>	<b>12.4</b>	<b>13.4</b>

\* Projected

**11. Describe the history of general fund loans. When were the loans made? When have payments been made to the Bureau? Has interest been paid? What is the remaining balance?**

The Bureau provided a general fund loan in FY 2011-12, which was repaid in full in FY 2013-14. In addition, the Bureau received an interest payment of \$16,000 in FY 2013-14.

**12. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the Bureau in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.**

The Bureau does not incur expenditures related to examinations, education, or diversion since these components are not a requirement for licensure. The overall increase to the personnel service expenditure is related to the increase in employee salaries and benefits. The overall decrease in operating expenditure is related to the reduction in pro rata paid to the Department. The expenditures related to HFTI's personnel services increased in each program component since FY 2013-14. The breakdown of the expenditures with percentages by program component are as follows:

<b>TABLE 3. EXPENDITURES BY PROGRAM COMPONENTS – HFTI</b>													<b>(List dollars in thousands)</b>	
	FY 2013/14			FY 2014/15			FY 2015/16			FY 2016/17				
	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%		
Enforcement	\$731	\$517	28	\$792	\$541	27	\$805	\$444	28	\$856	\$380	28		
Examination														
Licensing	\$212	\$130	8	\$230	\$141	8	\$233	\$128	8	\$248	\$98	8		
Administration*	\$1,191	\$672	42	\$1,350	\$750	43	\$1,292	\$742	46	\$1,337	\$537	43		
Education														
DCA Pro Rata		\$1,000	22		\$1,052	22		\$789	18		\$899	21		
Diversion (if applicable)														
<b>TOTALS</b>	<b>\$2,134</b>	<b>\$2,319</b>		<b>\$2,372</b>	<b>\$2,484</b>		<b>\$2,330</b>	<b>\$2,103</b>		<b>\$2,441</b>	<b>\$1,914</b>			

\* Administration includes costs for executive staff, administrative and laboratory support, and fiscal services.

Expenditures related to EAR's personnel services increased in each program component, except Administration, which has remained the same, since FY 2013-14. The breakdown of the expenditures with percentages by program component are as follows:

<b>TABLE 3. EXPENDITURES BY PROGRAM COMPONENTS – EAR</b>													<b>(List dollars in thousands)</b>	
	FY 2013/14			FY 2014/15			FY 2015/16			FY 2016/17				
	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%		
Enforcement	\$534	\$351	36	\$539	\$279	31	\$582	\$197	35	\$519	\$198	33		
Examination														
Licensing	\$205	\$94	12	\$304	\$133	17	\$328	\$97	19	\$289	\$55	16		
Administration*	\$189	\$107	12	\$190	\$85	11	\$205	\$70	12	\$173	\$50	10		
Education														
DCA Pro Rata		\$954	39		\$1,073	41		\$753	34		\$880	41		
Diversion (if applicable)														
<b>TOTALS</b>	<b>\$928</b>	<b>\$1,506</b>		<b>\$1,033</b>	<b>\$1,570</b>		<b>\$1,115</b>	<b>\$1,117</b>		<b>\$981</b>	<b>\$1,183</b>			

\* Administration includes costs for executive staff, administrative and laboratory support, and fiscal services.

**13. Describe the amount the Bureau has contributed to the BreEZe program. What are the anticipated BreEZe costs the Bureau has received from DCA?**

The Bureau's contribution to the BreEZe program and anticipated costs are provided in the table below:

<b>BreEZe Costs</b>				
FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18*
\$147,434	\$75,378	\$72,778	\$179,692	\$147,000

\* Projected

**14. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the Bureau.**

Each registration type within the EAR program and the thermal insulation manufacturer's license type are required to renew on an annual basis. Each of the home furnishings license types are required to renew on a biennial basis. The renewal cycles are based on the issue date and expire on the last day of the corresponding month.

The HFTI's fee authority is cited under BPC sections 19170 and 19170.3. In 2015, the passage of AB 1175 (Ridley-Thomas, Chapter 187, Statutes of 2015) increased the statutory ceilings for all license and renewal fees under BPC section 19170. The fees were increased by approximately 25 percent, as follows:

BPC Section 19170 - License Type	Previous Maximum Fee	Current Maximum Fee
Importer's License	\$750	\$940
Importer's License Renewal	\$750	\$940
Furniture and Bedding Manufacturer's License	\$750	\$940
Furniture and Bedding Manufacturer's License Renewal	\$750	\$940
Wholesale Furniture and Bedding Dealer's License	\$540	\$675
Wholesale Furniture and Bedding Dealer's License Renewal	\$540	\$675
Supply Dealer's License	\$540	\$675
Supply Dealer's License Renewal	\$540	\$675
Custom Upholsterer's License	\$360	\$450
Custom Upholsterer's License Renewal	\$360	\$450
Sanitizer's License	\$360	\$450
Sanitizer's License Renewal	\$360	\$450
Retail Furniture and Bedding Dealer's License	\$240	\$300
Retail Furniture and Bedding Dealer's License Renewal	\$240	\$300
Retail Furniture Dealer's License	\$120	\$150
Retail Furniture Dealer's License Renewal	\$120	\$150
Retail Bedding Dealer's License	\$120	\$150
Retail Bedding Dealer's License Renewal	\$120	\$150

Business and Professions Code section 19170.3 was not affected by an increase to the maximum fee amounts. The current statutory fee ceiling for the thermal insulation manufacturer's license is as follows:

BPC Section 19170.3 - License Type	Current Maximum Fee
Thermal Insulation Manufacturer's License	\$2,500
Thermal Insulation Manufacturer's License Renewal	\$2,500

The HFTI's regulatory authority is cited under CCR, Title 4, Division 3, Section 1107. The importer and manufacturer license fees were last increased in regulation in 2002 while all other license types were last increased in 1994. The Bureau implemented a fee increase of approximately 15 percent in December 2016, affecting all license categories under Section 1107(a), as follows:

CCR Section 1107(a) - License Type	Previous Fee	Current Fee
Importer's License	\$650	\$750
Importer's License Renewal	\$650	\$750
Furniture and Bedding Manufacturer's License	\$650	\$750
Furniture and Bedding Manufacturer's License Renewal	\$650	\$750
Wholesale Furniture and Bedding Dealer's License	\$540	\$625
Wholesale Furniture and Bedding Dealer's License Renewal	\$540	\$625
Supply Dealer's License	\$540	\$625
Supply Dealer's License Renewal	\$540	\$625
Custom Upholsterer's License	\$360	\$420
Custom Upholsterer's License Renewal	\$360	\$420
Sanitizer's License	\$360	\$420
Sanitizer's License Renewal	\$360	\$420
Retail Furniture and Bedding Dealer's License	\$240	\$280
Retail Furniture and Bedding Dealer's License Renewal	\$240	\$280
Retail Furniture Dealer's License	\$120	\$140
Retail Furniture Dealer's License Renewal	\$120	\$140
Retail Bedding Dealer's License	\$120	\$140
Retail Bedding Dealer's License Renewal	\$120	\$140

The Bureau's regulatory authority for the thermal insulation manufacturer's license fee is found under CCR Title 4, Division 3, Section 1107(b). This section was not affected by a fee increase. The initial and renewal fees are as follows:

CCR Section 1107(b) - License Type	Current Fee
Thermal Insulation Manufacturer's License	\$2,000
Thermal Insulation Manufacturer's License Renewal	\$2,000

The EAR's fee authority is cited under BPC Section 9873. The statutory fee ceiling was increased by approximately 25 percent in 2015 with the passage of AB 1175, as follows:

Registration Type	Previous Maximum Fee	Current Maximum Fee
Electronic Service Dealer	\$165	\$205
Electronic Service Dealer Renewal	\$165	\$205
Appliance Service Dealer	\$165	\$205
Appliance Service Dealer Renewal	\$165	\$205
Combination Service Dealer	\$325	\$405
Combination Service Dealer Renewal	\$325	\$405
Service Contract Seller	\$75	\$95
Service Contract Seller Renewal	\$75	\$95
Service Contract Administrator	\$75	\$95
Service Contract Administrator Renewal	\$75	\$95

The EAR's regulatory authority is cited under CCR, Title 16, Division 27, Section 2760. The EAR registration fees have remained the same since 1998. A fee increase of an average of 19 percent was implemented in February 2017, as follows:

CCR Section 2760 - Registration Type	Previous Fee	Current Fee
Electronic Service Dealer	\$165	\$190
Electronic Service Dealer Renewal	\$165	\$190
Appliance Service Dealer	\$165	\$190
Appliance Service Dealer Renewal	\$165	\$190
Combination Service Dealer	\$325	\$375
Combination Service Dealer Renewal	\$300	\$375
Service Contract Seller	\$75	\$95
Service Contract Seller Renewal	\$75	\$95
Service Contract Administrator	\$75	\$95
Service Contract Administrator Renewal	\$75	\$95

The fee increases address BEARHFTI's structural imbalances and protect the funds from becoming insolvent. Originally, BEARHFTI's projections indicated the EAR program would experience a deficit of -1.6 months while the HFTI program would experience a deficit of -3.2 months after FY 2018-19. Since BEARHFTI implemented fee increases, projections show the Bureau remaining solvent for at least the next four fiscal years.

<b>TABLE 4. FEE SCHEDULE AND REVENUE - HFTI</b>								<b>(List revenue in thousands)</b>
Initial License Fees	Current Fee	Statutory Limit	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	FY 2016/17 Revenue	% of Total Revenue	
Retail Bedding Dealer	\$140	\$150	\$46	\$17	\$23	\$12	<1%	
Retail Furniture Dealer	\$140	\$150	\$13	\$20	\$16	\$57	1%	
Retail Furniture/ Bedding Dealer	\$280	\$300	\$242	\$284	\$122	\$247	5%	
Custom Upholsterer	\$420	\$450	\$10	\$10	\$18	\$11	<1%	
Sanitizer's License	\$420	\$450	\$1	\$1	\$1	\$1	<1%	
Supply Dealer's License	\$625	\$675	\$2	\$3	\$5	\$3	<1%	
Wholesale Furniture/Bedding Dealer	\$625	\$675	\$10	\$10	\$18	\$31	1%	
Furniture/Bedding Manufacturer	\$750	\$940	\$78	\$90	\$108	\$197	4%	
Importer's License	\$750	\$940	\$477	\$514	\$567	\$546	11%	
Thermal Insulation Manufacturer	\$2,000	\$2,500	\$14	\$14	\$6	\$14	<1%	

Renewal Fees	Current Fee	Statutory Limit	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	FY 2016/17 Revenue	% of Total Revenue
Retail Bedding Dealer	\$140	\$150	\$98	\$86	\$80	\$88	2%
Retail Furniture Dealer	\$140	\$150	\$83	\$162	\$109	\$176	4%
Retail Furniture/Bedding Dealer	\$280	\$300	\$1,378	\$914	\$1,584	\$1,089	23%
Custom Upholsterer	\$420	\$450	\$83	\$84	\$84	\$81	2%
Sanitizer	\$420	\$450	\$4	\$1	\$4	\$1	<1%
Supply Dealer	\$625	\$675	\$30	\$39	\$29	\$36	1%
Wholesale Furniture/Bedding Dealer	\$625	\$675	\$36	\$32	\$38	\$35	1%
Furniture/Bedding Manufacturer	\$750	\$940	\$428	\$387	\$427	\$416	9%
Importer Renewal	\$750	\$940	\$899	\$989	\$1,018	\$1,222	26%
Thermal Insulation Manufacturer	\$2,000	\$2,500	\$238	\$226	\$232	\$212	4%
Delinquency Fees	Current Fee	Statutory Limit	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	FY 2016/17 Revenue	% of Total Revenue
Retail Bedding Dealer	\$28	\$28	\$5	\$1	\$3	\$1	<1%
Retail Furniture Dealer	\$28	\$28	\$2	\$10	\$1	\$1	<1%
Retail Furniture/Bedding Dealer	\$56	\$56	\$12	\$13	\$13	\$18	<1%
Custom Upholsterer	\$84	\$84	\$3	\$4	\$4	\$3	<1%
Sanitizer	\$84	\$84	\$1	\$1	\$1	\$1	<1%
Supply Dealer	\$100	\$100	\$1	\$3	\$1	\$1	<1%
Wholesale Furniture/Bedding Dealer	\$100	\$100	\$1	\$1	\$1	\$1	<1%
Furniture/Bedding Manufacturer	\$100	\$100	\$10	\$7	\$11	\$9	<1%
Importer	\$100	\$100	\$35	\$35	\$35	\$33	6%
Thermal Insulation Manufacturer	\$100	\$100	\$1	\$2	\$2	\$2	0%
Penalty Fees	Current Fee	Statutory Limit	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	FY 2016/17 Revenue	% of Total Revenue
Thermal Insulation Manufacturer	\$600	\$750	\$1	\$1	\$1	\$2	0%
30% Penalty Fee	N/A	N/A	\$39	\$42	\$43	\$36	1%

**TABLE 4. FEE SCHEDULE AND REVENUE - EAR**

(List revenue in thousands)

Initial Registration Fees	Current Fee	Statutory Limit	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	FY 2016/17 Revenue	% of Total Revenue
Service Contract Seller	\$95	\$95	\$125	\$146	\$166	\$148	5%
Service Contract Administrator	\$95	\$95	\$16	\$1	\$1	\$1	<1%
Electronic Service Dealer	\$190	\$205	\$154	\$132	\$129	\$136	5%
Appliance Service Dealer	\$190	\$205	\$41	\$52	\$57	\$51	2%
Combination Electronic/Appliance Service Dealer	\$375	\$405	\$10	\$4	\$38	\$18	1%
Renewal Fees	Current Fee	Statutory Limit	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	FY 2016/17 Revenue	% of Total Revenue
Service Contract Seller	\$95	\$95	\$771	\$503	\$729	\$869	32%
Service Contract Administrator	\$95	\$95	\$3	\$22	\$3	\$4	<1%
Electronic Service Dealer	\$190	\$205	\$823	\$729	\$738	\$771	28%
Appliance Service Dealer	\$190	\$205	\$381	\$375	\$397	\$415	15%
Combination Electronic/Appliance Service Dealer	\$375	\$405	\$150	\$145	\$142	\$172	6%
Delinquency Fees	Current Fee	Statutory Limit	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	FY 2016/17 Revenue	% of Total Revenue
Service Contract Seller	\$47.50	\$47.50	\$4	\$5	\$12	\$3	<1%
Service Contract Administrator	\$47.50	\$47.50	\$1	\$1	\$1	\$1	<1%
Electronic Service Dealer	\$95	\$95	\$49	\$47	\$58	\$57	2%
Appliance Service Dealer	\$95	\$95	\$26	\$23	\$30	\$28	1%
Combination Electronic/Appliance Service Dealer	\$150	\$150	\$3	\$2	\$1	\$1	<1%

**15. Describe Budget Change Proposals (BCPs) submitted by the Bureau in the past four fiscal years.**

During FY 2014-15, BEARHFTI submitted a budget change proposal related to AB 480 (Calderon, Chapter 421, Statutes of 2013). This bill expands the EAR's jurisdiction to include service contracts for optical products. The Bureau anticipated additional workload to include service contract review, financial review, license processing, complaint handling, investigations, and identification and compliance efforts for unlicensed activity, in addition to industry and consumer education.

<b>TABLE 5. BUDGET CHANGE PROPOSALS</b>								<b>(List in thousands)</b>	
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E		
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Requested	\$ Approved	\$ Requested	\$ Approved	
x	2014-15	AB 480	1.0 SSA 0.5 PTII	1.0 SSA 0.5 PTII	\$97	\$97	\$5	\$5	
	2015-16	AB 480	1.0 SSA 0.8 PTII 0.5 Field Rep	1.0 SSA 0.8 PTII 0.5 Field Rep	\$157	\$157	\$11	\$11	
	2016-17	AB 480	1.0 SSA 1.0 PTII 1.0 Field Rep	1.0 SSA 1.0 PTII 1.0 Field Rep	\$212	\$212	\$11	\$11	

**Staffing Issues**

**16. Describe any Bureau staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.**

Since the last sunset review and in response to BEARHFTI's lingering fund insolvency, BEARHFTI has been able to redirect resources and maintain a certain salary savings without affecting operations or consumer protection. However, the overall vacancy rate has now risen to 15 percent compared to nine percent in FY 2013-14 primarily due to field staff transferring to other positions and the retirement of senior field staff.

Recruitment for these positions is difficult as they are specialized and require candidates to meet minimal educational or experience requirements related to BEARHFTI's specific industries. Even with administering a continuous examination to broaden its candidate pool for the Field Representative and Inspector classifications, BEARHFTI has seen minimal interest from qualified applicants. Adding to this challenge is finding a viable candidate within the specific region/territory throughout California in which they are needed. The Bureau is actively pursuing recruitment for these vacancies and receives assistance from the Department to find potential alternative solutions that would assist with broadening the candidate pool. As an example, the Bureau will implement a 24-month pilot program to use an alternate classification to provide a wider range of eligible candidates, centralize core functions and allow for cross over between the EAR and HFTI programs, rather than limiting the duties to one program or the other.

As part of the Bureau's succession plan, staff are routinely cross trained within units to ensure continuity of work performance. Training on the Bureau's mission critical functions is provided between units and managerial staff rotate positions to share job knowledge and to ensure



continuity of essential internal operations. Managerial staff also participate in cross training and staff development staff to ensure the continuance of essential internal operations.

**17. Describe the Bureau's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment D).**

The Department's SOLID training unit offers several classes and webinars for which BEARHFTI encourages staff of all classifications to participate. The classes assist staff with the development of specific skills such as their interpersonal, computer, business writing, and analytical thinking skills. Other courses support staff during their development and transition to the managerial level such as Learn to Lead, Are you Ready to Lead, and Leadership Fundamentals. Many courses are also offered to support the development with the field and enforcement staff such as Field Safety and Professionalism, Investigative Techniques, and Probation Monitoring. This coursework is included as part of the Bureau's pro rata payment to the Department and does not impose any additional cost to the Bureau.

The Bureau provides staff development via unit training and cross-training from experienced peers and management, assignment and participation in special projects to develop expertise in unit and general Bureau activities, regular staff meetings where issues and questions are discussed and resolved, participation in procedure development and revision, and availability of management mentors (two of the Bureau managers are participating in the Department's Employee Career Empowerment and Mentorship Pilot Program and are available as mentors to staff on a variety of topics).

## Section 4 Licensing Program

**18. What are the Bureau's performance targets/expectations for its licensing<sup>1</sup> program? Is the Bureau meeting those expectations? If not, what is the Bureau doing to improve performance?**

The Bureau consistently meets its performance target to have all applications processed within 30 days of receipt. The average monthly processing times to issue a license or registration has ranged between five and 16 days during the last fiscal year.

Although BEARHFTI is well within its licensing performance goals, the efficacy of its licensing processes is continually monitored to identify areas that can be improved upon and to ensure a backlog does not occur. For example, the Bureau originally implemented an online credit card renewal program for certain license and registration types. Due to the program's success, BEARHFTI expanded the online renewal program to include all license types in September 2016.

**19. Describe any increase or decrease in the Bureau's average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the Bureau to address them? What are the performance barriers and what improvement plans are in place? What has the Bureau done and what is the Bureau going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?**

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<sup>1</sup> The term "license" in this document includes a license certificate or registration.

The Bureau does not currently administer any exams. The Bureau has consistently met performance targets for application processing times. The Bureau frequently receives a large volume of applications to license chain store retailers that offer service contracts, as well as furniture and bedding retailers. To avoid a backlog of pending applications, the Bureau adjusts workload distribution to ensure timely processing.

The Bureau routinely monitors application processing times and the total number of active licensees to identify shifting trends and areas of potential process improvement. Currently, no process deficiencies are being explored; however, the system will continue to be monitored.

**20. How many licenses or registrations does the Bureau issue each year? How many renewals does the Bureau issue each year?**

The Bureau issues an average 6,082 total initial registrations and licenses each year and averages 25,164 renewals. Detailed information about the licensee population is provided in Table 6.

<b>TABLE 6. LICENSEE POPULATION</b>					
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Appliance Service Dealer	Active	2430	2466	2629	2595
	Out-of-State	5	9	7	6
	Out-of-Country	0	0	0	0
	Delinquent	261	294	226	321
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Combination Service Dealer	Active	501	483	634	586
	Out-of-State	6	5	9	7
	Out-of-Country	0	0	0	0
	Delinquent	9	12	6	3
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Electronic Service Dealer	Active	5641	4989	5102	5005
	Out-of-State	24	28	26	30
	Out-of-Country	1	2	0	2
	Delinquent	582	605	529	722
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Service Contract Administrator	Active	47	43	43	48
	Out-of-State	44	41	40	45
	Out-of-Country	0	0	0	0
	Delinquent	1	1	1	0
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Service Contract Seller	Active	9504	10221	11215	12105
	Out-of-State	290	299	456	687
	Out-of-Country	7	9	9	181
	Delinquent	156	129	110	143

		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Bedding Retailer	Active	1868	1708	1592	1960
	Out-of-State	12	12	16	18
	Out-of-Country	0	1	1	0
	Delinquent	151	162	137	161
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Custom Upholsterer	Active	496	491	497	495
	Out-of-State	3	3	3	4
	Out-of-Country	0	0	0	0
	Delinquent	94	86	91	92
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Furniture/Bed ding Retailer	Active	11553	11738	11715	11879
	Out-of-State	23	30	53	53
	Out-of-Country	0	1	1	1
	Delinquent	555	627	527	557
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Furniture Retailer	Active	2265	2245	2315	2055
	Out-of-State	6	8	15	15
	Out-of-Country	0	0	0	0
	Delinquent	121	128	124	132
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Importer	Active	4008	4274	4695	5006
	Out-of-State	496	541	577	606
	Out-of-Country	3031	3234	3589	3853
	Delinquent	2228	2386	1246	1697
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Furniture/ Bedding Manufacturer	Active	1435	1441	1481	1540
	Out-of-State	669	677	714	782
	Out-of-Country	2	8	9	11
	Delinquent	324	336	338	372
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Sanitizer	Active	20	17	13	12
	Out-of-State	1	2	2	1
	Out-of-Country	0	0	0	0
	Delinquent	2	2	2	4
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Supply Dealer	Active	130	132	136	122
	Out-of-State	22	22	21	19
	Out-of-Country	9	9	8	8
	Delinquent	21	19	16	21

		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Thermal Insulation Manufacturer	Active	123	120	115	111
	Out-of-State	86	84	78	77
	Out-of-Country	11	10	10	8
	Delinquent	5	7	12	17
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Wholesaler	Active	162	150	170	198
	Out-of-State	26	27	27	36
	Out-of-Country	1	1	2	2
	Delinquent	61	62	54	50

**TABLE 7a. LICENSING DATA BY TYPE**

Appliance Service Dealer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	316	**	**	306	0	*	*	*	*	15
	(Renewal)	**	**	**	147	*	*	*	*	*	7
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	353	**	**	364	0	*	*	*	*	13
	(Renewal)	**	**	**	255	*	*	*	*	*	6
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	277	**	**	272	7	*	*	*	*	15
	(Renewal)	**	**	**	2233	*	*	*	*	*	7
Combination Service Dealer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	13	**	**	10	0	*	*	*	*	9
	(Renewal)	**	**	**	11	*	*	*	*	*	9
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	113	**	**	168	1	*	*	*	*	3
	(Renewal)	**	**	**	33	*	*	*	*	*	12
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	7	**	**	24	0	*	*	*	*	5
	(Renewal)	**	**	**	562	*	*	*	*	*	13
Electronic Service Dealer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	825	**	**	824	0	*	*	*	*	26
	(Renewal)	**	**	**	454	*	*	*	*	*	9

FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	800	**	**	823	1	*	*	*	*	15
	(Renewal)	**	**	**	638	*	*	*	*	*	7
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	700	**	**	715	25	*	*	*	*	13
	(Renewal)	**	**	**	4059	*	*	*	*	*	8
Service Contract Administrator		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	0	**	**	1	0	*	*	*	*	0
	(Renewal)	**	**	**	3	*	*	*	*	*	5
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	0	**	**	3	0	*	*	*	*	0
	(Renewal)	**	**	**	3	*	*	*	*	*	11
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	0	**	**	5	0	*	*	*	*	0
	(Renewal)	**	**	**	41	*	*	*	*	*	5
Service Contract Seller		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	355	**	**	2050	0	*	*	*	*	2
	(Renewal)	**	**	**	656	*	*	*	*	*	13
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	403	**	**	2636	0	*	*	*	*	2
	(Renewal)	**	**	**	1346	*	*	*	*	*	11
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	696	**	**	1842	34	*	*	*	*	5
	(Renewal)	**	**	**	8841	*	*	*	*	*	14
Bedding Retailer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	129	**	**	107	0	*	*	*	*	12
	(Renewal)	**	**	**	192	*	*	*	*	*	12
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	130	**	**	180	1	*	*	*	*	8
	(Renewal)	**	**	**	632	*	*	*	*	*	11
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	110	**	**	101	4	*	*	*	*	10
	(Renewal)	**	**	**	651	*	*	*	*	*	8

Custom Upholsterer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	29	**	**	27	0	*	*	*	*	15
	(Renewal)	**	**	**	38	*	*	*	*	*	9
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	51	**	**	47	0	*	*	*	*	13
	(Renewal)	**	**	**	201	*	*	*	*	*	6
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	32	**	**	31	2	*	*	*	*	22
	(Renewal)	**	**	**	205	*	*	*	*	*	7
Furniture and Bedding Retailer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	612	**	**	693	1	*	*	*	*	10
	(Renewal)	**	**	**	718	*	*	*	*	*	13
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	537	**	**	793	1	*	*	*	*	7
	(Renewal)	**	**	**	6139	*	*	*	*	*	12
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	524	**	**	540	22	*	*	*	*	9
	(Renewal)	**	**	**	4264	*	*	*	*	*	10
Furniture Retailer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	121	**	**	117	0	*	*	*	*	15
	(Renewal)	**	**	**	107	*	*	*	*	*	10
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	114	**	**	142	0	*	*	*	*	9
	(Renewal)	**	**	**	627	*	*	*	*	*	12
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	69	**	**	470	3	*	*	*	*	15
	(Renewal)	**	**	**	1439	*	*	*	*	*	11
Importer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	801	**	**	792	1	*	*	*	*	10
	(Renewal)	**	**	**	298	*	*	*	*	*	9
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	901	**	**	881	0	*	*	*	*	9
	(Renewal)	**	**	**	1412	*	*	*	*	*	7

FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	814	**	**	856	21	*	*	*	*	10
	(Renewal)	**	**	**	1737	*	*	*	*	*	7
Furniture and Bedding Manufacturer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	147	**	**	136	0	*	*	*	*	12
	(Renewal)	**	**	**	116	*	*	*	*	*	8
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	163	**	**	157	2	*	*	*	*	8
	(Renewal)	**	**	**	574	*	*	*	*	*	6
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	291	**	**	190	9	*	*	*	*	9
	(Renewal)	**	**	**	586	*	*	*	*	*	7
Sanitizer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	5	**	**	2	0	*	*	*	*	8
	(Renewal)	**	**	**	4	*	*	*	*	*	8
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	2	**	**	5	0	*	*	*	*	0
	(Renewal)	**	**	**	5	*	*	*	*	*	6
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	7	**	**	2	0	*	*	*	*	17
	(Renewal)	**	**	**	1	*	*	*	*	*	11
Supply Dealer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	6	**	**	6	0	*	*	*	*	12
	(Renewal)	**	**	**	16	*	*	*	*	*	11
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	10	**	**	9	0	*	*	*	*	13
	(Renewal)	**	**	**	51	*	*	*	*	*	6
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	5	**	**	4	0	*	*	*	*	13
	(Renewal)	**	**	**	58	*	*	*	*	*	8
Thermal Insulation Manufacturer		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	7	**	**	6	0	*	*	*	*	4
	(Renewal)	**	**	**	5	*	*	*	*	*	12

FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	3	**	**	1	2	*	*	*	*	0
	(Renewal)	**	**	**	12	*	*	*	*	*	13
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	8	**	**	7	0	*	*	*	*	0
	(Renewal)	**	**	**	100	*	*	*	*	*	13
Wholesaler		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
FY 2014/15	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	19	**	**	14	0	*	*	*	*	204
	(Renewal)	**	**	**	10	*	*	*	*	*	6
FY 2015/16	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	40	**	**	30	1	*	*	*	*	11
	(Renewal)	**	**	**	64	*	*	*	*	*	8
FY 2016/17	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	55	**	**	47	3	*	*	*	*	12
	(Renewal)	**	**	**	58	*	*	*	*	*	7

\* Not tracked by BEARHFTI – the Department only utilized the Licensing Job Creation reports from September 2010 to August 2011, which captured the license applications closed. In addition the ATS system does not provide a way for BEARHFTI's license type to capture the pending applications by inside or outside of BEARHFTI control – the Total (Close of FY) was taken from the June 30th application statistical report in ATS.

\*\* The Bureau does not have a mechanism to count the renewals received. The only time a renewal would not be processed is if there were a citation hold in place or the candidate was ineligible for renewal (family support, etc.). In all circumstances, it is a very small population.

## TABLE 7b. TOTAL LICENSING DATA

	FY 2014/15	FY 2015/16	FY 2016/17
<b>Initial Licensing Data:</b>			
Initial License/Initial Exam Applications Received	3,385	3,584	3,595
Initial License/Initial Exam Applications Approved	*	*	*
Initial License/Initial Exam Applications Closed	*	*	*
License Issued	5,084	6,236	5,094**
<b>Initial License/Initial Exam Pending Application Data:</b>			
Pending Applications (total at close of FY)	2	9	130
Pending Applications (outside of Bureau control)*	*	*	*
Pending Applications (within the Bureau's control)*	*	*	*
<b>Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):</b>			
Average Days to Application Approval (All - Complete/Incomplete) – EAR	9	6	8
Average Days to Application Approval (All - Complete/Incomplete) – HFTI	12	8	10
Average Days to Application Approval (incomplete applications)*	*	*	*
Average Days to Application Approval (complete applications)*	*	*	*
<b>License Renewal Data:</b>			
Licenses Renewed	22,572	26,111	24,504

\* Optional. List if tracked by the BEARHFTI.

\*\* The Bureau licenses chain locations for retail stores for several of its license types. The Bureau receives one application for multiple locations, with an associated list of stores, but the system only counts one application.



**21. How does the Bureau verify information provided by the applicant?**

**a. What process does the Bureau use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?**

All applications for licensure include a section pertaining to the past criminal history of the applicants. The applicants must sign the application attesting, under penalty of perjury, that the information contained in the application is true and accurate. If the applicant indicates a past criminal history, further documentation will be requested. This information will be used to obtain court records to determine if the criminal activity is substantially related to the functions of the license. The Bureau will also search internal records for any criminal or administrative cases, citations, consumer complaints, or other actions that have previously been related to the applicant. Prior to approval of the application for processing, BEARHFTI staff will directly contact an applicant by phone or in person to afford the applicant the opportunity to offer any further information for consideration.

**b. Does the Bureau fingerprint all applicants?**

No, BEARHFTI does not have the statutory authority to require fingerprints.

However, beginning July 1, 2018, the Bureau will have a newly established Division of Household Movers pursuant to SB 19 (Hill, Chapter 421, Statutes of 2017). As part of this new regulatory authority, the Bureau will have the authority to require fingerprints for any new licensees within the Household Mover regulatory structure.

**c. Have all current licensees been fingerprinted? If not, explain.**

As stated above, BEARHFTI does not currently have the statutory authority to require applicants to provide fingerprints.

**d. Is there a national databank relating to disciplinary actions? Does the Bureau check the national databank prior to issuing a license? Renewing a license?**

There is no national databank relating to disciplinary actions brought against industries under the purview of the BEARHFTI, including those that will be part of the Division of Household Movers.

**e. Does the Bureau require primary source documentation?**

The only primary source document that is required for licensure is the application with original signature.

**22. Describe the Bureau's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.**

The process for an out-of-state or out-of-country applicant is the same as the process for applicants from within the state; no special requirements are required for out-of-state or out-of-country applicants. In addition, there is no requirement for any evidence of education or experience required for licensure and the location of the applicant does not hinder their ability to obtain and maintain licensure.

**23. Describe the Bureau's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.**

**a. Does the Bureau identify or track applicants who are veterans? If not, when does the Bureau expect to be compliant with BPC § 114.5?**

All applications include a question to identify applicants who are veterans. The Bureau is unable to track applicants who are veterans since licenses are issued to the business and not the applicant.

**b. How many applicants offered military education, training or experience towards meeting licensing or credentialing requirements, and how many applicants had such education, training or experience accepted by the Bureau?**

No proof of formal training or experience is required for licensure by any applicant for any license type issued by BEARHFTI.

**c. What regulatory changes has the Bureau made to bring it into conformance with BPC § 35?**

No formal training or experience is required. No regulatory changes were required to conform with BPC section 35.

**d. How many licensees has the Bureau waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on Bureau revenues?**

A waiver of fees pursuant to BPC section 114.3 has been requested one time and was granted. The impact on BEARHFTI is minor and absorbable.

**e. How many applications has the Bureau expedited pursuant to BPC § 115.5?**

There have been no applications that required an expedited processing pursuant to BPC section 115.5.

**24. Does the Bureau send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.**

The Bureau currently does not have statutory authority to fingerprint applicants. Consequently, BEARHFTI does not send No Longer Interested notifications to DOJ. However, beginning July 1, 2018, with the new regulatory authority provided under SB 19 (Hill, Chapter 421, Statutes of 2017), the Bureau will send notifications as necessary.

## **Examinations**

This section is not applicable as BEARHFTI does not currently administer exams and there are no continuing education/competency requirements. On July 1, 2018, the Bureau will assume responsibility for licensing Household Movers, which requires applicants to successfully take an examination. Consequently, BEARHFTI will administer exams in 2018; however, implementation

details are in the process of being developed. The responses below reflect the Bureau's requirements at the time of submitting this report.

## **TABLE 8. EXAMINATION DATA**

**California Examination (include multiple language) if any: N/A**

**National Examination (include multiple language) if any: N/A**

25. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required? Are examinations offered in a language other than English? N/A
26. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Examination Data). Are pass rates collected for examinations offered in a language other than English? N/A
27. Is the Bureau using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered? N/A
28. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe. N/A

### **School Approvals**

29. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the Bureau work with BPPE in the school approval process? N/A
30. How many schools are approved by the Bureau? How often are approved schools reviewed? Can the Bureau remove its approval of a school? N/A
31. What are the Bureau's legal requirements regarding approval of international schools? N/A

### **Continuing Education/Competency Requirements**

32. Describe the Bureau's continuing education/competency requirements, if any. Describe any changes made by the Bureau since the last review.
- a. How does the Bureau verify CE or other competency requirements? N/A
  - b. Does the Bureau conduct CE audits of licensees? Describe the Bureau's policy on CE audits. N/A
  - c. What are consequences for failing a CE audit? N/A
  - d. How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure? N/A
  - e. What is the Bureau's course approval policy? N/A
  - f. Who approves CE providers? Who approves CE courses? If the Bureau approves them, what is the Bureau application review process? N/A
  - g. How many applications for CE providers and CE courses were received? How many were approved? N/A

- h. Does the Bureau audit CE providers? If so, describe the Bureau’s policy and process.  
N/A
- i. Describe the Bureau’s effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensee’s continuing competence. N/A

**Section 5  
Enforcement Program**

**33. What are the Bureau’s performance targets/expectations for its enforcement program? Is the Bureau meeting those expectations? If not, what is the Bureau doing to improve performance?**

The BEARHFTI’s performance target for its investigations processes is 180 days or less. These cases are prioritized based on the level of consumer harm and emerging business practices. The BEARHFTI’s average completion time ranges between 90 to 100 days with most cases being completed within a 60-day period. Occasionally, the completion time for out-of-country cases can be considerably longer. To improve the out-of-country compliance issues, the BEARHFTI has expanded our communication efforts by obtaining additional information during the initial application process. This enables the BEARHFTI to converse via email for better international contact. The Bureau has also established phonelines in Mandarin and Spanish to assist with inquiries as these are the most spoken languages within the Bureau’s licensee population. The following represents the data collected since FY 2014-2015.

<b>Intake and Investigations - Performance Measures</b>	
<b>Quarter</b>	<b>Actual Average Number of Days</b>
July – September 2014	25
October – December 2014	33
January – March 2015	75
April – June 2015	51
July – September 2015	59
October – December 2015	201
January – March 2016	80
April – June 2016	51
July – September 2016	100
October – December 2016	47
January – March 2017	50

**34. Explain trends in enforcement data and the Bureau’s efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the Bureau done and what is the Bureau going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?**

The complaints received have increased from 1,621 in FY 2012-13 to 2,054 received in FY 2016-17. However, those referred to investigation decreased from 1,739 complaints in FY 2012-13 to 976 complaints in FY 2016-17 because the Bureau implemented a new process beginning FY

2016-17, which more efficiently delineated cases between the CSR and Enforcement units and required fewer cases to be referred to investigations. The Bureau continues to maintain performance measures within the guidelines and strives to further reduce the timeframes.

Previously, BEARHFTI spent much of its efforts using the field staff to conduct onsite inspections throughout the state. Since the last Sunset Report, BEARHFTI began using in-house staff to inspect business' websites and advertisements to identify violations and establish the basis for an enforcement case. These preliminary measures improved daily operations, efficiency, and response times in addressing issues and achieving compliance from the businesses.

<b>TABLE 9a. ENFORCEMENT STATISTICS</b>			
	FY 2014/15	FY 2015/16	FY 2016/17
<b>COMPLAINT</b>			
Intake			
Received	2725	2665	2054
Closed	1035	1523	1062
Referred to Investigation	1656	1171	976
Average Time to Close	5	6	2
Pending (close of FY)	45	13	29
Source of Complaint			
Public	1049	989	821
Licensee/Professional Groups	2	1	1
Governmental Agencies	11	20	6
Other	1676	1676	1233
Conviction / Arrest			
CONV Received	2	0	0
CONV Closed	2	0	0
Average Time to Close	1	0	0
CONV Pending (close of FY)	0	0	0
<b>LICENSE DENIAL</b>			
License Applications Denied	7	8	5
SOIs Filed	4	2	4
SOIs Withdrawn	3	0	0
SOIs Dismissed	0	0	0
SOIs Declined	1	0	1
Average Days SOI	451	0	449
<b>ACCUSATION</b>			
Accusations Filed	1	0	0
Accusations Withdrawn	0	0	0
Accusations Dismissed	0	0	0
Accusations Declined	0	0	1
Average Days Accusations	330	0	540
Pending (close of FY)	0	1	0

<b>DISCIPLINE</b>			
Disciplinary Actions			
Proposed/Default Decisions	5	1	0
Stipulations	2	2	2
Average Days to Complete	607	739	219
AG Cases Initiated	7	2	6
AG Cases Pending (close of FY)	4	3	6
Disciplinary Outcomes			
Revocation	1	1	1
Voluntary Surrender	0	0	0
Suspension	0	0	0
Probation with Suspension	0	0	0
Probation	1	2	1
Probationary License Issued	0	0	0
Other	0	0	0
<b>PROBATION</b>			
New Probationers	1	2	1
Probations Successfully Completed	1	1	2
Probationers (close of FY)	9	6	5
Petitions to Revoke Probation	0	0	0
Probations Revoked	0	0	0
Probations Modified	0	0	0
Probations Extended	0	0	0
Probationers Subject to Drug Testing	0	0	0
Drug Tests Ordered	0	0	0
Positive Drug Tests	0	0	0
Petition for Reinstatement Granted	0	0	0
<b>DIVERSION</b>			
New Participants	N/A	N/A	N/A
Successful Completions	N/A	N/A	N/A
Participants (close of FY)	N/A	N/A	N/A
Terminations	N/A	N/A	N/A
Terminations for Public Threat	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A
<b>INVESTIGATION</b>			
All Investigations			
First Assigned	1657	1172	977
Closed	1699	1275	954
Average days to close	57	119	67
Pending (close of FY)	292	191	213
Desk Investigations			
Closed	1203	1099	876
Average days to close	60	69	46
Pending (close of FY)	160	139	137

Non-Sworn Investigation			
Closed	496	176	78
Average days to close	45	492	304
Pending (close of FY)	132	52	76
Sworn Investigation			
Closed	N/A	N/A	N/A
Average days to close	N/A	N/A	N/A
Pending (close of FY)	N/A	N/A	N/A
<b>COMPLIANCE ACTION</b>			
ISO & TRO Issued	0	0	0
PC 23 Orders Requested	0	0	0
Other Suspension Orders	0	0	0
Public Letter of Reprimand	0	0	0
Cease & Desist/Warning	0	0	0
Referred for Diversion	0	0	0
Compel Examination	0	0	0
<b>CITATION AND FINE</b>			
Citations Issued	1495	1523	1134
Average Days to Complete	5	5	4
Amount of Fines Assessed	\$78,500	\$87,500	\$380,415
Reduced, Withdrawn, Dismissed	\$34,250	\$28,150	\$98,700
Amount Collected	\$26,000	\$22,850	\$165,165
<b>CRIMINAL ACTION</b>			
Referred for Criminal Prosecution	0	0	0
Inspections conducted	4,681	5,202	4,185

**TABLE 10. ENFORCEMENT AGING**

	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	Cases Closed	Average %
<b>Attorney General Cases (Average %)</b>						
Closed Within:						
0 - 1 Year	1	3	0	1	5	18%
1 - 2 Years	3	4	2	2	11	39%
2 - 3 Years	7	3	1	0	11	39%
3 - 4 Years	1	0	0	0	1	4%
Over 4 Years	0	0	0	0	0	0%
Total Attorney General Cases Closed	12	10	3	3	28	100%
<b>Investigations (Average %)</b>						
Closed Within:						
90 Days	1866	1489	975	835	5165	86%
91 - 180 Days	126	116	120	68	430	7%
181 - 1 Year	72	72	75	27	246	4%
1 - 2 Years	15	15	64	14	108	2%
2 - 3 Years	4	3	30	2	39	<1%
Over 3 Years	3	4	11	8	26	<1%
Total Investigation Cases Closed	2086	1699	1275	954	6014	100%

**35. What do overall statistics show as to increases or decreases in disciplinary action since last review.**

Statistics indicate that the BEARHFTI's disciplinary actions have steadily declined since the last sunset review. Before the Bureau's last sunset review, BEARHFTI's enforcement actions were more "reactive" resulting in more investigations being opened. However, in FY 2014-15, the BEARHFTI implemented the \$0 citation abatement program to take initial action against a business without imposing a monetary penalty. This allowed the BEARHFTI to provide outreach and education to the business to achieve long-range compliance. Any subsequent violations by the business would warrant the assessment of a monetary fine.

In the same year, the BEARHFTI organized enforcement sweeps through strategic sections of the state to conduct inspections and enforce licensure requirements and ensure other regulatory requirements were being met. This removed the antiquated approach of being "reactive" which was costly, time consuming, and yielded marginal enforcement results. For these reasons, statistics will show that the issuance of citations and fines have significantly increased from 465 citations in FY 2012-13 to 1,495 citations in in FY 2013-14, to 1,523 in FY 2015-16, while the disciplinary actions have decreased.

**36. How are cases prioritized? What is the Bureau's complaint prioritization policy? Is it different from DCA's *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009)? If so, explain why.**

The Bureau uses the applicable criteria in the Department's *Complaint Prioritization Guidelines for Health Care Agencies* for complaint prioritization. The Bureau's highest priority are complaints that jeopardize consumers' health or safety, those that pose a threat of severe fraud or financial harm, and unlicensed activity. The Bureau analyzes trends of complaints that show a pattern of illegal activity which are acted upon immediately to mitigate losses.

The cases that are identified as a high priority are assigned to field staff to investigate, while routine complaints are handled in-house. The Bureau realizes the importance of working closely with various local government offices (e.g. Los Angeles County Department of Consumer Affairs) and private organizations in obtaining information.

**37. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the Bureau actions taken against a licensee. Are there problems with the Bureau receiving the required reports? If so, what could be done to correct the problems?**  
**a. What is the dollar threshold for settlement reports received by the Bureau?**  
**b. What is the average dollar amount of settlements reported to the Bureau?**

The Bureau has no mandatory reporting requirements.

**38. Describe settlements the Bureau, and Office of the Attorney General on behalf of the Bureau, enter into with licensees.**  
**a. What is the number of cases, pre-accusation, that the Bureau settled for the past four years, compared to the number that resulted in a hearing?**  
**b. What is the number of cases, post-accusation, that the Bureau settled for the past four years, compared to the number that resulted in a hearing?**  
**c. What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?**



As Table 9a reflects, BEARHFTI has only had one accusation filed within the past four years. The Bureau files accusations on severe cases involving businesses already licensed, however most are mitigated through education, fines and citations, and threat of revocation with the businesses. The Bureau's disciplinary actions primarily consist of Statement of Issues when a license denial is appealed.

In the past four years, BEARHFTI has settled 29 cases in conjunction with the Attorney General's Office for denial of licensure (Statement of Issues) and disciplinary action against existing licenses (Accusation). Of those cases, the breakdown for settlement pre-pleading and post-pleading is as follows:

<b>Pre-Pleading / Post-Pleading Settlements</b>			
Type	Pre-Pleading	Post-Pleading	Total Pleadings
Statement of Issues	4	21	25
Percentage	16%	84%	
Accusations	0	4	4
Percentage	0%	100%	

**39. Does the Bureau operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the Bureau's policy on statute of limitations?**

The Bureau does not operate under a statute of limitations. However, BEARHFTI is aware that a statute of limitation for criminal cases exists, which is generally one year from the date of discovery. As some of the violations of BEARHFTI's statute are considered misdemeanor offenses, the Bureau works diligently with the Attorney General's Office to process these cases. The Bureau averages between 16 to 18 months turnaround in working with the Attorney General's Office.

**40. Describe the Bureau's efforts to address unlicensed activity and the underground economy.**

The Bureau's jurisdiction over repair businesses, furniture retailers, and products coming from out-of-state is vast, and about 20 percent do not meet California's standards. The internet has proven an invaluable tool that has led to discovering illegal and unlicensed activities throughout the industry. The Bureau also reaches out to industry associations and receives tips from their members, which are investigated to ensure a level playing field within industry. In addition, using pre-calculated and well-planned enforcement sweeps, BEARHFTI has been able to quickly track offenders and address the deficiencies to reach compliance.

**Cite and Fine**

**41. Discuss the extent to which the Bureau has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the Bureau increased its maximum fines to the \$5,000 statutory limit?**

The cite and fine authority is the main enforcement tool used by BEARHFTI. Statistics in Table 9a show high volumes issued, much more than the previous years where Notice of Violations were common practice on businesses. In 2016-2017, citations were issued in major enforcement cases against furniture distributors, retailers, and service contract sellers. Notice of Violations and

citations are the same for catching and identifying wrongdoing, however in the past four years, BEARHFTI has revamped its approach to ensure that every business in violation is cited, although not every citation carries a monetary fine. Progressive enforcement with a strong emphasis of education has proven successful with BEARHFTI achieving greater compliance. The Bureau has not increased its maximum fines as the current fine schedule is appropriate for the types of violations that occur.

#### **42. How is cite and fine used? What types of violations are the basis for citation and fine?**

In FY 2014-15, BEARHFTI implemented the \$0 citation abatement program for unlicensed activity for which the citation without a monetary fine provides a record of the violation and an opportunity to educate businesses. If compliance is not achieved, a progressive monetary penalty is assessed and the California Public Utility Commission (CPUC) is contacted to order the disconnection of the business's phoneline. Monetary citations are typically issued for health and safety violations, failure to meet flammability and labeling standards, and unlicensed or delinquent activity with repeat offenses.

#### **43. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?**

In the last four years, BEARHFTI conducted 119 citation review conferences with the businesses that were cited. The most common violation is unlicensed or delinquent license activities, which are usually resolved within 45 days of the initial contact. Less common citations are failure to meet flammability and/or labeling standards, and written estimate and invoicing violations. The average fine is \$250 for failing to meet EAR registration requirements and \$500 for failing to meet the HFTI licensing requirements. If the business requests a citation review conference and quickly complies, the fine is reconsidered depending on the business' history of violations. Occasionally, \$0 citations are not effective in deterring future issues. In these cases, the progressive fine structure is used with other enforcement tools such as the CPUC telephone disconnect and Franchise Tax Board Intercepts.

#### **44. What are the 5 most common violations for which citations are issued?**

The BEARHFTI primarily issues citations for following most common violations:

- Unlicensed activity;
- Failure to meet flammability standards;
- Chemical statement notification violations;
- Labeling violations; and
- Invoice and estimate violations.

#### **45. What is average fine pre- and post- appeal?**

Depending on the history of the business, the fine may stand at the original amount assessed post-appeal or the fine is reconsidered, and may be modified, but this is rare. Therefore, the average fine under the EAR program is \$250 and \$500 for the HFTI program, which are the same as the initial fine averages.

**46. Describe the Bureau's use of Franchise Tax Board intercepts to collect outstanding fines.**

The Bureau does participate in the Franchise Tax Board Intercept program; however, because businesses are licensed, and not individuals, the intercept program cannot be pursued for corporations or limited liability companies.

**Cost Recovery and Restitution**

**47. Describe the Bureau's efforts to obtain cost recovery. Discuss any changes from the last review.**

Cost recovery is rarely ordered in Administrative cases as the disposition is usually a revocation that is a default decision. In cases where cost recovery is ordered through a stipulated agreement (e.g., revocation stayed with suspension), the Bureau monitors the probation with cost recovery as a term. Failure to adhere to the terms results in automatic revocation. The Bureau would use the Franchise Tax Board Intercept program in cost recovery cases where the licensee is a sole proprietorship or partnership, however it is not a viable option for corporations and limited liability companies.

**48. How many and how much is ordered by the Bureau for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.**

In FY 2013-14, cost recovery in the amount of \$4,483 was ordered due to the revocation of licensure. In FY 2016-17, cost recovery in the amount of \$4,152 was ordered with the stipulation to surrender a registration. Most of BEARHFTI's cost recovery becomes uncollectable due to the revocation order and BEARHFTI no longer has leverage to collect. All of BEARHFTI's probationers for the last three years have been the result of applicant Statement of Issues, for which cost recovery is not applicable.

**49. Are there cases for which the Bureau does not seek cost recovery? Why?**

Cost recovery is not allowed to be ordered for Statement of Issue filings. Therefore, most of the BEARHFTI's actions do not result in cost recovery.

**50. Describe the Bureau's use of Franchise Tax Board intercepts to collect cost recovery.**

The Bureau uses the Franchise Tax Board Intercept program for existing licenses with citation if the business is a sole ownership or partnership, as part of the criteria is for a Social Security Number to be on file. Franchise Tax Board intercept is not a viable solution for unlicensed companies since ownership data is minimal or non-existent.

**51. Describe the Bureau's efforts to obtain restitution for individual consumers, any formal or informal Bureau restitution policy, and the types of restitution that the Bureau attempts to collect, i.e., monetary, services, etc. Describe the situation in which the Bureau may seek restitution from the licensee to a harmed consumer.**

The Bureau does not have the authority to order restitution for the consumer, however, BEARHFTI can recommend settlements of refunds, reworks, and adjustments to the transaction. During FY 2016-17, BEARHFTI recovered approximately \$262,000 directly related to consumer complaints and since FY 2013-14, BEARHFTI has collected approximately \$1 million related to consumer complaints.

<b>TABLE 11. COST RECOVERY</b>				
<b>(List dollars in thousands)</b>				
	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Total Enforcement Expenditures	1	0	0	1
Potential Cases for Recovery *	1	0	0	1
Cases Recovery Ordered	\$4	0	0	\$4
Amount of Cost Recovery Ordered	0	0	0	0
Amount Collected	1	0	0	1

\* Cases in which disciplinary action has been taken based on violation of the license practice act.

<b>TABLE 12. RESTITUTION</b>				
<b>(List dollars in thousands)</b>				
	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Amount Ordered	0	0	0	0
Amount Collected	0	0	0	0

## Section 6 Public Information Policies

**52. How does the Bureau use the internet to keep the public informed of Bureau activities? Does the Bureau post Bureau meeting materials online? When are they posted? How long do they remain on the Bureau’s website? When are draft meeting minutes posted online? When does the Bureau post final meeting minutes? How long do meeting minutes remain available online?**

The Bureau uses its website to announce Advisory Council meetings, disciplinary actions, cite and fine orders issued against licensees and registrants, rulemaking proposals, and public hearings.

The Bureau posts the Advisory Council meeting schedule for the calendar year on its website. The draft agenda is posted at least 10 days in advance of the scheduled meeting in accordance with the Bagley-Keene Open Meeting Act. The final meeting minutes are typically posted within 30 days. The Bureau’s disciplinary cases and cite and fine orders are posted on a quarterly basis. All items posted to BEARHFTI’s website remain available for viewing indefinitely.

The Bureau also utilizes Listserv to announce to interested parties the posting of the Advisory Council agendas and rulemaking proposals to ensure they are provided the opportunity to participate in the meetings and public hearings.

**53. Does the Bureau webcast its meetings? What is the Bureau’s plan to webcast future Bureau and committee meetings? How long do webcast meetings remain available online?**

The Bureau has not used the webcast feature for its Advisory Council meetings since the last sunset review. The Bureau intends on using this feature with future Advisory Council meetings and plans on exploring available technology and resources to enable BEARHFTI to use the webcast feature in-house. In the interim, BEARHFTI holds council meetings at various locations throughout

California to increase its availability and broaden its audience. In addition, BEARHFTI makes each meeting available via teleconference for those who cannot appear in person.

**54. Does the Bureau establish an annual meeting calendar, and post it on the Bureau's web site?**

The Bureau coordinates with Council members to establish an annual meeting calendar for its Advisory Council meetings and posts the schedule on BEARHFTI's website.

**55. Is the Bureau's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the Bureau post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions* (May 21, 2010)?**

The Bureau's complaint disclosure policy is consistent with the Department's and BEARHFTI continues to post accusations and disciplinary actions consistent with the Department's *Web Site Posting of Accusations and Disciplinary Actions*.

**56. What information does the Bureau provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?**

The BEARHFTI's website offers a license lookup feature, which provides consumers or other interested parties with current information related to a licensee or registrant consistent with the requirements of BPC Section 27. The lookup feature provides the name of the business and business owner, license type and current status, issue and expiration dates, and the city that was listed on the address of record for the license or registration. This feature also provides information related to citations, accusations, statements of issues, and disciplinary actions.

**57. What methods are used by the Bureau to provide consumer outreach and education?**

The Bureau developed the *2016 Outreach Plan* in response to the issues identified in the market condition assessment. Since then, and consistent with BEARHFTI's Strategic Plan, BEARHFTI has pursued several outreach opportunities to address the low consumer and industry awareness with the implementation of the following tasks:

- Updating its website to remove duplicative pages and content, bring increased visibility to vital information and publications, and to ensure a more user-friendly experience;
- Conducting presentations at five community college and trade school campuses, including the two that offer certifications in appliance repair, Los Medanos and La Puente Colleges, to educate potential licensees about the program requirements and processes;
- Increasing its social media presence to educate and bring awareness to consumers and industry;
- Working with the Department's Publications Unit to develop brochures and articles that are posted to BEARHFTI's website and social media sites. Articles have included information regarding the implementation SB 1019, mattress sanitization, licensing, and product labeling regulations;
- Increased participation in community events and partnering with other state agencies to participate in senior scam prevention events.

The Bureau's future endeavors include working with the Department's Publications Unit for the following tasks:

- Developing YouTube videos that will be posted to BEARHFTI's website and social media page to educate the industry on various topics such as licensing and registration requirements, law label requirements, and custom upholsterer requirements. The videos will be available in multiple languages, including Spanish, Mandarin, Ukrainian, and Russian.
- Scheduling and participating in more meet and greets with industry to improve lines of communication, understand their complications, and gather and respond to issues.

## Section 7 Online Practice Issues

### **58. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the Bureau regulate online practice? Does the Bureau have any plans to regulate internet business practices or believe there is a need to do so?**

There is a significant online presence for certain license categories and activities, particularly retail furniture and bedding products and the offering of repair services and service contracts on products BEARHFTI regulates. Based on current law, BEARHFTI's authority over internet companies that offer to sell regulated products and services via the internet is deemed as equivalent to those products and services being offered in a brick and mortar location within the state. Thus, online companies are subject to the same licensing and business requirements and enforcement action as if they had a physical presence in the state (See Business and Professions Code Sections: 9830, 9830.5 and 19060.5). The Bureau actively seeks unlicensed activity of online practitioners and has brought a number of companies into compliance.

There are often challenges in locating a physical address behind the internet presence, however in one instance, BEARHFTI was able to disconnect a telephone number advertised on a company's website that was not a properly licensed business until they became compliant. In the spirit of consumer protection, equitable regulation, and a level playing field, BEARHFTI will continue to pursue unlicensed activity of unlicensed internet businesses.

## Section 8 Workforce Development and Job Creation

### **59. What actions has the Bureau taken in terms of workforce development?**

The Bureau has met and continues to meet with vocational institutions and community colleges that offer repair courses. The Bureau conducts presentations to the students and faculty regarding the need for licensure and the relevant laws and regulations, in addition to disseminating educational materials. The Bureau also makes presentations and provides materials to industry associations for their membership and potential members. As the Bureau licenses businesses and not individuals, there are no formal education or experience requirements for licensure, the Bureau reaches out to other business licensing agencies, the Better Business Bureau, etc., to help notify current and future workplace candidates of the licensing requirements.

### **60. Describe any assessment the Bureau has conducted on the impact of licensing delays.**

The Bureau has not experienced any licensing delays or backlogs utilizing its current processes, but continually monitors processes to identify areas that can be improved upon to ensure a backlog does not occur.

**61. Describe the Bureau’s efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.**

While BEARHFTI does not have examination or experience requirements for any of its license types, BEARHFTI has conducted presentations at community colleges and trade schools, including Los Medanos (Pittsburg) and La Puente College (La Puente), to educate potential licensees about the application requirements and process. The Bureau also publishes pamphlets on guidelines for licensing and invoice regulations. These pamphlets are available on the Bureau’s website and are distributed to educational facilities and industry organizations as a part of the Bureau’s outreach efforts.

**62. Describe any barriers to licensure and/or employment the Bureau believes exist.**

The Bureau does not have any examination or experience requirements for any of its license types. Additionally, BEARHFTI licenses businesses rather than individuals so there are no barriers to licensure unless there have been prior criminal convictions related to the functions and duties of holding a license or if there has been prior disciplinary action that must be reviewed.

**63. Provide any workforce development data collected by the Bureau, such as:**

**a. Workforce shortages**

The Bureau does not have any feasible or accurate means of identifying workforce shortages due to the nature of the businesses. As there is no examination required, the Bureau does not have data on number of people seeking entry into these businesses and as there are no educational or experience requirements for license holders, there is no verifiable data to indicate the industry is lacking qualified individuals or there is an overpopulation of them.

**b. Successful training programs.**

Most electronic product and appliance manufacturers offer training to their authorized repair agents and certify the repair dealers and/or their technicians for their line of products. In addition, there is the A+ certification program for computer repair offered by a number of public and private educational institutions. As the businesses are licensed, and not their technicians, it is the business owner’s responsibility to ensure their employees are adequately trained to repair the products they service.

**Section 9  
Current Issues**

**64. What is the status of the Bureau’s implementation of the Uniform Standards for Substance Abusing Licensees?**

The Uniform Standards do not apply to BEARHFTI since it is not a healing arts program.

**65. What is the status of the Bureau’s implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?**

The BEARHFTI strives to achieve consistency with the CPEI initiative and the performance measures outlined in the initiative and reports its status in meeting the enforcement goals to the

Department on a quarterly basis. The Bureau is meeting the goal of the initiative by completing investigations within 540 days.

**66. Describe how the Bureau is participating in development of BreEZe and any other secondary IT issues affecting the Bureau.**

**a. Is the Bureau utilizing BreEZe? What Release was the Bureau included in? What is the status of the Bureau's change requests?**

The Bureau was scheduled for Release 3 and is not currently utilizing BreEZe. Therefore, BEARHFTI has not submitted any change requests.

**b. If the Bureau is not utilizing BreEZe, what is the Bureau's plan for future IT needs? What discussions has the Bureau had with DCA about IT needs and options? What is the Bureau's understanding of Release 3 bureaus? Is the Bureau currently using a bridge or workaround system?**

The Bureau plans to perform a detailed analysis of its current and future business processes, and future business needs prior to planning a technology response. In August 2017, BEARHFTI met with the Department's Chief Information Officer and Executive Office and agreed on a phased-in approach beginning with an inventory and documentation of existing licensing and enforcement business processes. Outputs from this analysis will serve as key inputs to the Project Approval Lifecycle process. The Bureau will work with the Department and the California Department of Technology to evaluate all alternatives prior to selecting the best technology response. This strategy is consistent with the Department's Strategic Plan for all Release 3 boards and bureaus. Although no "bridge system" is being utilized, several workarounds are currently being used to satisfy program requirements or needs that cannot be met by current legacy systems.

## **Section 10 Bureau Action and Response to Prior Sunset Issues**

**Include the following:**

- 1. Background information concerning the issue as it pertains to the Bureau.**
- 2. Short discussion of recommendations made by the Committees during prior sunset review.**
- 3. What action the Bureau took in response to the recommendation or findings made under prior sunset review.**
- 4. Any recommendations the Bureau has for dealing with the issue, if appropriate.**

### **Issue 1 – Long-Term Deficits**

**Background:**

The Bureau expects the Electronic and Appliance Repair Fund to have 8.6 months in reserve in FY 2013/14, 6.9 months in reserve in FY 2014/15, and only 0.8 month in reserve in FY 2017/18. According to the Bureau, projected revenues for the Electronic and Appliance Repair Fund will hover around \$2.39M through FY 2017/18, while expenditures are projected to increase from \$2.16M in 2012/13 to \$2.92M in FY 2017/18.

Similarly, the Bureau expects the Home Furnishings and Thermal Insulation Fund to have 6.9 months in reserve in FY 2013/14, 4.9 months in reserve in FY 2014/15, 0.6 months in reserve in FY 2016/17,



and a negative 1.7 month deficit in FY 2017/18. According to the Bureau, projected revenues for the Home Furnishings and Thermal Insulation Fund will stay around \$3.9M through FY 2017/18, while expenditures are projected to increase from \$4.37M in FY 2012/13 to \$4.73M in FY 2016/17 to \$4.83M in FY 2017/18. The increase in expenditures is due to a general increase in costs, such as retirement and medical benefits and overhead expenses.

As a Special Fund agency, the Bureau receives no General Fund support, relying solely on fees set by statute and collected from licensing and renewal fees. The Bureau has not changed fees within the last 10 years for its licensing categories, and is not currently requesting a statutory fee increase.

The Bureau reports that to bridge its future budget gap, it intends to: (1) increase enforcement against unlicensed activity in order to generate additional revenues through initial licenses and renewal licenses; (2) increase its citation and fine authority to the statutory limit of \$5,000, which it expects to implement in 2015; and, if necessary, (3) increase its fees for importers, manufacturers, and thermal insulation up to the statutory caps.

### **Committee Recommendations:**

The Bureau should elaborate on any planned efforts to increase its revenues and reduce its expenditures, including timelines and estimated amounts, and also explain any regulatory changes to increase the amount of penalties that are under consideration. The Bureau should also discuss its thinking as to whether and when it might seek a statutory fee increase in the future.

### **BEARHFTI's Action in Response to the Recommendation:**

In 2015, the passage of AB 1175 increased the statutory fee caps for all BEARHFTI licenses and registrations. The Bureau amended CCR Title 4, Division 3, Section 1107 and CCR Title 16, Division 27, Section 2760 to increase HFTI's fees by approximately 15 percent and EAR's fees, by an average of 19 percent, respectively. The new regulations were adopted September 2016 and January 2017 and implemented December 2016 and February 2017, respectively.

## **Issue 2 –Pro Rata**

### **Background:**

Through its various divisions, DCA provides centralized administrative services to all boards and bureaus in the Department. Most of these services are funded through a pro rata calculation that is based on "position counts" and charged to each board or bureau for services provided by personnel, including budget, contract, legislative analysis, cashiering, training, legal, information technology, and complaint mediation.

The chart below shows the DCA Pro Rata Expenditures for the last four fiscal years charged to the Electronic and Appliance Repair Fund, which is expected to spend roughly 37% of its budget on pro rata for FY 2013/14, and the Home Furnishings and Thermal Insulation Fund, which is expected to spend roughly 19% of its budget on pro rata for FY 2013-14. According to the Bureau, a big portion of its pro rata, especially for the Electronic and Appliance Repair side, goes to investigating complaints. In FY 2010-11, DCA handled 1,156 complaints for the Bureau, in FY 2011-12 it handled 1,242 complaints, and in FY 2012-13 it handled 1,108 complaints.

### **Committee Recommendation:**

The Bureau should advise the Committees about the bases upon which pro rata is calculated, and the methodology for determining how the pro rata charged will be paid from among the two funds under the Bureau's jurisdiction. The Bureau should also discuss whether it could achieve cost savings by dealing with more of its consumer complaints in-house through its cite and fine authority.

**BEARHFTI's Action in Response to the Recommendation:**

The Bureau's pro rata costs are calculated in one of two ways: 1) the number of authorized positions associated with BEARHFTI's Funds or 2) a prorated share of cost based on the past year or two-year actual workload for service received by certain Departmental units.

In July 2016, an interagency agreement was entered with the Department, which transferred three CSR positions from the Department's CRP to BEARHFTI. In July 2017, BEARHFTI's authorized positions were increased through a budget change proposal, which officially added one CSR position to HFTI's budget and two CSR positions to EAR's budget. The positions provide BEARHFTI with in-house complaint service capabilities and reduce the pro rata costs paid to the Department. The CSR positions have since been reclassified to the Staff Services Analyst classification and redirected to BEARHFTI's Enforcement Unit to combine duties and maximize resources.

The Bureau received a cost savings of \$291,000 in FY 2016-17 resulting from the interagency agreement. The Bureau anticipates the reduction in pro rata will be \$277,000 in FY 2017-18 and on-going.

**Issues 3 through 8 are discussed as part of Issue 12 below.****Issue 9 – What should the Bureau do in response to the large number of products that fail product testing?****Background:**

Nearly half of all furniture products tested under the old Technical Bulletin (TB) 117 failed to meet the standard. According to the Bureau, this failure is due to the fact that TB 117 was a component standard, in that each component of a piece of residential furniture, such as the cushion cover, the filling, and the batting, could individually meet the TB 117 standard, but when tested together, the piece could still fail the overall standard because TB 117 did not focus on the interaction of the materials (which was part of the impetus for the new TB 117-2013 standard).

In addition, over half of all feather and down products tested fail to meet existing standards. These failure rates, however, include small variances from the standard, such as a 1% difference in the feather to down ratio in a product.

Moreover, labeling violations occurred in over 80% of products tested, but include minor violations such as use of a different font size or failing to include the word "the," that may not pose as much of a risk to consumers. While it is difficult to discern how many failing products had major violations or minor violations, the average product reimbursement rate was 78%, which means that while many products did not completely adhere to all requirements, most failures did not rise to the level of a major violation.

In such cases, consistently high failure rates raise three important questions: Are the standards unrealistically stringent? Are the standards well-known and clear to manufacturers? Are the penalties for violations too low to be an effective deterrent?

**Committee Recommendation:**

The Bureau should reexamine its standards, especially its feather and down and labeling standards, to determine if 1) some of those standards should be relaxed so that manufacturers can meet them more easily, presuming there is no appreciable impact on consumer safety; 2) standards should be clarified or better advertised; or 3) its penalties for home furnishings and thermal insulation violations, which average \$500, are too low to act as a proper deterrent.

**BEARHFTI's Action in Response to the Recommendation:**

In January 2015, the TB 117-2013 standard was implemented replacing TB 117. The Bureau anticipated that the failure rate, based on the new standard, would range between 5-10 percent. The current failure rate for TB 117-2013 samples is 6.8 percent, therefore expectations are being met at a much higher compliance rate.

The Bureau is currently evaluating adopting the sliding scale maximums for damaged feathers for blended waterfowl feather and down products. This will provide more realistic and obtainable results for the plumage industry and will not cause economic or health and safety hazards to the consumer.

The Bureau is also evaluating amending regulations to reflect a more stringent oxygen number not exceeding 10 grams of oxygen per 100,000 grams of sample. The update will reflect what is accepted internationally and considering the upmost cleanliness for the consumer as 10 grams of oxygen per 100,000 grams per sample is a cleaner plumage product.

Finally, BEARHFTI held a workshop in February 2017 regarding proposed regulatory amendments to product labeling requirements. Some of the items discussed during the workshop were antiquated requirements, propose new law label examples, adding definitions, and clean-up of obsolete passages. The Bureau plans to submit a regulatory proposal to amend current labeling requirements in the summer of 2018.

**Issue 10 – Should the Bureau be authorized to disconnect telephone numbers that are listed online by unlicensed electronic and appliance service repair businesses?****Background:**

Under BPC 149, if a specified entity, including the Bureau, has probable cause to believe that a person is advertising in a telephone directory and offering services that he or she is not licensed or registered to perform, the entity may issue a citation to the violator to stop the unlawful advertising and notify the telephone company to disconnect the number in that unlawful advertising. If he or she fails to comply with the order of correction, the entity is required to notify the California Public Utilities Commission (CPUC) of the violation, and the Commission is mandated to require the telephone provider for the violator to disconnect the telephone number listed in the unlawful advertisement. Once the business comes into compliance, e.g. citation is paid and license or registration is issued or renewed, staff will send a memorandum to the telephone service provider that the business is now compliant and needs to have the phone number turned back on. In 2010, 2011, and 2012, the Bureau completed 4, 18, and 28 telephone disconnects, respectively. In 2012, the Bureau initiated 42 telephone disconnects, but CPUC rejected 14 of those requests based on a service provider's interpretation of the statute that the law only applies to advertising or listings in paper telephone directories (not online directories, websites or other media). Since late 2012, CPUC has put all requests on hold pending further legal review of the telephone disconnect policy based on concerns that the takedown authority extends only to advertisements in telephone directories, and does not apply to some more modern forms of telephony. As a result, the Bureau did not request or complete any telephone disconnects in 2013. Because the Bureau does not code its complaints for type of complaints, e.g. for advertising vs. fraud, it is unaware of how many complaints are advertising-related and of that number, how many complaints are for unlawful advertising in non-telephone directory media, such as Internet Web sites.

**Committee Recommendation:**

In light of the growth of online advertising and the increased need to protect consumers and legitimately licensed businesses from unlicensed activity, the Committees may wish to consider granting the Bureau clear authority to request the disconnection of telephone numbers, and perhaps

even online advertisements and websites as well, of unlicensed businesses with false or misleading advertisements anywhere online or in print.

**BEARHFTI's Action in Response to the Recommendation:**

The Bureau was granted this authority in SB 1243 (Lieu, Chapter 395, Statutes of 2014), which extended telephone disconnect authority to all Department programs. The Bureau has used this tool extensively and have experienced successful results.

**Issue 11 – What is the status of BreEZe implementation by the Bureau?**

**Background:**

The BreEZe Project will provide DCA boards, bureaus, and committees with a new enterprise-wide enforcement and licensing computer system. BreEZe will replace the existing outdated legacy systems with an integrated solution based on updated technology. BreEZe is intended to provide DCA organizations with a solution for all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities. In addition to meeting these core DCA business requirements, BreEZe is intended to improve DCA's service to the public and connect all license types for an individual licensee. BreEZe will also be public Web enabled, allowing licensees to complete applications, renewals, and process payments through the Internet. The public will also be able to file complaints, access complaint status, and check licensee information. Done correctly, BreEZe represents a major opportunity to improve the Bureau's operations to include electronic payments and expedite processing. Staff from numerous DCA boards and bureaus have participated in the design and development of the software. However, due to increased project costs, SB 543 (Steinberg, Chapter 448, Statutes of 2011) authorized the Department of Finance (DOF) to augment the budgets of boards, bureaus and other entities that comprise DCA for expenditure of non-General Fund moneys to pay BreEZe project costs. The Bureau is scheduled go live on BreEZe in Phase Three of the roll-out, which is slated to begin in late 2015. DCA is currently working on Phase One of BreEZe.

**Committee Recommendation:**

The Bureau should update the Committees about the current status of its implementation of BreEZe, including expected starting dates, new functionalities, additional costs, and any existing or expected declines in service levels and licensing or enforcement backlogs.

**BEARHFTI's Action in Response to the Recommendation:**

The Bureau is currently not utilizing BreEZe. In August 2017, BEARHFTI met with the Department's Chief Information Officer and Executive Office and agreed on a phased-in approach beginning with an inventory and documentation of existing licensing and enforcement business processes. Outputs from this analysis will serve as key inputs to the Project Approval Lifecycle process. The Bureau will work with the Department and the California Department of Technology to evaluate all alternatives prior to selecting the best technology response. This strategy is consistent with the Department's Strategic Plan for all Release 3 boards and bureaus. Although no "bridge system" is being utilized, several workarounds are currently being used to satisfy program requirements or needs that cannot be met by current legacy systems.

**Issue 12 – Should the Bureau examine and respond to the issues and recommendations identified above and report its findings back to the Committees?**

**Background:**

The Committees have identified specific issues and recommendations relating to the Bureau's fiscal outlook, jurisdiction, including the specific markets and industries it regulates, licensing scheme, regulatory framework, and overall health. Because this is the Bureau's first sunset review since 1995,

and a significant amount of time has passed since the Bureau was reviewed by the Committees, it may be beneficial for the Bureau going forward to examine and respond to the issues 28 and recommendations identified above and to report its findings back to the Committee before its next sunset review.

**Committee Recommendation:**

The Bureau should examine and respond to the issues and recommendations identified above and report its findings back to the Committees no later than March 1, 2015.

**BEARHFTI's Action in Response to the Recommendation:**

During the Bureau's last sunset review, the Committees identified a number of questions related to the current regulatory oversight and structure of the Bureau. These were identified as individual issues:

- Issue 3: Should the Bureau switch to biennial license renewals for all licenses?
- Issue 4: Should the Bureau deregulate or streamline electronic or appliance repair dealers?
- Issue 5: Should the Bureau continue to offer certain home furnishings licenses?
- Issue 6: Should the Bureau consider consolidating license types that are highly similar or are infrequently used?
- Issue 7: Should the bureau consider consolidating the sanitizer issue?
- Issue 8: Should the Bureau consider consolidating the custom upholsterer license?

In addition, AB 2740 (Atkins, Chapter 428, Statutes of 2014) required the same information to be reported to the Legislature by July 1, 2015 (thereby extending the date recommended by the Committees). The Bureau contracted with CPS HR Consulting to perform a market condition assessment on the specific issues identified by the Legislature in AB 2740. CPS HR Consulting conducted interviews and/or surveys with BEARHFTI management, Advisory Council members, industry officials, and a representative sample of California consumers to gather information for the assessment. This report examined all of the above questions.

The Bureau submitted its findings in the supplemental report, *Response to Issues and Recommendations Pursuant to the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation 2014 Sunset Review*.

**Section 11  
New Issues**

**This is the opportunity for the Bureau to inform the Committees of solutions to issues identified by the Bureau and by the Committees. Provide a short discussion of each of the outstanding issues, and the Bureau's recommendation for action that could be taken by the Bureau, by DCA or by the Legislature to resolve these issues (i.e., policy direction, budget changes, legislative changes) for each of the following:**

- 1. Issues that were raised under prior Sunset Review that have not been addressed.**
- 2. New issues that are identified by the bureau in this report.**
- 3. New issues not previously discussed in this report.**
- 4. New issues raised by the Committees.**

**SB 19 Implementation**

The Bureau has a big and challenging job in front of it as it takes over the regulatory oversight for household movers from the CPUC beginning July 1, 2018.

**The Bureau's Recommendation for Action:**

Although the actual date of oversight begins July 1, 2018, meetings are already underway to develop plans for a smooth transition of the current household goods carrier's licensing program to the new Division of Household Movers within the Bureau.

**Recruitment Challenges**

As discussed in section three of the report, the Bureau has difficulty recruiting for the field classifications. The current classifications have minimum qualifications that restrict the pool of candidates in the needed territories. These restrictions have led to prolonged vacancies and a decreased field presence in these areas.

**The Bureau's Recommendation for Action:**

The Bureau is exploring alternatives to the classification, which would provide a wider range of eligible candidates without the technical requirement limitation. The duties could be expanded to allow work distribution in the enforcement/investigation arena to cross over between EAR and HFTI based on operational needs and would provide a more efficient team than having two classes of employees covering one territory who are limited to one program.

**Attachments**

Please provide the following attachments:

**A. Bureau's administrative manual.**

**B. Current organizational chart showing relationship of committees to the Bureau and membership of each committee (cf., Section 1, Question 1).**

**C. Major studies, if any (cf., Section 1, Question 4).**

1. Response to Issues and Recommendations Pursuant to the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation 2014 Sunset Review.

2. Recommendations of the Service Contract Working Group October 2016

**D. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).**

**E. Bureau's Annual and Quarterly Performance Measure Report**

Bureau's Member Orientation and Reference Manual  
for the Advisory Council

DEPARTMENT OF CONSUMER AFFAIRS  
BUREAU OF ELECTRONIC AND APPLIANCE REPAIR,  
HOME FURNISHINGS AND THERMAL INSULATION



**MEMBER ORIENTATION AND  
REFERENCE MANUAL**

FOR THE

**ADVISORY COUNCIL**

Governor Edmund G. Brown Jr.  
State of California



# DEPARTMENT OF CONSUMER AFFAIRS

## MISSION

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To protect and serve the interests of California consumers

## VISION

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California consumers make informed choices and have access to competent and ethical service providers

## VALUES

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- |                         |  |
|-------------------------|--|
| <b>Accountability</b>   | We are accountable to the people of California and each other as stakeholders. We operate transparently and encourage public participation in our decision-making whenever possible. |
| <b>Efficiency</b>       | We diligently identify the best ways to deliver high-quality services with the most efficient use of our resources.  |
| <b>Effectiveness</b>    | We make informed decisions that make a difference and have a positive, measurable impact.  |
| <b>Integrity</b>        | We are honest, fair, and respectful in our treatment of everyone.  |
| <b>Customer Service</b> | We acknowledge all stakeholders as our customers, listen to them, and take their needs into account.   |
| <b>Employees</b>        | We are an employer of choice and strategically recruit, train, and retain employees. We value and recognize employee contributions and talent.                                       |
| <b>Unity</b>            | We draw strength from our organizational diversity as well as California's ever-changing cultural and economic diversity.  |

# BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION

## **MISSION**

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To protect and serve the consumers while ensuring a fair and competitive marketplace

## **VISION**

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To be an efficient organization that effectively protects consumers and improves the marketplace through enforcement of the law, providing excellent customer service, and prompt licensing

## **VALUES**

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### **ACCOUNTABILITY**

We are accountable to the people of California.

### **CONSUMER PROTECTION**

We conduct swift, thorough investigations and ensure fair adjudication of violations of law.

### **EFFECTIVENESS**

We identify new ideas and innovations, to make informed decisions.

### **INTEGRITY**

We conduct business in an impartial and transparent manner, delivering on our commitments.

### **PROFESSIONALISM**

We ensure that staff is qualified and proficient in serving consumers, licensees and the industries we regulate.

### **SERVICE**

We foster open communication and productive partnerships with licensees, industry, and other stakeholders.

# BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION

## PURPOSE

The Advisory Council (Council) is an informal, voluntary Council dedicated to assisting the Bureau by providing perspective information and insight into the electronic and appliance service markets, service contract markets, and the upholstered furniture, bedding and thermal insulation markets in California.

## INFORMATION

### DUTIES

The Council provides professional and technical assistance to the Bureau on issues it regulates in California. Members serve in an advisory capacity on policy matters, making non-binding recommendations directly to the Bureau Chief. Council members provide:

- ❖ Perspective and advice on consumer and market issues
- ❖ Research and recommend creative solutions to consumer and industry problems
- ❖ Advise the Bureau Chief on outreach efforts to consumers, the public, licensees and the industry
- ❖ Provide information and comments to the Chief on a broad range of policy issues including consumer education, industry outreach and regulatory compliance

### TERM OF APPOINTMENTS

In making appointments, the Director shall strive to compose the Council of members of the public and consumer advocacy groups and members of industry – with equal representation for the electronic and appliance repair industry, service contract, home furnishings, and thermal insulation industry.

The Director of the Department of Consumer Affairs appoints members who serve two-year terms. However, the Director may elect to re-appoint a member or members to consecutive terms.

## REMOVAL OF MEMBERS

All members of the Bureau's Advisory Council serve at the pleasure of the Director of the Department of Consumer Affairs. The Director may remove any member from the Council with or without cause.

Consistent attendance by Council members is vital to the success of our efforts. Members who miss two consecutive meetings may be removed from the Council at the discretion of the Director.

## COMPENSATION FOR MEMBERS

As a volunteer appointee to the Advisory Council, members will not receive a salary for attending Council meetings. Members will not be entitled to unemployment benefits upon termination of their service. Members understand that they are not replacing a regular departmental employee. Members do not have civil service status and are not eligible for promotional state examinations.

The Bureau's Council is not mandated by statute, and no law or regulation requires the Bureau to hold meetings. Members may be reimbursed for travel that has been authorized by the Chief at the rates prescribed by the Board of Control for regular state employees.

When under an Executive Order, which prohibits all discretionary travel, attendance for Council meetings is strictly voluntary and members will not receive a salary or other compensation. Members understand that they are responsible for any and all costs incurred to attend and participate in Council meetings while under such orders.

## MEETINGS

The Bureau Chief shall preside at all meetings of the members and supervise all of the business and affairs of the Council. Members are expected to attend meetings as necessary at various locations throughout the state. On average, the Bureau schedules two Council meetings per year. This number may change based on the Bureau's needs.

It is the intent of the Department of Consumer Affairs and the Bureau to hold open, public meetings of the Advisory Council. Meetings will be held in facilities that are accessible to persons with disabilities in accordance with the *Americans with Disabilities Act*. The Bureau may take public comment at Council meetings, based on the discretion of the Bureau Chief.

All Advisory Council meetings will be announced on the Bureau's Web site, [www.bearhfti.ca.gov](http://www.bearhfti.ca.gov), usually ten days prior to the scheduled meeting. The Bureau will make every effort to keep the meeting minutes and post them on the Bureau's website.

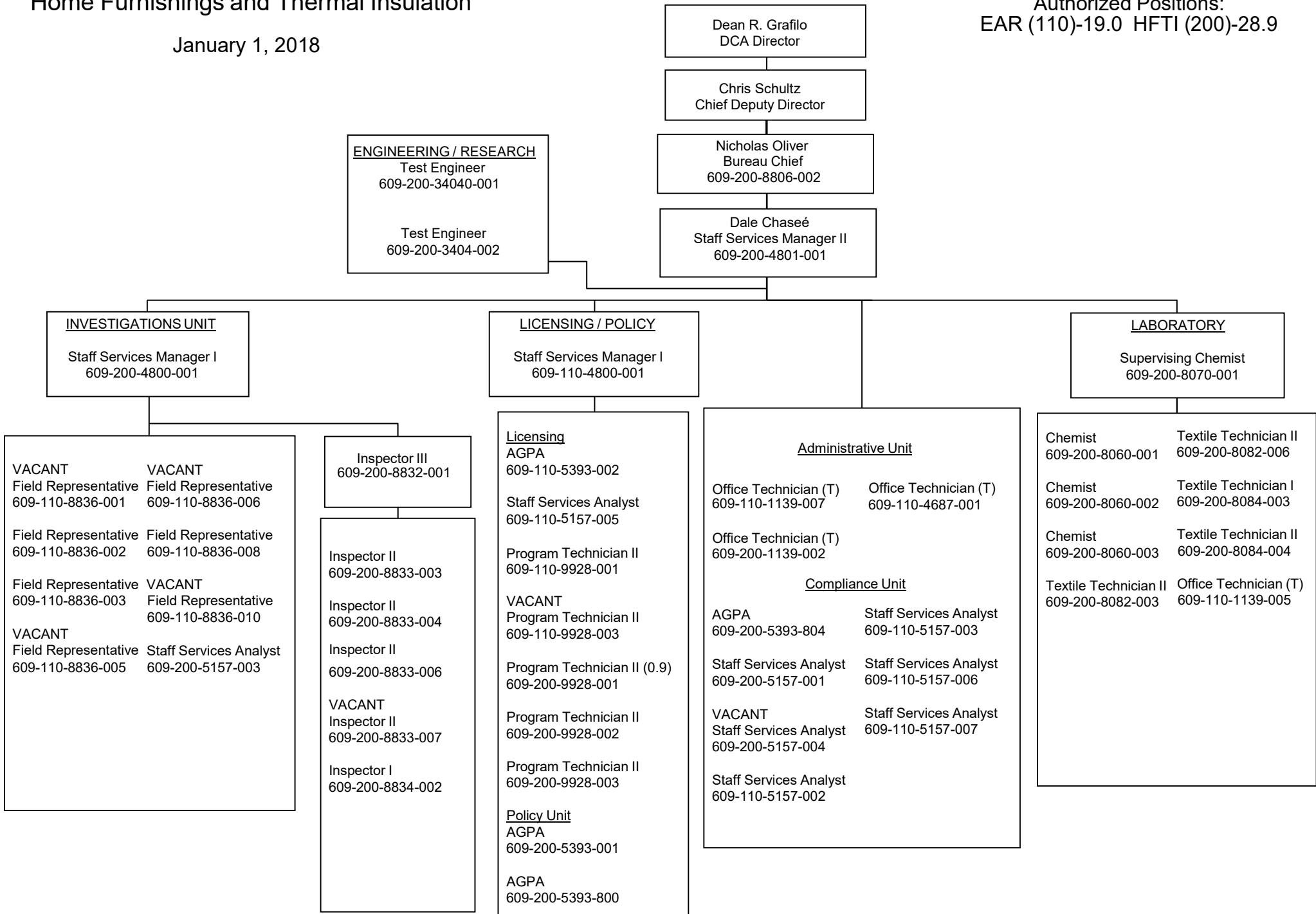
## Current Organizational Chart

Department of Consumer Affairs  
 Bureau of Electronic and Appliance Repair,  
 Home Furnishings and Thermal Insulation

January 1, 2018

FY 17/18

Authorized Positions:  
 EAR (110)-19.0 HFTI (200)-28.9



## Major Studies

Response to Issues and Recommendations  
Pursuant to the Bureau of Electronic and  
Appliance Repair, Home Furnishings and  
Thermal Insulation 2014 Sunset Review

# Response to Issues and Recommendations Pursuant to the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's 2014 Sunset Review



BUREAU OF ELECTRONIC & APPLIANCE REPAIR,  
HOME FURNISHINGS & THERMAL INSULATION



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## EXECUTIVE SUMMARY

### **INTRODUCTION**

The Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau) underwent the sunset review process in 2014. The Bureau was found to be in good standing, however, the Assembly Business, Professions and Consumer Protection Committee and the Senate Business, Professions and Economic Development Committee identified several areas they wished the Bureau to comment on after further study and review.

Assemblymember Susan Bonilla authored AB 2740 (Chapter 428, Statutes of 2014) as part of the sunset review process. Among other provisions, AB 2740 required the Bureau to report to the Legislature by July 1, 2015, on all of the following<sup>1</sup>:

- While the Bureau is in good fiscal standing, its revenues are projected to stay the same over the next few years and the cost of doing business is projected to rise over time, potentially leading to a long-term deficit. The Bureau should report to the committees any planned efforts to increase its revenues and reduce its expenditures, and whether, or when, it might seek a statutory fee increase in the future.
- For the 2013–14 fiscal year, the Bureau’s Electronic and Appliance Repair Fund and the Home Furnishings and Thermal Insulation Fund are expected to spend roughly 37 percent and 19 percent of their budgets, respectively, on the pro rata costs to the department. The Bureau should advise the committees about the bases upon which pro rata costs are calculated, and whether it could achieve cost savings by dealing with more of its consumer complaints in-house.
- Currently, electronic and appliance repair and service contract registrations as well as thermal insulation licenses are renewed annually, and home furnishings licenses are renewed biennially. The Bureau should examine the pros and cons of requiring biennial renewals instead of annual license renewals for all licensees.
- In its last sunset review report in 1995, the department studied both the electronic and appliance repair market and the home furnishings and thermal insulation market to determine whether regulatory activities were appropriate, necessary, and should be continued, and recommended areas of deregulation and areas to monitor in order to better target resources and evaluate consumer risk and impact. The Bureau should conduct market condition assessments to study both of these markets and determine if current statutes and regulations reflect the needs of the markets, where risk to consumers is the greatest, where resources could be refocused or expanded, and whether continued regulation is clearly necessary across all segments of these markets.
- The Bureau issues a separate furniture retailer license, bedding retailer license, combination furniture and bedding retailer license, sanitizer license, and custom upholsterer license. The Bureau may consider whether it should consolidate any of its licenses, and whether it should continue to regulate, or issue, stand-alone licenses to sanitizers and custom upholsterers.

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<sup>1</sup> AB 2740 Section 1(a)(7), Legislative Findings and Declarations.

- The Bureau has reported high product failure rates, which are primarily attributed to technical violations of flammability, product labeling, and feather and down standards. The Bureau should reexamine its testing protocols to ensure that it has the information it needs to appropriately identify areas of highest risk to consumers, and reexamine its standards, especially feather and down and product labeling standards, to determine if some standards could be relaxed, presuming there is no appreciable impact on consumer safety, whether standards should be clarified or better advertised, or whether penalties for violations are too low to act as a proper deterrent.
- The Bureau is scheduled to go live on the department's BreEZe system in late 2015. The Bureau should update the committees on the status of its implementation of BreEZe, including whether the system will accommodate the Bureau's current and future needs.

## **OVERVIEW**

Since the passage of AB 2740 last fall, the Bureau has undergone an extensive review of its existing statutes, regulations, and testing procedures; reviewed its budget and administrative practices; closely consulted on fee legislation introduced this year; contracted with CPS HR Consulting to conduct a market assessment of applicable industries; and met with consumer, environmental, and industry groups in order to address the issues raised in AB 2740. The following report is a summary of the Bureau's findings and recommendations.

### **Bureau Revenue and Expenditures**

The Bureau's Home Furnishings and Thermal Insulation Fund is projected to become insolvent in Fiscal Year (FY) 2017-18 and the Electronic and Appliance Repair Fund is projected to become insolvent in FY 2019-20. Assemblymember Sebastian Ridley-Thomas has introduced AB 1175 this year to raise most of the Bureau's licensing fees by 25 percent. If this legislation is enacted, the Bureau will promulgate regulations in 2016 to raise most home furnishing license fees by 15 percent. The Bureau is also likely to promulgate regulations in 2017 that would raise license fees for electronic and appliance repair, as well as services contract licensees, by 15 percent.

### **Department of Consumer Affairs Pro Rata**

The Bureau pays the Department of Consumer Affairs (Department) pro rata for various services it receives (e.g. publications, human resources, and complaint resolution). Some services are paid for based on the position authority of the Bureau's two funds; other services are paid for based on the workload the Bureau sent to various programs in the previous year or previous two years.

The Complaint Resolution Program (Program) is one area where the Bureau does pay a significant amount of its pro rata costs. However, that Program handles roughly 900 cases annually and resolves over 95 percent without the need for additional Bureau resources. The Department is instituting several cost cutting measures so future year costs for that Program are expected to be significantly lower.

### **Biennial and Annual License Renewals and License Consolidation**

Based on the Bureau's Market Assessment Study conducted by CPS HR Consulting and interactions with the Bureau's numerous licensees, the Bureau recommends all of its license types be renewed annually. The Bureau further recommends that the Importer, Wholesaler, and Manufacturer license types for the home furniture and bedding industries be consolidated into two license types: Wholesaler and Manufacturer. These changes would require legislation.

### Market Condition Assessment

The Bureau contracted with CPS HR Consulting to study many aspects of the Bureau and the industries it regulates. Specifically, CPS HR Consulting completed a market condition assessment to study the policies, relevant statutes and regulations, and current resources of the Bureau's programs. Based on this review, the Bureau will be updating several regulatory sections, including rules governing advertising of traditional sales as well as "going out of business sales," examining Bureau operational procedures, and conducting outreach to industry, stakeholders, and consumers.

### Flammability, Labeling, and Other Bureau Testing Standards

With the recent adoption of Technical Bulletin (TB) 117-2013, there has been a dramatic decrease in upholstered furniture failure rates. Historically, the Bureau applied the TB 117 performance standard to upholstered furniture products. This standard required products to withstand an open flame test and smolder resistance test. In order to pass these tests, manufacturers were predominantly using products treated with flame retardant chemicals. TB 117 was superseded by TB 117-2013 in 2013 because the standard did not adequately address the predominant source of upholstered furniture fires and losses today, which are smoldering ignition sources. The intent of the new standard is to produce upholstered furniture that is safer from the hazards associated with smoldering ignition. Since the implementation of TB 117-2013, upholstered furniture failure rates have dramatically decreased to approximately 2 percent.

TB 133 is a standard that is required of various upholstered products that are used in public spaces, such as hotels and hospitals. Furniture manufacturers and health care providers have sought amendments to this standard because of its rigorous open flame test. However, Bureau regulations, as well as the California Building Standards code, include exceptions from this requirement that address the concerns raised. Interested stakeholders may wish to seek changes in how local fire authorities determine the applicability of TB 133.

The open flame federal standard for mattresses has an average 19 percent failure rate (after two failure tests, the Bureau places a "hold" on a specific mattress type so that it cannot be sold in California until the issue is resolved).

Minor product labeling violations for non-plumage products constitute approximately 80 percent of the overall failure rates for bedding materials. These minor violations entail incorrect label or font size, or when minor information is missing from the label. The Bureau initially seeks to fix the issue directly with the manufacturer prior to commencing an enforcement action. In the vast majority of cases, this communication resolves the labeling issue. For major labeling violations, e.g. inaccurate product contents or material percentages for feather and down products where those ratios have a direct impact on the product's cost to the consumer, the Bureau will place a "hold" on the product so that it cannot be sold until the issue(s) regarding the product and its disclosures are resolved.

Plumage products also must meet cleanliness requirements to ensure there is a low presence of organic materials such as plant material. The current standard in Bureau regulations is 20 grams of oxygen per 100,000 grams of sample. As a result of industry updates to cleanliness testing and manufacturing procedures, as well as a review of national and international standards, the Bureau will seek to heighten its compliance standard to 10 grams of oxygen per 100,000 grams of sample prior to its next sunset review.

Feathers are also inspected to determine if they are intact or damaged. Bureau regulations prescribe specific maximums for damaged feathers that cannot be exceeded. Based on industry updates and manufacturing processes, the Bureau will explore changing this standard from a hard and fast threshold to a sliding scale standard currently used by the International Down and Feather Bureau.

Furniture manufacturers have also repeatedly sought for the Bureau to reduce product labeling requirements for upholstered furniture, specifically, the need to identify exact percentages of various materials found within upholstered furniture. Until further information is available, the Bureau will not seek to change these requirements.

### BreEZe

The Bureau is currently scheduled to transition to BreEZe in Release 3, which is not yet scheduled. The Department is currently working on implementing Release 2 of the project, after which the Department will conduct a cost benefit analysis on the overall project. Based on the cost benefit findings, the Department will implement Release 3. A review of the Bureau's programmatic needs found that BreEZe will be able to meet the Bureau's licensing and enforcement requirements.

## BUREAU REVENUE AND EXPENDITURES

*AB 2740 Sec. 1(a)(7)(A): While the bureau is in good fiscal standing, its revenues are projected to stay the same over the next few years and the cost of doing business is projected to rise over time, potentially leading to a long-term deficit. The bureau should report to the committees any planned efforts to increase its revenues and reduce its expenditures, and whether, or when, it might seek a statutory fee increase in the future.*

Efforts to Reduce Expenditures: The Bureau has been able to maintain fiscal solvency without a statutory fee increase for many of its license types for over 17 years. Specifically, the last statutory fee increase for the electronic appliance and repair industry occurred in 1997 (SB 780, Chapter 401, Statutes of 1997) and the last statutory fee increase for the home furnishings industry was for the Manufacturers and Importers licenses in 2001 (AB 603, Chapter 199, Statutes of 2001).

The Bureau has consistently found ways to direct its resources to maximize cost efficiencies in its operations over the years by sharing staff in response to workload, co-habitation of facilities and equipment, and sharing one Bureau Chief, even prior to the official merger of the Bureaus in 2009. However, the Bureau is now facing a long-term deficit. The Bureau continues to seek additional ways to reduce expenditures, such as forestalling purchases of major equipment; however, there are few areas within the Bureau's operation where additional cost savings will be effective and still ensure the Bureau upholds its mission to protect and serve consumers. Fundamentally, the cost of doing business for the past several decades has risen, while the revenue stream from licensing fees has been relatively flat.

Efforts to Increase Revenues: The Bureau has worked with Assemblymember Ridley-Thomas, who introduced legislation to raise revenues by increasing the statutory fee caps for most license and registration types. This legislation, AB 1175 (Ridley-Thomas, 2015), is currently on the Senate Floor.

AB 1175 would increase most of the Bureau's licensing statutory fee caps by 25 percent. If the bill takes effect, the Bureau will immediately prepare a regulation proposal to raise home furnishings license fees by 15 percent because the Home Furnishings and Thermal Insulation Fund is projected to become insolvent in FY 2017-18. The bill would also prohibit the Department from promulgating a regulation that would raise the fees of electronic and appliance repair and service contract licenses until January 1, 2017. The Bureau wishes to minimize its impact on regulated businesses and the Electronic and Appliance Repair Fund is not projected to become insolvent until FY 2019-20. It is likely the Bureau will prepare a regulation package in 2017 to raise license fees for the electronic and appliance repair license types by no more than 15 percent.

Below are several fund condition scenarios for both Bureau funds. For each fund, there is a status quo scenario that identifies when the fund will become insolvent if AB 1175 is not enacted. In addition, there is a scenario that assumes a regulatory fee increase of 15 percent takes effect July 1, 2016, for home furnishings and thermal insulation industries and July 1, 2017, for the electronic and appliance repair industries.

Home Furnishings and Thermal Insulation		
	Fiscal Year	Months in Reserve
Status Quo Scenario*	2015-16	3.7
	2016-17	1.8
	2017-18	<b>-0.1</b>
15 % Fee Increase on July 1, 2016 Scenario	2015-16	3.7
	2016-17	3.3
	2017-18	2.8
	2018-19	2.0
	2019-20	1.1

Electronic and Appliance Repair		
	Fiscal Year	Months in Reserve
Status Quo Scenario*	2015-16	7.1
	2016-17	5.6
	2017-18	4.0
	2018-19	2.2
	2019-20	0.3
15 % Fee Increase on July 1, 2017 Scenario	2015-16	7.1
	2016-17	5.6
	2017-18	5.6
	2018-19	5.3
	2019-20	4.8



## DEPARTMENT OF CONSUMER AFFAIRS PRO RATA

*AB 2740 Sec. 1(a)(7)(B): For the 2013–14 fiscal year, the Bureau’s Electronic and Appliance Repair Fund and the Home Furnishings and Thermal Insulation Fund are expected to spend roughly 37 percent and 19 percent of their budgets, respectively, on the pro rata costs to the department. The bureau should advise the committees about the bases upon which pro rata costs are calculated, and whether it could achieve cost savings by dealing with more of its consumer complaints in-house.*

**Pro Rata Cost Calculations:** The Bureau’s Pro Rata Costs can be broken down into several categories, which differ based on the fund and program area utilizing the Department’s services. The Bureau’s costs for each of these categories is calculated in one of two ways: 1) the number of authorized positions associated with the Bureau’s Electronic and Appliance Repair Fund or the Home Furnishings and Thermal Insulation Fund, or 2) a prorated share of cost based on the past year or two-year actual workload for service received by certain Departmental units. Below is a detailed breakdown of the various services the Bureau utilizes and the methodology used to determine the Bureau’s costs.

	Departmental Service	Cost Methodology	FY 13-14 Actual Cost	% of Total Budget	EAR Cost	% Total of Budget	HFTI Cost	% Total of Budget
Consumer and Client Services Division	Administrative Services (Executive, Legal, Legislative, Training Services, Human Resources, Accounting, Budgets, and Business Services Offices)	Authorized Position Count	\$618,902	9.06%	\$206,964	8.72%	\$411,938	9.25%
	Information Technology Services	Multiple: Based on Authorized Position Count & Previous Year Workload	\$631,346	9.25%	\$282,165	11.89%	\$349,181	7.84%
Communication Division	Public Information and Outreach	Authorized Position Count	\$16,329	0.24%	\$5,812	0.24%	\$10,517	0.24%
	Consumer Information Center	Previous Year Workload	\$9,710	0.14%	\$9,570	0.40%	\$140	0.00%
	Correspondence Unit	Previous Year Workload	\$9,819	0.14%	\$9,170	0.39%	\$649	0.01%
	Publications	Fund Position Authority	\$15,575	0.23%	\$5,204	0.22%	\$10,371	0.23%
Complaint Resolution Program		Previous Year Workload	\$638,174	9.35%	\$430,115	18.12%	\$208,059	4.67%
Division of Investigations	Investigations	Two-Year Roll Forward	\$0	0.00%	\$0	0.00%	\$0	0.00%
	Investigations and Services Team	Authorized Position Count	13,654	0.20%	\$4,560	0.19%	\$9,094	0.20%
Total Pro Rata			\$1,953,509	28.61%	\$953,560	40.18%	\$999,949	22.45%

Impacts Associated with Bureau Internal Intake of Consumer Complaints: The Bureau utilizes the Department's Complaint Resolution Program to handle the majority of its complaints. The intent of using this Program is to provide a cost-effective means of resolving complaints received, as well as ensuring timely investigations and enforcement outcomes. Specifically, in FY 2013-14, the Complaint Resolution Program received 860 Bureau-related complaints, of which 830 were closed and 30 (less than four percent) were referred to the Bureau for final resolution. The Bureau is currently staffed with four Enforcement Analysts who work cases primarily driven by field inspections, laboratory testing results, and Internet searches performed as part of their duties. While the Bureau's laboratory staff spend some time each week answering manufacturers' questions on proper labeling and compliance, enforcement staff are not often involved with consumer complaints unless a complaint is received at the Department that triggers an investigation by one of the Bureau's field staff (five Electronic and Appliance Repair Field Representatives and six Home Furnishings Inspectors).

In 2012, the Department hired an independent consulting firm to perform an organizational review of the Complaint Resolution Program. Based on the findings and recommendations in this review, the Department closed the South El Monte and Hayward Complaint Offices in 2014. Furthermore, the Department will also be closing the Riverside Complaint Office effective August 1, 2015, and transferring a portion of the positions to the Sacramento Complaint Office. The Department will continue to monitor the Program's caseload and operating cost to see if further action needs to be taken to efficiently conduct its services. The Department has reduced the positions allocated to the Program from a total of 25.6 on July 1, 2013, to 17 positions effective August 1, 2015.

The Bureau and the Department are currently working to determine whether it will be more cost-effective in future budget years for the Bureau to handle consumer complaints in-house or continue to use the Program. A final decision on this matter is expected in January after the Department has been able to finalize budget change proposals and project long-term cost savings from recent Program reductions. The Department and Bureau will ensure the final decision and rationale are provided to the Legislature as part of the 2016-17 Budget review process.

## BIENNIAL AND ANNUAL LICENSE RENEWALS AND LICENSE CONSOLIDATION

*AB 2740 Sec. 1(a)(7)(C): Currently, electronic and appliance repair and thermal insulation licenses are renewed annually, and home furnishings licenses are renewed biennially. The bureau should examine the pros and cons of requiring biennial renewals instead of annual license renewals for all licensees.*

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*AB 2740 Sec. 1(a)(7)(E): The bureau issues a separate furniture retailer license, bedding retailer license, combination furniture and bedding retailer license, sanitizer license, and custom upholsterer license. The bureau may consider whether it should consolidate any of its licenses, and whether it should continue to regulate, or issue, stand-alone licenses to sanitizers and custom upholsterers.*

As part of the Bureau's market assessment activities, which are discussed in further detail in the next section of this report, the Bureau contracted with CPS HR Consulting to study many aspects of the Bureau and the industries it regulates. Specifically, CPS HR Consulting completed a market condition assessment to study the policies, relevant statutes and regulations, and current resources of the Bureau's programs. Further, the market condition assessment examined whether program resources should be refocused or expanded and identified greatest industry risks to consumers. The market assessment also determined if current rules were appropriate and necessary for today's market, if market segments should be consolidated or deregulated, and potential impacts for biennial or annual license renewal augmentations.

Based on the results of the market assessment study and the rationale below, the Legislature may wish to examine and augment the following during the Bureau's next sunset review in 2018:

- 1. Move all Bureau license types to an annual renewal cycle, adjusting statutory fee maximums appropriately (e.g., change a furniture retailer's biennial renewal fee of \$240 to annual renewal fee of \$120).**
- 2. Consolidate three existing home furnishings license types – Wholesalers, Importers, and Manufacturers – into two license types: Wholesalers and Manufacturers.**

Justification for Annual Renewal Cycle: The Bureau licenses approximately 39,500 licensees; 45 percent of the population is renewed annually (electronic and appliance repair, service contracts sellers and administrators, and thermal insulation industries) and the remaining 55 percent (home furnishings industry) is renewed biennially.

Based on conversations with the home furnishings industry, particularly small business retailers, there is a consistent preference to pay a smaller annual fee rather than a larger fee every two years. From the industry's perspective, this is more advantageous for several reasons.

Historically, home furnishings retailers locked into multiple year leases for their retail facilities and warehouses, but since the economic downturn, profit margins have become unstable and many retailers are now in month-to-month agreements with facilities. Due to potential changes in locations, the need to be creative in keeping costs down and having a consistent annual tax write off, many businesses prefer an annual renewal.

Additionally, one of the most consistent responses the Bureau receives in an enforcement citation review conference for a delinquent license is that because the license is renewed every two years rather than annually, the owner forgets. They have commented that the license renewal should be annual like the others to be consistent and easier to remember.

Switching to an annual renewal will also provide a more consistent revenue base for the Bureau. With biennial renewals, there can be a peak year and a valley year, which presents challenges in estimating available resources and the potential for reserve, whereas annual renewals make it easier to make projections and accurately budget.

In addition, annual renewals tend to ensure more effective enforcement. With a two-year license cycle and very transient populations (especially retail furniture/bedding locations), companies move locations or are out of business before the Bureau receives information for another year. Subsequently more field hours are spent trying to track down businesses when more recent information would have been available with a shorter time frame for renewal. If the Legislature decides to make all license types an annual renewal, fees should also be adjusted appropriately. For example, a furniture retailer's biennial renewal fee of \$240 should be changed to an annual renewal fee of \$120.

Background on Wholesaler, Importer, and Manufacturer License Types: Under existing law, any business that manufactures or wholesales a product made outside of the United States must obtain an Importer license. A business that manufactures or wholesales a product made in the United States, however, must obtain either a Wholesaler or Manufacturer license. In effect, an overseas furniture manufacturer is considered an Importer under existing law.

Justification for License Consolidation: Existing law has often led to confusion from applicants over when a Manufacturing license or an Importer license is required. In addition, Uniform Registry Numbers, which are recognized and granted reciprocity between states, are only intended for use by companies that manufacture furniture or bedding and must appear on the law labels for those products. The Uniform Registry Number identifies the issuing state and the manufacturing plant location – state or country – via the number suffix and is intended to be designated for the furniture or bedding manufactured at one specific location. Issuing a registry number to an Importer can lead to misuse by manufacturers that avoid licensure by using their Importers Registry Number. Limiting issuance of a registry number only to Manufacturer licensees will reduce cases of inappropriate licensure and make the law more consistent and clear for other regulating entities to identify the activities allowed under the license type.

For these reasons, the Bureau recommends that the Importer license type be abolished and businesses that wholesale products internationally should be required to obtain a Wholesaler license. Similarly, businesses that manufacture products internationally should be required to obtain a Manufacturer license, which would be the only license type allowed to obtain a registry number and import products.

#### Stand-Alone Sanitizer and Custom Upholsterer Licenses

Sanitizers provide a critical role in the health and safety of consumers with used and rebuilt mattresses or bedding that contains any secondhand filling material, which must be sanitized before it is offered for sale. The methods utilized to address public safety are the usage of a dry heat method with specific requirements that ensure the product is sanitized or an application of a specified chemical disinfectant (Steri-Fab), in a prescriptive manner that achieves complete disinfection.

While the licensing population is low, the work they do is unique to that segment of the industry, and it is extremely vital to providing an adequate level of consumer protection. Companies that use the dry heat method are mattress rebuilders who supply rebuilt mattresses to retailers and other entities. There is not a comparable license type that they could be combined with, as the nature of their business is primarily to ensure the sanitization of bedding. The chemical disinfectant method may be used under other license types, such as a mattress retailer that sanitizes their own mattresses that are returned and are not required to have an additional license.

Custom Upholsterers are also unique in that they rebuild a piece of furniture with materials obtained from other sources, as a manufacturer would. Consequently, they are obligated to disclose the filling, fabric, and other information that defines what was done to the product to the consumer on the invoice. They are responsible for obtaining proper filling materials, labeling, and invoices, which are critical in ensuring the consumer gets an appropriate product. While custom upholsterers are somewhat similar to a manufacturer, combining them with a manufacturer's license in which the volume is traditionally high, would put an undue burden of a higher priced license. These licensees are generally small, family run businesses, with a relatively small volume of product, as each piece must be custom upholstered, as opposed to mass producing products.

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## MARKET CONDITION ASSESSMENT

*AB 2740 Sec. 1(a)(7)(D): In its last sunset review report in 1995, the department studied both the electronic and appliance repair market and the home furnishings and thermal insulation market to determine whether regulatory activities were appropriate, necessary, and should be continued, and recommended areas of deregulation and areas to monitor in order to better target resources and evaluate consumer risk and impact. The bureau should conduct market condition assessments to study both of these markets and determine if current statutes and regulations reflect the needs of the markets, where risk to consumers is the greatest, where resources could be refocused or expanded, and whether continued regulation is clearly necessary across all segments of these markets.*

As previously discussed, the Bureau contracted with CPS HR Consulting to perform the Market Condition Assessment. In conducting the assessment, CPS HR Consulting did the following:

- Reviewed pertinent legislation, regulations, organizational structure, operating statistics, and past performance;
- Interviewed the following critical stakeholders:
  - Bureau management;
  - Bureau Advisory Council members;
  - Industry officials;
  - A representative sample of California consumers; and
- Collected and analyzed secondary market research of the industries under the Bureau's oversight.

### Consumer Feedback:

- Less than half of the responses indicated familiarity with the Department and its mission, and even fewer were familiar with the Bureau and its various responsibilities.
- Most responses were generally positive about the Department's role and consumer protections provided; relatively few responses were negative or dismissive of the Department mission and roles.
- Many respondents were not very informed about the Department and specific programs and services outside the limited scope of this consumer survey.
- Many respondents believed there is a need for stronger and more varied outreach, visibility, communication, and publicizing of Department programs and services using a wide variety of media.
- A moderate number of respondents expressed the view that, in retrospect, they wished they had more knowledge of the Department when they experienced consumer issues or problems in the past.
- The majority of respondents were at least somewhat satisfied with service contracts of products also regulated by the Bureau.

### Secondary Market Research Findings:

- The Bureau needs to keep its website updated with the latest legislative changes and the names of violators to encourage compliance<sup>2</sup>.
- The Bureau needs to improve outreach and industry/consumer education through more direct mail, webinars, teleconferences, podcasts, and workshops in Northern and Southern California.

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<sup>2</sup> This function is already available on the Bureau's licensee lookup function, which can be found at <http://www.bearhfti.ca.gov/enforcement/index.shtml>.

Industry Feedback:

Home Furnishings

- Enforcement focus should shift from retailers to wholesalers and manufacturers in order to better use limited resources. For products manufactured outside of the United States, the focus should be placed on the importer of record.
- Furniture testing should be limited to cushion samples so that an entire piece of furniture is not lost for testing.
- The Bureau should evaluate advertising regulations for all industry sectors.
- The Bureau should consider hiring retired furniture sales staff for inspection work.

Electronic and Appliance Repair

- The Bureau should shift its focus from registering applicants to adopting a Contractors' State License Board model where applicants must meet licensing and certification requirements.
- The Bureau should develop a customer satisfaction assessment method, such as a survey application for mobile devices.
- The Bureau should standardize enforcement and outreach for all industry sectors, as well as increase outreach efforts through media and social media.

Service Contracts

- The Bureau should eliminate the prescriptive requirement for consumers to file a service contract claim.

In general, feedback from all stakeholders indicates that augmentations should be made either in the Bureau's practice acts or in operations, but there were no areas identified that required substantial reform. The Bureau's next steps and future efforts based on this assessment are incorporated in the conclusion of this report.



## FLAMMABILITY, LABELING, AND OTHER BUREAU STANDARDS

*AB 2740 Sec. 1(a)(7)(F): The bureau has reported high product failure rates, which are primarily attributed to technical violations of flammability, product labeling, and feather and down standards. The bureau should reexamine its testing protocols to ensure that it has the information it needs to appropriately identify areas of highest risk to consumers, and reexamine its standards, especially feather and down and product labeling standards, to determine if some standards could be relaxed, presuming there is no appreciable impact on consumer safety, whether standards should be clarified or better advertised, or whether penalties for violations are too low to act as a proper deterrent.*

Flammability Standards: As seen in the statistics below, the Bureau's high failure rate for flammability testing is primarily due to the previous TB 117 flammability standard. Data from the past 12 years reveals a fail rate of approximately 50 percent on upholstered furniture products tested that were required to meet the TB 117 (2000 version) standard. The fail rate was primarily due to each component contained in the article having to meet requirements of different sections of TB 117.

As of January 1, 2014, manufacturers could utilize the new or old standard. As of January 1, 2015, all manufacturers must meet the new standard for upholstered furniture sold in California. Since the implementation of TB 117-2013, which requires a more stringent smolder test and has no open flame component, the Bureau has noticed a considerably lower failure rate in upholstered furniture products. Additionally, TB 117-2013 allows options on how a product may be manufactured in order to comply, e.g. outside cover fabric can fail if a compliant barrier is used. For these reasons, it is more likely the Bureau will see a much higher compliance rate. As of March 25, 2015, test statistics indicate a two percent fail rate. The Bureau anticipates that this fail rate will range between 2-10 percent, which is a reasonable value based on manufacturing process variables and improved understanding of the standard.

The open flame standard conducted on mattresses and mattress sets, as required by Title 16 of the Code of Federal Regulations section 1633 (16 CFR 1633), indicates an average pass rate of 81 percent. The smoldering test conducted on mattresses and mattress pads, as required by 16 CFR 1632, indicates an average pass rate of 95 percent. Thermal insulation products are tested for both flammability and physical properties and have continued to indicate an average pass rate of 82 percent.

Below are compliance testing statistics for the past four fiscal years and the current fiscal year as of March 2015:

Data for FY 2010-11

Type Test	Completed Samples			
	07/01/10 -06/30/11			
	Pass		Fail	
	No.	%	No.	%
TB 117 (upholstered furniture)	69	63	40	37
16 CFR 1633 (mattress/mattress sets)	36	86	6	14
16 CFR 1632 (mattress/mattress pads)	4	100	0	0
Plumage (Feather & Down)	6	43	8	57
Thermal Insulation	87	86	14	14
*Bedding (no flammability test)	-9	N/A	0	N/A
**Labeling	24	15	135	85
Total <sup>1</sup>	202	75	68	25

Data for FY 2011-12

Type Test	Completed Samples			
	07/01/11 -06/30/12			
	Pass		Fail	
	No.	%	No.	%
TB 117 (upholstered furniture)	99	47	110	53
16 CFR 1633 (mattress/mattress sets)	28	82	6	18
16 CFR 1632 (mattress/mattress pads)	2	100	0	0
Plumage (Feather & Down)	12	40	18	60
Thermal Insulation	23	88	3	12
*Bedding (no flammability test)	-12	N/A	0	N/A
**Labeling	26	9	261	91
Total <sup>1</sup>	164	54	137	46

Note: The laboratory adjusted sample flow for our facility move; therefore very few samples were received between Feb-April, 2012.

Data for FY 2012-13

Type Test	Completed Samples			
	07/01/12 -06/30/13			
	Pass		Fail	
	No.	%	No.	%
TB 117 (upholstered furniture)	67	51	65	49
16 CFR 1633 (mattress/mattress sets)	44	81	10	19
16 CFR 1632 (mattress/mattress pads)	5	83	1	17
Plumage (Feather & Down)	19	46	22	54
Thermal Insulation	26	79	7	21
*Bedding (no flammability test)	-30	N/A	0	N/A
**Labeling	47	18	216	82
Total <sup>1</sup>	161	61	105	39

Data for FY 2013-14

Type Test	Completed Samples			
	07/01/13 - 06/30/14			
	Pass		Fail	
	No.	%	No.	%
TB 117 (upholstered furniture)	25	78	7	22
TB 117-2013 (upholstered furniture)	1	50	1	50
16 CFR 1633 (mattress/mattress sets)	92	75	31	25
16 CFR 1632 (mattress/mattress pads)	60	94	4	6
Plumage (Feather & Down)	10	31	22	69
Thermal Insulation	45	82	10	18
*Bedding (no flammability test)	-89	N/A	0	N/A
**Labeling	48	13	312	87
Total <sup>1</sup>	233	76	75	24

Data for FY 2014-15 to Date

Type Test	Completed Samples			
	07/01/14 - 03/25/15			
	Pass		Fail	
	No.	%		%
TB 117 (upholstered furniture)	2	100	0	0
TB 117-2013 (upholstered furniture)	62	98	1	2
16 CFR 1633 (mattress/mattress sets)	83	81	20	19
16 CFR 1632 (Mattress/mattress pads)	14 <sup>2</sup>	100	0	0
Plumage (Feather & Down)	3	43	4	57
Thermal Insulation	20	77	6	23
*Bedding (no flammability test)	-34	N/A	0	N/A
**Labeling	37	16	188	84
Total <sup>1</sup>	184	86	31	14

<sup>1</sup> Total results do not include bedding or labeling.

<sup>2</sup> Eleven of the 14 samples were rebuilt mattresses.

\* Comforter, bed pillows, decorator pillows, quilts, body pillow or any other type of product that does not require flammability testing or plumage analysis.

\*\* This category includes labeling results for products with the exception of Thermal Insulation products.

TB 133: Several Industry Associations, as well as health care providers, have asked the Bureau to update TB 133, which is an open flame test procedure designed to test seating furniture used in public occupancy areas (e.g. health care facilities, public auditoriums, and hotels). This standard is not intended to test any residential product.

In order to meet this standard, manufacturers must often utilize barriers, highly fire resistant component materials, or both in their products. However, the Bureau's existing regulations allow for owners of public occupancy spaces to utilize TB 117-2013 when those spaces meet specified fire sprinkler standards (4 CCR 1374(e)). In addition, the California Building Standards Code recognizes the same exemption (24 CCR Part 9, 805.2-805.4). There appears to be discretion, however, for local fire authorities to require the TB 133 standard to be met even in instances where the fire sprinkler exception is also met. Interested stakeholders may wish to address this issue with the Office of the State Fire Marshal during the California Building Standards Code development process.

Product Labeling; Non-Plumage (Non-Feather and Down) Products: The majority of product labeling discrepancies for non-plumage products are minor violations that are addressed by notifying the manufacturer of the discrepancy. Some examples of minor label violations are letter height, label size, capital letter requirements, finished size, missing or incorrect net weight of filling materials (as required for particular bedding products), incorrect label material, differences in percent components, or unacceptable component terminology. Minor label discrepancies on regulated items constitute about 80 percent of the total labeling non-compliance rate. Manufacturers do not receive a notice of violation or citation when a minor label violation is found. The Bureau provides education to the manufacturer to allow the manufacturer time to correct the next production of labels that will be printed and attached to their products.

Major labeling violations are generally addressed during an actual Bureau inspection. The inspector may withhold products from sale when law labels and/or flammability labels are not attached, if registry numbers are missing or incorrect on the law label, and when product manufacturers are not licensed with the Bureau. Once the manufacturer/retailer addresses the issues and all Bureau requirements are met, the Bureau inspector may lift the "withhold from sale" on those particular products and they may be offered for sale once again.

The Bureau has been actively communicating with the industry to educate manufacturers regarding product label requirements and plans to continue this outreach effort. The Bureau will be posting label examples on the website that adhere to the actual required font and label size, as suggested by the Bureau's Advisory Committee. The Bureau has recently published Frequently Asked Questions on the newly adopted standards per TB 117-2013 and SB 1019 regarding flame retardant chemicals. The industry has expressed gratitude on several occasions for the posting of helpful tools such as this on the Bureau website.

Product Labeling; Plumage (Feather and Down) Products: Plumage products are offered for sale considering performance, features, safety, price, and effectiveness. Specifically, down products are known for their insulating, lightweight, and compact properties. Therefore, the down content is typically very important to consumers who are considering buying these products, which makes accurate product labeling especially significant. Product labeling discrepancies for plumage products are considered major violations when the discrepancy involves a difference in the percentage of what the manufacturer claims is contained in the product and what is actually in the product. Bureau regulations do not allow any variance in the amount of down claimed (Title 4, California Code of Regulations, Article 5, 1193(f)). Other types of plumage contained in the product must not exceed the allowable maximums unless those

maximums are properly documented on the label. In instances when components exceed maximums, the percentage of such components must be labeled. Allowing a variance in the down may cause industry to produce lower quality products for the California consumer. Typically, the labeled percentage of down in plumage products are not allowed a variance, however, Canada permits some variance while Japan, like California, does not. The International Feather and Down Laboratory has testing labs throughout the world and their testing techniques include double testing. Double testing allows for an inherent variance in the average of the test results. To allow a variance in down content may cause the manufacturer to “shoot” for the tolerance, therefore intentionally being deceptive, as opposed to unintentional variations in the manufacturing process. The Bureau test results show that plumage failures can be attributed to low down content; however, allowing a tolerance would not be beneficial to the consumer. Further, given the high cost of plumage products, having strict standards minimizes economic harm to consumers.

For these reasons, the Bureau does not plan to amend this existing regulatory standard.

Cleanliness of Plumage (Feather and Down) Products: The cleanliness requirements for plumage products are stated in Title 4, CCR, Article 5, 1193(h) as, “Cleanliness. All plumage products must have an oxygen number not exceeding 20 grams of oxygen per 100,000 grams of sample.” The oxygen number test determines the cleanliness of plumage products, meaning the presence of organic material such as plants, insects, blood, etc., on the surface of the down and feathers; the lower the oxygen number, the cleaner the down and feather material.

The American Down and Feather Council (ADFC) is a voluntary organization that self regulates the industry. The ADFC has many members from the feather and down industry who may file a complaint regarding labeling or other regulated concerns that will start a lengthy testing process that can lead to voluntary product withholds and reporting non-compliant issues to regulating states where the products are offered for sale. The ADFC requires the oxygen number be less than 10. In the United States, the accepted industry standard for the oxygen number is 4.8 or less. To qualify as “clean,” in California, the oxygen number must be less than 20, while most other states require less than 10. By comparison, Europe requires 20 and Japan requires 4.8 or less.

The Federal Trade Commission (FTC) states, “because modern mass production techniques allow the industry to produce feather and down materials efficiently with oxygen numbers below 10, cleanliness of feather and down filling should be consistent with an oxygen number of less than 10, no matter how it is measured.” In August 1998, the FTC rescinded its feather and down guidelines; however, the FTC still has policies regarding truth in advertising and claims made on products must be truthful, accurate, and substantiated.

In the past 20 years, Bureau testing results have shown plumage samples to be less than 5 grams of oxygen per 100,000 grams of sample; therefore the Bureau plans to update its regulations to reflect the more stringent oxygen number not exceeding 10 grams of oxygen per 100,000 grams of sample. The update will reflect international standards and ensure the utmost cleanliness for the consumer as a value of 10 indicates a cleaner plumage product.

Damaged Feathers; Maximum Allowed in Plumage (Feather and Down) Products: Bureau statistics show that plumage products have approximately a 50 percent failure rate based on labeling violations alone. The majority of failures are due to both low down content on products claiming specific down percentages and damaged feathers exceeding the maximums allowed in California regulations.

The International Down and Feather Bureau (IDFB) is the international trade association of the down/feather industry (processors of raw material and/or producers of finished articles, filled with down/feathers). The IDFB's goal is to develop and promote international standards for down and feather fillings, including definitions and testing regulations. The IDFB developed a sliding scale for maximums allowed for damaged feathers in blended waterfowl feather and down products. The sliding scale is accepted by the industry and creates a more realistic standard for manufacturers. The acceptance of the sliding scale for the maximum requirement for damaged feathers will not impose hardship on the industry, but provide a more realistic producible product based on the blended products.

The Bureau proposes adopting the sliding scale maximums for damaged feathers for blended waterfowl feather and down products. This will provide more realistic and obtainable standards for the plumage industry and will not cause economic or health and safety hazards to the consumer.

Percentage Requirements on the Law Label: Existing law requires that manufacturers include specific information on their product law labels. Specifically, the materials used must be listed in order of predominance and the label must identify the percentage, by weight, of each item in the product. Industry representatives have posed the following questions regarding the percentage requirements on the law label:

- Why do we need percentages listed on the law label?
- What are the consumer benefits and/or protections in providing the percentage components?
- Is there harm posed if the percentages are not listed?
- Is this necessary or an undue burden on the industry?
- Food industry labeling includes highest volumes listed in order, but does not have percentages listed. Why is furniture held to a higher standard than products we ingest?

Industry is requesting to eliminate the percentage requirement and allow manufacturers to only list materials in order of predominance. The exception would be to keep current labeling requirements for plumage products where percentages affect quality control and cost to the consumer.

Additional arguments for eliminating the percentage labeling requirement:

- The requirement is antiquated, burdensome, and costly for manufacturers;
- Only four states (according to one association), including California, require percentages to be listed;
- Percentages do not equate to quality or comfort;
- Percentages are not used in marketing of the upholstered furniture products;
- Component changes (foam density/fiber weight) result in inaccurate percentages and subjects the manufacturer to unwarranted enforcement penalties;
- It is not reasonable or efficient for manufacturers to reprint labels each time there is a change in percentages (these changes are not meaningful);
- Consumers do not have a reference point for comparison of products based on percentages;
- Attempts to calculate, or comprehend different percentages create confusion in the marketplace; and
- Each manufacturer must stock large quantities of a variety of labels with differing percentages and apply them appropriately.

#### Potential Counterarguments:

With the exclusion of feather and down products, which shall always require percentages based on the economic harm, below are possible arguments for continuing to require percentages of components in the “All new material consisting of” section of the law label.

- Consumers cannot differentiate between low and high quality materials and exactly how much of each is contained in the product. For example, a listed polyurethane foam pad could contain shredded polyurethane foam, which is a lower quality product, but the label would not indicate how much of the product is shredded foam versus a higher quality material;
- Economic harm caused to the consumer from not being properly informed;
- Durable goods, such as a sofa or loveseat, are much more costly than food items or other non-durable goods. These items are intended for long-term use, which makes quality more important to the consumer. Listing material percentages enables consumers to make informed choices when investing in high-priced items;
- Food and hygiene products tend to have many components as compared to furniture products, which generally have less than five;
- Food items list important percentages, such as the percentages of fat, sodium, carbohydrates, and protein, expressed in grams; and
- Key regulating states require percentage of components (Ohio, Texas, and Utah).

#### States that Require Percentages:

According to the charts provided by International Sleep Products Association (ISPA) and located in the 2013 Manual of Labeling Laws, there are 32 states that require some type of labeling and 21 of those require a statement of materials used showing percentages by weight. However, a Bureau survey requested through International Association of Bedding and Furniture Law Officials only confirmed California, Ohio, Texas, and Utah require the label to state percentages of product components.

The Bureau recommends amending 4 CCR Section 1113, Deviations from Percentages Stated, to allow more variance in percent differences. This change is anticipated to not have an impact on consumer safety or cause economic harm and will allow more variance in the manufacturing process and by default, provide more compliance in labeling for industry.

The Bureau does not intend to update these percentage requirements until additional information is available that ensures consumers will not be harmed by this change in disclosures.

#### Penalties for Violation:

The Bureau finds that minor first offenses are best resolved by treating them in a similar fashion as a “fix-it” ticket. Many Bureau licensees are businesses that need to be made aware of requirements. For this reason, the Bureau allows the business 30 days to enter into compliance and if they do so, does not levy fines or penalties.

For more significant violations, the Bureau always has the ability to withhold products that are in violation from sale and levy citation fines. Further, for particularly egregious violations of unlicensed activity, the Bureau may seek to have the licensee’s phone disconnected. Authority it regained recently in SB 1243 (Lieu, Chapter 395, Statutes of 2014). For the most egregious cases, the Bureau also partners with local district attorneys to pursue criminal convictions. These tools seem to offer more than sufficient deterrence in the majority of the Bureau’s cases.

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## BREEZE

*AB 2740 Sec. 1(a)(7)(G): The bureau is scheduled to go live on the department’s BreEZe system in late 2015. The bureau should update the committees on the status of its implementation of BreEZe, including whether the system will accommodate the bureau’s current and future needs.*

At present, the Department continues to support the Bureau’s legacy systems as the Bureau’s transition to BreEZe in Release 3 is not currently scheduled. The Department will conduct a formal cost-benefit analysis of BreEZe, in conformance with the State Auditor’s Report, prior to moving forward with Release 3. Unless the cost-benefit analysis indicates otherwise, the goal remains to have a single integrated licensing and enforcement system. The Department and Bureau are awaiting the outcome of that analysis prior to planning the Bureau’s transition to BreEZe.

The Bureau has paid a share of the initial hardware and software investment costs, and will continue to contribute to the remaining non-Accenture project costs, but will not pay Accenture project costs for Release 1 and 2. BreEZe project costs are allocated among the boards and bureaus based upon their respective share of the Department’s overall annual initial licensing application and license renewal transactions.

Bureau BreEZe Costs

	Total Costs	% of Total Budget	EAR Costs	% of Total Fund Budget	HFTI Costs	% of Total Fund Budget
FY 2013-14	\$147,434	2.15%	\$60,955	2.56%	\$86,479	1.93%
FY 2014-15	\$75,378	0.94%	\$29,305	1.02%	\$46,073	0.90%
FY 2015-16	\$208,307	2.69%	\$82,397	2.92%	\$125,910	2.55%
FY 2016-17	\$183,677	2.33%	\$72,560	2.54%	\$111,117	2.22%

Based on a review of the Bureau’s existing infrastructure and operational needs, its strategic plan, various 2014 sunset documents, and the materials associated with this report, the Bureau is confident that BreEZe will meet the Bureau’s current and future needs. Based on lessons learned from Release 1 Programs, the Bureau is committed to having a thorough and involved design phase process to ensure all needs are met.

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## CONCLUSION

Due to this extensive review, the Bureau has identified several key tasks it will pursue prior to its next sunset review in 2018.

- Regulatory Proposals
  - Update the Bureau's advertising regulations to ensure industries can easily understand compliance requirements and the Bureau can effectively enforce violations of those requirements.
  - Evaluate changing the plumage cleanliness requirement from 20 grams of oxygen to 10 grams of oxygen per 100,000 grams of sample.
  - Evaluate changing current maximums allowed for damaged feathers for blended waterfowl feather and down products to a sliding scale requirement for maximum damaged feathers contained in blended waterfowl feather and down products.
  - Raise home furnishing industry license fees 15 percent in 2016.
  - Raise electronic and appliance repair and service contractor industry license fees 15 percent in 2017.
- Operational Updates
  - Explore cost savings opportunities from utilizing the Department's Complaint Resolution Program.
  - Explore altering enforcement focus to increase the number of Wholesaler, Importer, and Manufacturer compliance inspections.
  - Continue to monitor TB 117-2013 failure rates to evaluate whether Bureau projections are accurate or to determine what, if any, issues arise with the new standard.
  - Continue to assess programmatic needs and devote resources at the appropriate time to the BreEZe design phase process when Release 3 project development commences.
- Outreach Opportunities
  - Update the Bureau's website to be more user-friendly and provide various documents requested by industry in the market assessment study.
  - Conduct three Bureau Advisory Committee meetings annually to ensure licensees and interested stakeholders are apprised of Bureau operations and efforts. Further, when budget constraints are alleviated, consider council meetings outside the Sacramento Region.
  - Provide YouTube content to numerous regulated small business entities in English, Spanish, and Mandarin on Bureau requirements such as TB 117-2013 and flame retardant chemical disclosure rules.
  - Look for opportunities to conduct outreach on compliance requirements in a uniform fashion for all Bureau license types.

Additionally, there are items raised by stakeholders that the Legislature may wish to examine and augment in the Bureau's next sunset review in 2018.

- Require all home furnishings license types to renew their licenses annually rather than biennially.
- Consolidate three home furnishings license categories: Wholesaler, Importer, and Manufacturer into two license types: Wholesaler and Manufacturer.

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APPENDIX A – BUREAU MARKET CONDITION ASSESSMENT, FINAL  
REPORT, MARCH 2015

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FINAL REPORT



# Department of Consumer Affairs

## Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation

# Market Condition Assessment Final Report

**March 16, 2015**

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Your Path to Performance



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## **Executive Summary**

The Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau or BEARHFTI) is a regulatory body under the organizational structure of the California Department of Consumer Affairs (DCA). The Bureau registers regulates electronic and appliance repair businesses and has jurisdiction over the sale and administration of service contracts over various consumer products. In addition, the Bureau licenses and regulates the manufacture and sale of upholstered furniture, bedding, and thermal insulation products, and conducts flammability and sanitization testing. The Bureau's mission is: "to protect and serve consumers while ensuring a competent and fair marketplace."

In response to the passage of Assembly Bill 2740, in October 2014 the Board engaged CPS HR Consulting (CPS HR) to conduct an independent assessment of the conditions of the Electronic and Appliance Repair and Home Furnishing and Thermal Insulation markets in California.

The study scope and methodology included the following:

- Review pertinent legislation, regulations, organizational structure, operating statistics and past performance; and
- Interview or survey the interests of the following critical stakeholders:
  - Bureau management;
  - Bureau Advisory Council members;
  - Industry officials, collect and analyze secondary market research of the industries under the Bureau's oversight; and
  - A representative sample of California consumers.
- Prepare draft and final reports with findings and recommendations.

The following summarizes the study recommendations.

CPS HR recommends the Bureau:

1. Evaluate technology improvements (tablets, applications and database) for field inspectors to improve efficiency and reduce workload for Enforcement Unit staff.
2. Add resources to the Bureau to eliminate the present case backlog and stay current with the existing workload.
3. Continue to update and revise applicable legislation and regulations to streamline licensing and enforcement, reduce confusion with licensees and registrants, and increase fees appropriately to ensure the Bureau's sustainability.
4. Switch all license and registration renewals to annual to improve operational cash flow and enforcement effectiveness.

5. Work with the DCA Communications Division to implement an electronic communications strategy to increase education and outreach to consumers and pertinent licensee/registrant industries.

#### **Recommendations proposed by the Home Furnishings Industry**

6. The Bureau should change its enforcement focus from retailers to furniture and foam manufacturers and importers because they are the source of the problem, not retailers. The focus on retailers should be on advertising and service delivery. Implementing this recommendation would result in better use of limited staff because most time would be spent inspecting manufacturers and large importer warehouses, rather than small retailers. However, it is understood that the travel cost implications of this recommendation may not be viable given current travel budget constraints.
7. Bureau focus should be shifted to the importer of record, not foreign manufacturers.
8. When inspectors find unlicensed businesses, they should be charged the license fee plus a late charge for all the delinquent time they were unlicensed.
9. When testing, the Bureau should test cushion samples only, not the entire piece of furniture. This would speed up testing and reduce cost.
10. The Bureau should develop false and deceptive advertising regulations for BEAR similar to the BHFTI regulations.
11. The Bureau should recruit retired independent furniture sales people as inspectors.

#### **Recommendations Proposed by the Electronic and Appliance Industry**

12. The Bureau should change its focus from registration to licensing and certification to provide a higher level of protection and greater consumer awareness. Licensee requirements should be similar to the Contractor's State Licensing Board and other in-home service industries.
13. The Bureau should also develop a customer satisfaction assessment method such as a survey mobile device application.
14. The Bureau should standardize its approach to outreach and enforcement for all industries licensed/registered. Increase media time and a social media approach to create awareness.

#### **Recommendations Proposed by the Service Contract Industry**

15. The Bureau should eliminate the prescriptive requirement for consumers to file a service contract claim.

## Introduction

The following presents background information on the establishment of the Bureau, the industries and licensees/registrants it regulates, the Bureau’s Advisory Council, Bureau organizational structure, the requirement for the independent market study, and the study scope and methodology.

### Background

The Bureau is a combination of the California Bureau of Home Furnishings and Thermal Insulation (BHFTI) established in 1911 and the California Bureau of Electronic and Appliance Repair (BEAR) formed in 1963. In an effort to share resources and provide cost savings, the two bureaus were co-located in the 1990s and were officially merged into one bureau in 2009.

The Bureau licenses and regulates about 40,000 businesses serving California consumers in the following industries: appliance, electronic and computer repair, and service contracts; manufacturers, importers, retailers, upholsterers, sanitizers and supply dealers providing home furnishings and bedding products; and thermal insulation manufacturers. Table 1 displays the number of licenses/registrations by company type for FY 2012-13.

**Table 1  
BEARHFTI Licenses/Registrations – FY 2012-13**

Company Type	Total Licenses/ Registrations	% Total	Renewal Frequency
<b>BHFTI</b>			
Furniture & Bedding retailer	11,313	28.6%	2 yrs.
Furniture & Bedding importer	3,765	9.5%	2 yrs.
Furniture retailer	2,445	6.2%	2 yrs.
Bedding retailer	1,846	4.7%	2 yrs.
Furniture & Bedding manufacturer	1,420	3.6%	2 yrs.
Custom upholsterer	494	1.2%	2 yrs.
Furniture & Bedding wholesaler	176	0.4%	2 yrs.
Supply dealer	133	0.3%	2 yrs.
Thermal insulation	122	0.3%	1 yr.
Sanitizer	15	0.0%	2 yrs.
<b>Subtotal</b>	<b>21,729</b>	<b>54.9%</b>	
<b>BEAR</b>			
Service contract seller	9,606	24.3%	1 yr.
Electronic service dealer	5,298	13.4%	1 yr.
Appliance service dealer	2,399	6.1%	1 yr.
Combination service dealer	493	1.2%	1 yr.
Service contract administrator	42	0.1%	1 yr.
<b>Subtotal</b>	<b>17,838</b>	<b>45.1%</b>	
<b>Total</b>	<b>39,567</b>	<b>100.0%</b>	

Source: [DCA 2012/13 Annual Report](#)

Table 1 shows the BHFTI licensees comprise almost 55% of the total entities the Bureau regulates. The furniture & bedding companies represent 99% of the BHFTI licensees/registrants. The most common renewal frequency for these companies is two years.

The BEAR registrants comprise 45% of the entities regulated. Service contract sellers and administrators represent 25% of total licensee/registrants and electronic and appliance service dealers comprise about 20% of the total. These companies must renew their license annually.

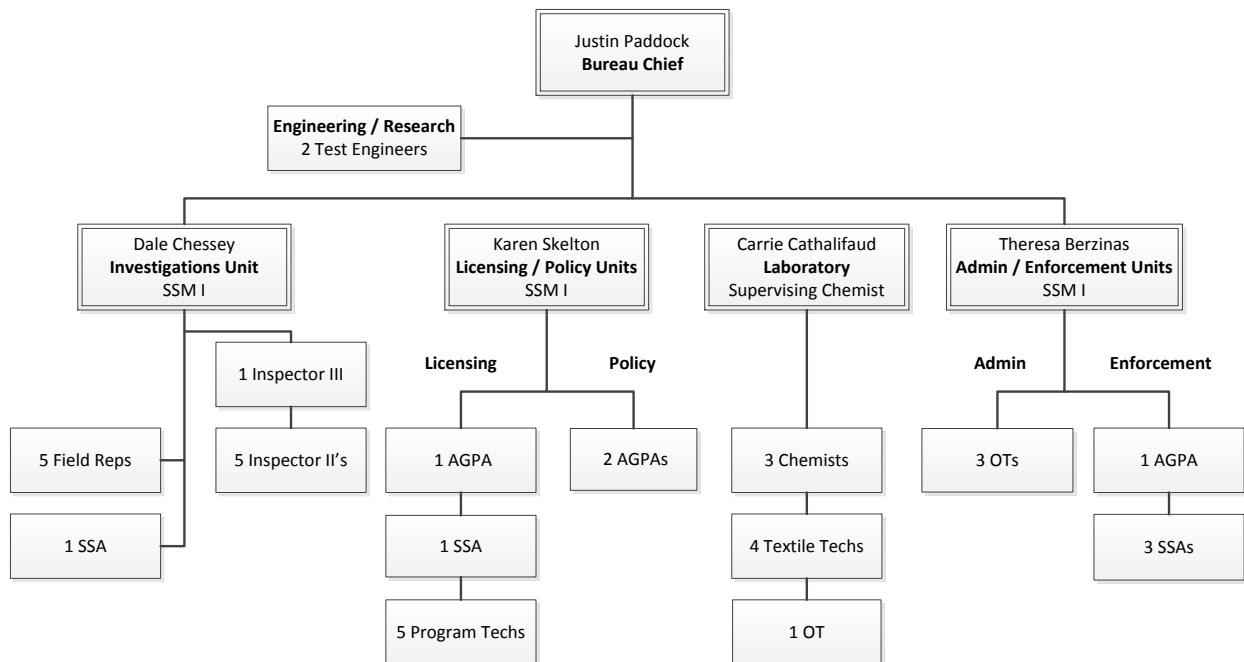
The electronic and appliance repair industry and service contract industry are regulated under California Business and Professions (B&P) Code Section 9800 et. seq. The home furnishings and thermal insulation industries are regulated under California B&P Code Section 19000 et. seq.

### **Bureau Organizational Structure**

Figure 1 shows the Bureau has 41 authorized civil service positions and one exempt position. The Bureau Chief reports to the DCA Chief Deputy Director. The five units that report to the Bureau Chief are:

- **Licensing / Policy Units** are responsible for licensing/registering business and policy matters. Reporting to the Unit Manager is the Licensing Unit with 1 AGPA, 1 SSA and 5 Program Technicians, and the Policy Unit with 2 AGPAs.
- **Investigation Unit** is responsible for investigating complaints filed against licensed/registered companies as well as those who operate unlicensed. Reporting to the Unit Manager are 6 Field Representatives, 1 SSA and 1 Inspector III. Five inspectors report to the Inspector III.
- **Enforcement and Administration Units** are responsible for responding to consumer complaints, meting out discipline, and providing administrative support for the Bureau. Reporting to the Unit Manager is the Enforcement Unit with 1 AGPA and 3 SSAs and the Administration Unit with 3 Office Technicians.
- **Laboratory Unit** is responsible for flammability testing on furniture & bedding products. There are 3 Chemists, 4 Textile Technicians and 1 Office Technician reporting to the Supervising Chemist.
- **Engineering / Research Unit** is responsible for scheduling, conducting and overseeing full-scale flammability tests, preparing lab reports, reviewing outside lab reports, and conducting research and development on new material and product technologies. The two Test Engineers report to the Bureau Chief.

**Figure 1**  
**Bureau Organization Chart as of January 2015**



### Consumer Advisory Council

The Bureau has a nine-member voluntary Consumer Advisory Council consisting of six industry representatives and three public representatives appointed by the DCA Director for two-year terms. There are currently seven council members – including six industry representatives and one public representative - with two public representative vacancies. The purpose of the Council is to:

- Provide perspective and advice on consumer and market issues;
- Research and recommend creative solutions to consumer and industry problems;
- Advise the Bureau Chief on outreach efforts to consumers, the public, licensees and the industry; and
- Provide information and comments to the Bureau Chief on a broad range of policy issues including, but not limited to, consumer education, industry outreach and regulatory compliance.

Meetings are supposed to be held twice a year but that has not been accomplished consistently to date. Due to the state moratorium on non-mission critical travel, Council members are not reimbursed for their travel expenses.

## **Independent Market Study Requirement**

The Department of Consumer Affairs (DCA) has not conducted a market study since December 1999. The last study covered the service contract industry in California reviewed current California law and regulations, compared regulations in other states, and examined the distinction between service contracts and insurance. Consequently, as part of Assembly Bill 2740 (Bonilla, Ch. 428, Stats. 2014), signed on September 18, 2014, the Bureau was required to conduct an independent assessment of the conditions of the Electronic and Appliance Repair and Home Furnishing and Thermal Insulation markets in California and report the results to the California Legislature in 2015.

## **Study Scope and Methodology**

This report attempts to assess these respective markets and answer the following seven questions:

1. Should program resources be refocused or expanded?
2. What are the greatest risks to consumers and their impacts?
3. Are current statutes and regulations appropriate and necessary for today's market?
4. Is continued regulation necessary across all segments of these markets?
5. Can certain regulatory market segments be consolidated or deregulated?
6. Do certain market segments need statutory and/or regulatory revisions?
7. What are the potential benefits or consequences of annual versus biennial license renewals?

The CPS HR methodology included the following:

- Reviewed pertinent legislation, regulations, organizational structure, operating statistics and past performance; and
- Interviewed or surveyed the interests of the following critical stakeholders:
  - Bureau management;
  - Bureau Advisory Council members;
  - Industry officials and collected and analyzed secondary market research of the industries under the Bureau's oversight; and
  - Surveyed a representative sample of California consumers.
- Prepared draft and final reports with findings and recommendations.

### **Constraints and Data Limitations**

CPS HR relied on information received from internal Board management and staff interviews, Advisory Council and industry official interviews, and reviews of unaudited information.

### **Acknowledgment**

CPS HR wishes to thank all the participants for their invaluable and timely contributions.

## **Study Results**

In response to the study questions, the following presents the study findings and improvement recommendations based on interviews with Bureau management, Consumer Advisory Council members and industry officials, and supporting market and consumer research.

### **Bureau Priorities, Successes and Program Resource Challenges**

Based on management interviews and other documentation, the Bureau's highest priorities are licensing all appropriate companies doing business in California, flammability testing, label content review, and enforcement of unlicensed and delinquent businesses.

Bureau successes have been the implementation of the following enforcement tools:

- \$0 citation abatement program;
- Posting violators on the Bureau website;
- Disconnecting violator telephones through the California Public Utilities Commission; and
- Using the Franchise Tax Board in the collection process as a deterrent is under review at this time.

The Bureau's greatest challenges in 2015 appear to be:

- The successful implementation of SB 1019 regarding the use of flame resistant chemicals and AB 127 regulatory changes for thermal insulation.
- The success of the \$0 citation enforcement abatement program to get unlicensed and delinquent businesses compliant has resulted in additional workload and a significant backlog. The program has increased compliance to 70%. However, the inspectors use outdated NCR paper forms in the field instead of tablet technology and their database is old and deficient. In addition, because of the added paperwork, the Administration & Enforcement Units have insufficient staff to process the large case backlog (200-300).
- Program resources need to be increased to expand outreach and education to the industry and consumers through the Bureau website, improved technology and additional staff. The long-term state moratorium on non-mission-critical travel has curtailed traditional outreach efforts such as attending industry conferences and trade shows. However, the DCA Communications Division offers Bureaus/Boards, etc. assistance in developing and maintaining electronic outreach services. Unfortunately, the Bureau is not scheduled to receive DCA enterprise licensing & enforcement (BreEZE) system automation until the third release, which is estimated to be up to five years away.

### **Growth Industries and Consumer Risk**

Based on the number of licenses/registrations, interviews and market research, the growth industries within the licensing/registration categories are:



- Furniture & bedding, and home furnishings with fire resistant chemicals (but US furniture manufacturing has moved off-shore)
- Service contracts
- Electronics repair of higher cost devices (phones, tablets, PCs) (but in general, electronics and appliance repair are declining)
- Home automation and security systems, and high-end appliances
- Vehicle interlocking ignition devices

The market research section of this report describes the industry conditions in more detail.

The greatest risks to consumers in the BHFTI markets concern public safety and environmental issues due to the flammability of furniture and bedding materials.

The greatest risks to consumers in the BEAR markets concern the risk of fraud and damage to the home by service contractors.

### **Status of Statutes and Regulations, Consolidation or Deregulation**

From a Bureau perspective, all market segment regulations need to be reviewed to refresh terms and definitions and eliminate obsolete and outdated statutes regarding particular products and labeling, such as those for televisions. There are also inconsistencies between some statutes and regulations. For example, thermal insulation is covered under statute, but not in the regulations. In addition, all fees regarding licenses, citations and discipline need to be updated and increased to more accurately reflect Bureau operational costs. Bureau management agree revenue should be driven by licensing and not fines.

CPS HR learned each market area is specific and includes its own terms, definitions and rules. As a result, it would be impractical to consolidate or deregulate market segments. However, according to Bureau management, there are more advantages than disadvantages to instituting a single furniture & bedding license than keeping the current three licenses. The advantages are:

- The Bureau would not have to make any adjustments if the licensee decides to diversify their product line to include the other.
- There would be fewer license types and less workload for Bureau licensing and enforcement staff to deal with and they would not have to ascertain if the company has the correct license.
- This practice would be consistent with the other types of licenses that were consolidated in the past (e.g., Manufacturer, Importer and Wholesaler).

The single disadvantage is the fee would double for companies that just do one activity or the other. As a result, the small business expense would increase, which would not be politically popular.

Another possible regulatory improvement concerns the licensing of manufacturers, importers and exporters. The law is not currently structured in a logical manner. For example, under the current law, manufacturers are treated as US-based product builders; importers are either out-of-country

manufacturers, US manufacturers who import, or just pure importers; and wholesalers are treated as US-based wholesalers.

To correct this structural deficiency in the law:

- Manufacturers should include all manufacturers, no matter where they are located and allow manufacturers to import as part of the license.
- Combine importers and wholesalers. This would eliminate registry numbers for importers and prohibit importers from manufacturing unless they obtained a manufacturer license in lieu of an importer license.

According to Bureau management, these corrections would simplify and streamline the law, but would require a major overhaul to the definitions currently in law. Additional benefits include streamlining licensing, and reducing staff workload and customer frustration by not having to constantly explain to foreign companies who manufacture that they must apply as an importer instead of a manufacturer.

To date, the Bureau has proposed language to update two regulation packages currently in process. One package is for Interlock Ignition Devices and the other is for changing citation fees to be consistent with general provisions of the Business and Professions Code for Electronic and Appliance Repairs.

Other regulation packages currently being worked on or being considered and not yet submitted are:

- Fee Increase for Manufacturers/Importers to the top of cap
- Codifying the current fee for Thermal Insulation manufacturers
- Citation Cap Increase for Home Furnishings/Thermal Insulation
- Disciplinary Guidelines for both sides of the Bureau
- Advertising requirements for both sides of the Bureau
- Picture tube grading and other old technological references on the EAR side
- Service Contract Application revisions (Section 100 – non-substantive)
- Labeling updates for Home Furnishings
- Thermal Insulation regulations in conjunction with the Energy Commission
- SB 1019 Labeling
- Remove water bed references
- Changes in Technical Bulletin 133
- Various laboratory terminology sections

### **Annual versus Biennial License Renewals**

The two major benefits of annual basis license versus biennial basis license renewal are: 1) consistent and predictable operations cash flow, and 2) improved enforcement.

The Bureau licenses/registers approximately 39,500 licenses. About 45% of the licenses are renewed on an annual basis and 55% on a biennial basis. If all the licenses were renewed on an annual basis this would result in a larger and more predictable annual revenue stream to pay for operations. According to Bureau management, an additional benefit to annual license renewal is that it increases enforcement effectiveness by catching unlicensed businesses within a year before noncompliant firms go out of business or otherwise escape enforcement.

## **RECOMMENDATIONS**

As a result of the previous findings, CPS HR recommends the Bureau:

1. Evaluate technology improvements (tablets, applications and database) for field inspectors to improve efficiency and reduce workload for Enforcement Unit staff.
2. Add additional resources to eliminate backlogs and keep workload current.
3. Continue to update and revise applicable legislation and regulations to streamline licensing and enforcement, reduce confusion with licensees and registrants, and increase fees appropriately to ensure the Bureau's sustainability.
4. Switch all license and registration renewals to an annual basis to improve operational cash flow and enforcement effectiveness.
5. Work with the DCA Communications Division to implement an electronic communications strategy to increase education and outreach to consumers and pertinent licensee/registrator industries.

## **Consumer Advisory Council and Industry Interviews**

Six of the Bureau's Consumer Advisory Council members represent their respective industries (home furnishings and electronic appliances). The seventh, and only public member at present, has substantial home furnishing regulatory experience as a former Bureau employee.

CPS HR reviewed the websites of the industry associations displayed in attachment 1 and attempted to contact most the relevant (furniture & bedding, electronics and appliance repair, and service contracts) for a telephone interview. Fortunately, the Consumer Advisory Council members that represent these industries graciously offered CPS their time, expertise, and the following summarized comments.

### **Home Furnishings Industry**

The following summarizes the interview comments and themes expressed.

- **Industry growth or contraction:** The recession decimated the industry. But since 2009, the industry has been growing again and consolidating. The industry now consists of survivors that are finally opening up new stores, buying other competitors, and opening online operations. The average growth rate has been about 3.2% per year.
- **Major factors influencing growth:**
  - Online marketing is fundamentally changing how the industry sells, but also how it will be regulated. At present, there is not a level playing field between in-state brick and mortar retail stores and online companies that are selling into the state and not following California laws. The Bureau may lack visibility of these companies.
  - Lagging home production. As the economy and home sales pick up, so will furniture and upholstery manufacturing.
  - Major foreign manufacturers selling into California and the U.S. in general. Fines for illegal products are minor and difficult to collect. Consequently, they are not a deterrent.
- **Major issues facing this industry:** there isn't a level regulatory playing field across the country. California is overregulated per industry perspective. Its regulations are more rigorous than other states and federal EPA requirements, though this can be perceived as a consumer leadership position versus other states as well. California is running business out of the state because of the cost to comply with all the regulations. In addition, other current laws like Proposition 65 concerning hazardous chemicals have hurt the industry because it allows the potential for frivolous lawsuits. Retailers have to tag every piece of furniture for content. If the tag is missing, lawyers sue the retailer. The intent is good, but the enforcement can be onerous and unfair. The only people making money are lawyers, not retailers.
- **Bureau and legislative effectiveness at protecting consumers and the industry in California:**
  - The limited number of inspectors restricts enforcement effectiveness.

- There is support for the new flammability law, but the law is constantly changing and the labeling law is unclear as to allowable content. Members contend identifying contents by predominance due to weight and volume is more sensible than enforcing to composition percentages and would reduce labeling costs.
- While there are valid positions to be taken that the false advertising law needs to be reformed, this remain a complex issue as to whether this should fall within Bureau or other State purview. BEAR lacks the regulations for false and deceptive advertising like BHTFI has in the Song-Beverly Consumer Warranty Act. For example, if a store advertises X% off it has to include the base price in the advertising. This is a problem with senior discounts because the consumer is not advised of what the base price is that will be discounted. Also, some furniture retailers are constantly advertising they are going out of business as a sale come-on, but do not actually close. Consequently, advertising regulations need to be established for BEAR.
- **Regulations that should be refocused, consolidated, deregulated or expanded:** enforcement of out-of-state online companies selling into the state.
- **Regulatory reforms needed:** advertising, labeling, online selling enforcement.
- **Need for outreach** to promote consumer and industry protections: there is little or no consumer or industry outreach. Except for an occasional mailer, the Bureau fails to keep the industry notified of legislative and regulatory changes. Members understand about the travel moratorium, but at a minimum the Bureau could use GoToMeeting (webinar), social media or some other electronic platform to manage outreach and/or to hold advisory council and industry meetings. In addition, members would like the Bureau's website to be continually updated, including posting violators as a deterrent.
- **Frustrations with the Bureau:** there have been many changes in leadership and cancelled meetings over the last few years. As a result the Bureau has not been able to optimally use the council for industry guidance or as a sounding board. The Bureau needs to establish a regular meeting schedule and be able to adhere to it despite many competing priorities.

### **Recommendations Proposed by the Home Furnishings Industry**

6. The Bureau should change its enforcement focus from retailers to furniture and foam manufacturers and importers because they are the source of the problem, not retailers. The focus on retailers should be on advertising and service delivery. Implementing this recommendation would result in better use of limited staff because most time would be spent inspecting manufacturers and large importer warehouses, rather than more numerous small retailers.
7. Bureau focus should be shifted to the importer of record, not foreign manufacturers.
8. When inspectors find unlicensed businesses, they should be charged the license fee plus a late charge for all the delinquent time they were unlicensed.

9. When testing, the Bureau should test cushion samples only, not the entire piece of furniture. This would speed up testing and reduce cost.
10. The Bureau should develop “false and deceptive” advertising regulations for BEAR similar to the BHFTI regulations.
11. The Bureau should consider hiring retired independent furniture sales people as inspectors rather than just state employees, given the sales veterans’ deeper industry experience.

## **Electronic and Appliance Industry**

The following summarizes the interview comments and themes expressed.

- **Industry growth or contraction:** the original equipment manufacturing (OEM) side is growing, but the service and repair business is flat or contracting.
- **Major factors influencing growth or contraction:**
  - The cost of parts and labor have contracted the industry. The question is a value proposition of repairing versus replacement. Consumers are concerned about the high cost of repairs. It’s often more cost effective to replace than repair. Moreover, obsolescence due to rapid technology change has reduced product lifespan from 7 years to 3 - 5 years. This reduces the cost of buying and maintaining excess parts.
- **Major issues facing this industry:** the high cost of product parts, rapid technology change, high cost of technically skilled workers, and transportation. Large manufacturers are pushing small repair companies out of business by making it difficult for them to get replacement parts timely, and/or replacement parts are being replaced by entire components which are much more expensive to replace than minor parts. In general, repair service prices have skyrocketed. The repair industry is looking for younger, cheaper, independent labor with appropriate skills and not necessarily computer skills. Many technical schools are missing a huge training opportunity.
- **Bureau and legislative effectiveness at protecting consumers and the industry in California:**
  - The Bureau’s limited number of inspectors and lower visibility to consumers has resulted in less effective consumer protection. The Bureau needs to change its focus from registration to licensing and certification to provide a higher level of protection and greater consumer awareness. The requirements should be similar to the Contractor’s State Licensing Board which requires validation of technical education and skills, general liability insurance, continuing education, and background screening because of the expansion of in-home services. The Bureau should also develop an on-going customer satisfaction assessment method such as a mobile application.
- **Regulations that should be refocused, consolidated, deregulated or expanded:** BEAR regulations should be similar to regulations that affect other in-home service industries like contractors across all industries.

- **Need for outreach:** the Bureau should standardize its approach to outreach and enforcement for all industries licensed/registered. This means capturing more media time and using a social media approach to create awareness.
- **Frustrations with the Bureau:** the council has been underutilized. Increased enforcement will improve consumer safety, increase Bureau revenue and also increase industry performance and quality, resulting in a win-win for everyone.

### **Recommendations Proposed by the Electronic and Appliance Industry**

12. The Bureau should change its focus from registration to licensing and certification to provide a higher level of protection and greater consumer awareness. Licensee requirements should be similar to the Contractor's State Licensing Board and other in-home service industries.
13. The Bureau should also develop a customer satisfaction assessment method such as a mobile application.
14. The Bureau should standardize its approach to outreach and enforcement for all industries licensed/registered. Increase media time and a social media approach to create awareness.

### **Service Contract Industry**

The information for this industry is limited in scope. The following summarizes the interview comments and themes expressed.

- The most popular, though not only, way to offer a service contract may be as an obligor. The obligor buys a contracted liability insurance policy (CLIP) to ensure against repair or replacement loss. Service contract administrators are obligors and service contract sellers may also be, but don't have to be.
- Nationally, most states regulate service contracting firms as insurance entities or not at all. As a result, California is out of step with the rest of the country. This issue starts with the definition of a service contract. These contracts typically cover personal property or consumer goods, not commercial services. California's definition follows a prescriptive laundry list of products and services that changes often. Other states use a more generalized, stable definition. In most states, auto, home appliance warranties and consumer goods are covered by the state insurance department.
- Except for California and Florida, most states have adopted the National Association of Insurance Commissioners (NAIC) model for service contracts (see attachment 3). Also, only California and Florida license individual locations like retail stores which sell service contracts, such as large electronic appliance store chains, but don't view themselves as service contractors. However, it is recognized these retail licenses generate valuable revenue for the state and probably won't be eliminated.
- A problem for the industry and California consumers is the Bureau's interpretation of the Song-Beverly Act. The Act specifies a clear description of the product is needed to file a

claim. The Bureau currently interprets this to mean serial numbers are needed to approve a claim. This puts a burden on the consumer if they failed to register the serial number with the company. According to the industry official, the obligor does not care and generally will not deny a claim for the lack of serial numbers. In general, there is no claims adjustment, just replacement because it often costs less to replace than repair. However, the industry may decide to repair instead if they reach a cost or size threshold.

- There have been discussions about service vendors undergoing background checks because they provide services in the home.

### **Recommendations Proposed by the Service Contract Industry**

15. The Bureau should eliminate the prescriptive requirement for consumers to file a service contract claim.



## Secondary Market Research

The following presents secondary paid and unpaid market research obtained from industry association websites, federal websites and other sources, and interviews with association officials from the furniture and home furnishings industry, home appliance and electronic repair industry, and service contract industry. Depending on the industry, the quantity and quality of information varied substantially.

### Furniture Industry Research

Information from the American Home Furnishings Alliance and the US Departments of Commerce and Labor suggests US furniture manufacturing is declining and imports are increasing. The figures presented vary slightly from the more current information provided by Furniture Today in the Industry and Economic Outlook report. However, they still show demonstrable changes in the industry over time.

Table 2 presents the value of domestic and import factory shipments for wood and upholstered furniture in 2012 and 2013. In both years, the value of imported wood products is almost twice the value of domestic shipments and is growing while domestic wood shipments are declining. The positions are reversed with upholstered products. The value of domestic upholstered products for both years is twice the value of imported shipments, but import value is increasing faster than domestic value. Finally, the table shows imported wood furniture has a dominant (73.8%) share of the US market and imported upholstery furniture has significant (42.1%) market share.

**Table 2**  
**Wood and Upholstered Furniture Shipments and Market Share in 2012 and 2013**  
**(\$ millions)**

Furniture Products	2012	2013	% Change
<b>Wood Furniture</b>			
Domestic	\$5,301	\$5,018	-5.3%
Imports	\$9,062	\$9,629	6.3%
<b>Subtotal</b>	<b>\$14,363</b>	<b>\$14,647</b>	2.0%
<b>Upholstered Furniture</b>			
Domestic	\$8,087	\$8,348	3.2%
Imports	\$4,191	\$4,674	11.5%
<b>Subtotal</b>	<b>\$12,278</b>	<b>\$13,022</b>	6.1%
<b>Total</b>	<b>\$26,641</b>	<b>\$27,669</b>	
<b>Imports (% of US Market)</b>			
Wood furniture		73.8%	
Upholstered furniture		42.1%	

Source: U.S. Department of Commerce

Table 3 reveals the size of the US residential furniture industry in 2010 according to the US Department of Labor. It shows 67% of the 3,895 manufacturing companies produced non-upholstered wood household furniture and most companies had less than 20 employees.

**Table 3  
2010 US Residential Furniture Industry**

Type of Manufacturing	# of Firms	Number of paid employees			
		<20	20-100	100-500	500+
Upholstered Household Furniture	1,050	76%	15%	6%	3%
Non-upholstered Wood Household Furniture	2,567	89%	8%	2%	1%
Metal Household Furniture	273	74%	18%	5%	3%
<b>Total Household Furniture</b>	<b>3,895</b>				

Source: U.S. Department of Labor

Table 4 displays the significant 21% reduction in the number of US residential furniture manufacturers from 2008 to 2010. Most of the losses were incurred by non-upholstered wood furniture manufacturers.

**Table 4  
Decline in US Residential Furniture Industry from 2008 to 2010**

Type of Manufacturing	Total # of Firms		
	2008	2010	% change
Upholstered Household Furniture	1,365	1,050	-23%
Non-upholstered Wood Household Furniture	3,249	2,567	-21%
Metal Household Furniture	325	273	-16%
<b>Total Household Furniture</b>	<b>4,939</b>	<b>3,895</b>	<b>-21%</b>

Source: U.S. Department of Labor

Finally, table 5 displays the substantial reduction in the number of US furniture factory workers from 1999 to 2012 and the minor increase from 2012 to 2013.

**Table 5  
US Furniture Factory Employment from 1999 to 2013  
(thousands)**

Furniture Type	1999	2012	% Change	2013	% Change
Wood furniture	111.9	29.6	-73.5%	29.7	0.3%
Upholstered furniture	87.1	44.8	-48.6%	45.9	2.5%
<b>Totals</b>	<b>199.0</b>	<b>74.4</b>	<b>-62.6%</b>	<b>75.6</b>	<b>1.6%</b>

The following industry and economic outlook paints a more favorable picture for the near future.

#### **Five-Year Industry and Economic Outlook**

According to Furniture Today's 2015 Retail Planning Guide, furniture & bedding sales are poised to grow 15.5% between 2014 and 2019, reaching \$111.3 billion. The expected sales increases will be dependent on the continuation of a healthy housing market and other positive economic gains, including consumer confidence and job growth. The 2008-09 furniture recession resulted in 30.2% decline. As of 2014, furniture revenues have recovered 16.4% from the depths of the recession.

2014 consumer spending for furniture & bedding reached \$96.4 billion, 2.0% over 2013's \$94.5 billion. That minor increase follows last year's slight 1.7% increase and 2012's more robust 4.4% growth.

The following presents information by distribution channel, furniture and home sales by region and selected states, displays the forecast for major retailers, and describes the various industry segments.

### Furniture & Bedding Distribution Channels

Direct-to-consumer retailers grew furniture & bedding sales 12.1% in 2013, hitting \$10.9 billion. That impressive gain raised the channel's market share two percentage points from 10% in 2012 to 12% and made it the fastest-growing channel. Direct retailers include online sellers, catalogs, televisions and home parties. Table 6 displays the growth or contraction by furniture & bedding distribution channels from 2012 to 2013. The biggest winners were direct-to-consumer retailers and lifestyle furniture stores while the biggest losers were traditional furniture stores and specialty stores.

**Table 6  
Furniture & Bedding Distribution Channel Share**

#	Distribution Channel Type	2012 Share	2013 Share	% Change
1	Traditional furniture stores	38.0%	36.0%	-5.3%
2	Direct-to-consumer	10.0%	12.0%	20.0%
3	Specialty stores, garden centers, supermarkets	8.0%	7.0%	-12.5%
4	Manufacturer-branded furniture stores	7.0%	7.0%	0.0%
5	Lifestyle furniture stores	7.0%	8.0%	14.3%
6	Designers & decorators	7.0%	7.0%	0.0%
7	Discount department stores	7.0%	7.0%	0.0%
8	Rental stores	4.0%	4.0%	0.0%
9	Used outlets	4.0%	4.0%	0.0%
10	Warehouse membership clubs	4.0%	4.0%	0.0%
11	Department stores	2.0%	2.0%	0.0%
12	Office supply stores	2.0%	2.0%	0.0%
	<b>Totals</b>	<b>100.0%</b>	<b>100.0%</b>	
	The Top 100's total share	<b>32.0%</b>	<b>34.0%</b>	<b>6.3%</b>

Source: Furniture Today

Products projected to grow the fastest are motion sofas, outdoor furniture, occasional tables, stationary sofas and mattresses.

### Furniture & Bedding and Home Sales by Region and Selected States

Table 7 shows the percentage of 2014 furniture & bedding sales by region, with the South having the largest share.

**Table 7  
2014 Furniture & Bedding Sales by Region**

Northeast	18%
Midwest	22%
South	37%
West	23%
<b>Total</b>	<b>100%</b>

Source: Furniture Today

The states of North Dakota, Utah, Alaska, South Dakota and Texas are expected to grow furniture & bedding sales the fastest over the next five years. These states are all part of the unprecedented oil boom that has resulted in increased jobs and families needing to buy product. California furniture & bedding sales are expected to grow at 15.6% over this time period.

California is not in the top 10 of the fastest growing states or average household income. California also does not have any major metropolitan areas that rank in the top 20 fastest growing markets by population growth or average household income. However, California does have the 2<sup>nd</sup> and 11<sup>th</sup> largest furniture & bedding markets in the US in Los Angeles-Long Beach-Anaheim (\$3.6 billion) and San Francisco-Oakland-Hayward (\$1.4 billion), respectively. The San Diego-Carlsbad market is forecast to top \$1 billion in furniture sales by 2019.

While Utah is the rising star in the West, the following table 8 reveals that nine California metropolitan areas had significant furniture & bedding sales in 2014 and are expected to see substantial growth by 2019.

**Table 8  
Furniture & Bedding Sales in the West  
(\$ millions)**

#	Metropolitan Area	2014 Est Sales	2019 Est Sales	% Change
1	Long Angeles-Long Beach-Anaheim, CA	\$3,587.5	\$4,156.2	15.9%
2	San Francisco-Oakland-Hayward, CA	\$1,441.4	\$1,681.6	16.7%
3	Phoenix-Mesa-Scottsdale, CA	\$1,308.2	\$1,533.4	17.2%
4	Seattle-Tacoma-Bellevue, WA	\$1,183.8	\$1,392.7	17.6%
5	Riverside-San Bernardino-Ontario, CA	\$1,101.4	\$1,259.5	14.4%
6	San Diego-Carlsbad, CA	\$930.9	\$1,083.0	16.3%
7	Denver-Aurora-Lakewood, CO	\$879.0	\$1,036.7	17.9%
8	Portland-Vancouver-Hillsboro, OR-WA	\$734.2	\$856.4	16.6%
9	Sacramento-Roseville-Arden Arcade, CA	\$665.1	\$765.5	15.1%
10	Las Vegas-Henderson-Paradise, NV	\$604.1	\$703.5	16.5%
11	San Jose-Sunnyvale-Santa Clara, CA	\$563.2	\$664.5	18.0%
12	Tucson, AZ	\$313.4	\$358.6	14.4%
13	Salt Lake City, UT	\$306.8	\$363.2	18.4%
14	Albuquerque, NM	\$284.5	\$326.0	14.6%
15	Honolulu, HI	\$268.4	\$313.4	16.8%
16	Fresno, CA	\$237.6	\$274.6	15.6%
17	Oxnard-Thousand Oaks-Ventura, CA	\$231.5	\$266.1	14.9%
18	Bakersfield, CA	\$211.3	\$242.2	14.6%
19	Colorado Springs, CO	\$209.9	\$247.0	17.7%
20	Boise, ID	\$189.5	\$222.3	17.3%
<b>Totals</b>		<b>\$15,251.7</b>	<b>\$17,746.4</b>	<b>16.4%</b>

Source: Furniture Today

### **Median Home Sales Price Gap Increasing**

Last year the national median existing home price was \$197,100, compared with a median \$268,900 for new homes, creating a gap of \$71,800. Ten years ago the price gap between existing home sale prices and new home

sale prices was just \$25,600. The region with the greatest gap in home prices last year was the Northeast, where the median existing home sale price was \$249,100, compared with the median new home sale price of \$371,200, resulting in a gap of \$122,100. The price gap was the narrowest in the West, with a median existing home sales price of \$273,100 and a median new home sales price of \$310,500, creating a price gap of \$37,400.

All signs point to a steady recovery in 2015. Unemployment is improving, the country is steadily adding jobs, the housing market is improving and consumers are feeling a growing sense of well-being that will increase their appetite for home furnishings.

### **Retail Forecast**

Retailer optimism has increased because of the improved economy. According to the US Department of Commerce, the three largest segments of furniture & bedding that comprise 40% of 2014 market sales (\$39.9 billion) are stationary sofas/sofa-sleepers (15% and \$14.7 billion), bedding (15% and \$14.2 billion), and master bedroom (10% and \$10 billion). The retail standouts for 2012 and 2013 are displayed in the following table 9. Ashley Furniture is the largest retailer, but Wayfair experienced the greatest increase in sales.

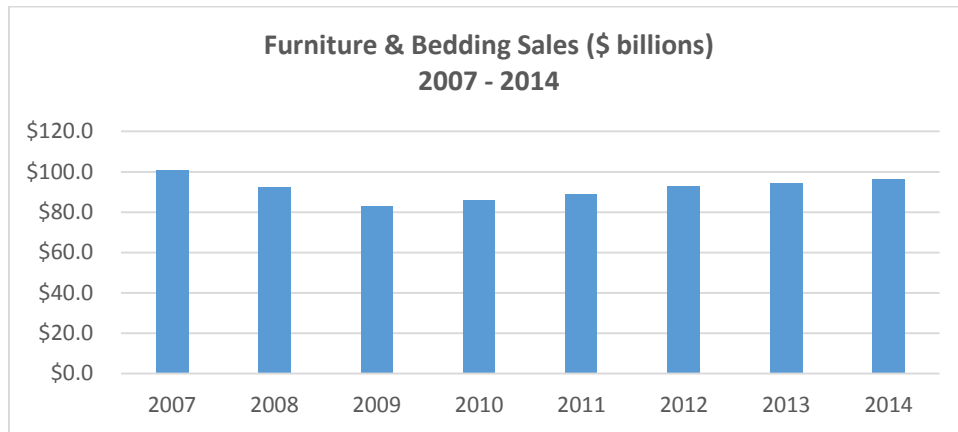
**Table 9  
Leading Furniture & Bedding Retailers in 2012 and 2013  
(\$ millions)**

#	Retailer	2012 Est Sales	2013 Est Sales	% Change
1	Ashley Furniture	\$2,820.0	\$2,990.0	6.0%
2	Walmart	\$2,550.0	\$2,600.0	2.0%
3	IKEA	\$1,935.0	\$2,055.0	6.2%
4	Rooms To Go	\$1,573.0	\$1,739.0	10.6%
5	Mattress Firm	\$1,155.0	\$1,373.0	18.9%
6	Williams-Sonoma	\$1,205.0	\$1,335.0	10.8%
7	Costco	\$1,200.0	\$1,325.0	10.4%
8	La-Z-Boy Furniture Galleries	\$870.4	\$990.6	13.8%
9	Restoration Hardware	\$628.0	\$869.0	38.4%
10	Wayfair (formerly CSN Stores)	\$335.0	\$510.0	52.2%
	<b>Totals</b>	<b>\$14,271.4</b>	<b>\$15,786.6</b>	<b>10.6%</b>

Source: Furniture Today and US Department of Commerce

The US Department of Commerce reports consumer spending for furniture & bedding from 2007 through 2014 ranged from \$100 billion to \$96 billion. Graph 1 indicates that after decreases of 8% and 10.2% in 2008 and 2009, respectively, furniture & bedding experienced growth in the 2% - 4% range in the following years.

Graph 1



Source: [Furniture Today](#) and US Department of Commerce

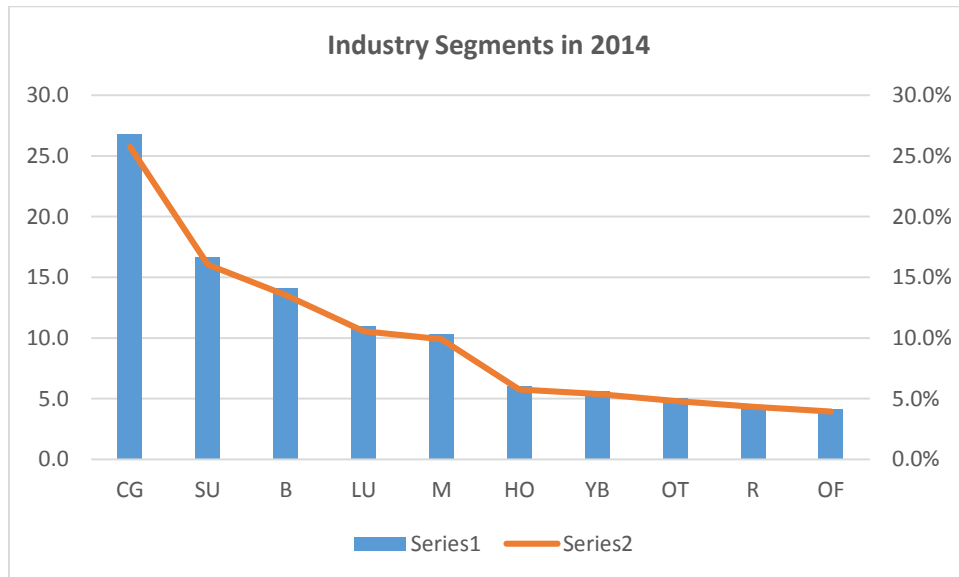
## Industry Segments

The furniture industry is composed of ten key market segments including:

- **Case goods (CG):** master, youth and other adult bedrooms, formal and casual dining
- **Stationary upholstery (SU):** stationary sofas, sectionals, sofa sleepers and stationary chairs
- **Bedding (B):** mattresses, sheets, pillows, bedspreads, covers, blankets, comforters, etc.
- **Leather Upholstery (LU):** leather stationary sofas, chairs, reclining chairs, swivel and glider rockers, motion sofas, futons and sofa sleepers
- **Motion Upholstery (MU):** reclining chairs, swivel and glider rockers and motion sofas
- **Home Office (HO):** desks, lamps, file cabinets, etc.
- **Youth Bedroom (YB):** youth and other adult bedroom furniture
- **Occasional Tables (OT):** tables, shelves, cabinets
- **Rugs (R):** rugs
- **Outdoor Furniture (OF):** outdoor dining sets, conversation/chat groups and other outdoor furniture

Graph 2 displays these key furniture industry segments representing more than \$104 billion of sales in 2014. At \$26.8 billion in sales, case goods is the largest furniture segment, while outdoor furniture at \$4.1 billion is the smallest segment.

Graph 2



Source: [Furniture Today](#) and US Department of Commerce

### Pressing Furniture Industry Issues and Recommendations

A review of industry association websites and interviews with industry officials revealed the following about effects of the recent recession on the furniture industry, significant factors affecting the industry, regulatory matters/issues, and improvement recommendations:

#### Effects of the Recent Recession on the Industry

- The 2008 recession decimated the US furniture industry. But since 2009, the industry is growing again and consolidating. The average growth rate has been about 3.2% per year. The industry now consists of survivors that are finally opening up new stores, buying other competitors, and opening online operations.

#### Significant Factors Affecting the Industry

- Significant factors limiting domestic industry growth are lagging home production and major Chinese manufacturers selling into the US and California.
- The growth of online marketing is fundamentally changing how the industry sells and will also change how the industry is regulated through virtual enforcement.
- The officials interviewed support the Bureau and its efforts to regulate the industry, but they believe it needs to take more meaningful and timely action. This means not taking three months to test a product, resulting in counting the fibers in a sofa and not finding anything enforceable.

The playing field is not level for California-based companies and those selling into the state from out-of-state or out-of-the-country. This is because California regulations like TB 117-2013 (flame retardant chemicals) and Proposition 65 (hazardous chemicals) are more rigorous than other states (most states lack similar regulations) and federal EPA requirements. Consequently, it costs more to do business in California. Moreover, the limited number of California enforcement inspectors and insignificant fines don't adequately deter illegal outside activity. As a result, industry officials contend the Bureau is not adequately protecting California manufacturers or consumers.

#### Regulatory Matters/Issues

- Constantly changing legislation and new regulations regarding flame retardant chemicals (TB 117-2013) and dangerous chemicals (Prop 65) chemicals make it difficult and expensive for manufacturers to ensure compliance.
- The furniture industry associations have been involved with efforts to rewrite Technical Bulletin 117-2013 in California. This revised flammability regulation eliminates open flame testing. This means that flame retardant chemicals will no longer be necessary in upholstered furniture, but the possible liability of eliminating them remains a concern for some manufacturers.
- In 2013, over 200 notices of Proposition 65 violations were filed against furniture companies for failing to notify consumers in California that their products contain TDCPP. Companies receiving notifications included retailers, manufacturers, importers and suppliers.
- The industry has also been under pressure in Illinois where a proposed Toxic Chemical Safety Act – similar to California's Prop 65 – was voted down. In addition, the US EPA released two long-awaited rules designed to ensure composite wood products meet federal formaldehyde emission standards.
- In 2013, Vermont banned the use of two flame retardant chemicals, TCEP and TDCPP, in residential furniture sold or distributed in the state. Several other states were considering similar measures.
- The industry promises to continue to monitor California's Prop 65 activity, which is likely to include listing methyl isobutyl ketone (MIBK) as a chemical "known to the State to cause reproductive toxicity." In the furniture industry, this chemical is a key component in many paints and finishes, as well as in leather finishing.
- The new labeling law is unclear and confuses consumers. Instead of listing contents by dominance (weight and volume), the new law requires all contents be broken down into percentages. Since all products have different composition percentages, this becomes an expensive requirement to implement.
- The Bureau has been responsive to false and misleading advertising in the past, but the advertising law needs to be reformed.



- The Bureau's outreach and education to the industry about changing legislation regarding flammable materials, hazardous chemicals and labeling has been almost non-existent. Except for an occasional mailer, the Bureau fails to keep the industry notified of legislative and regulatory changes.

#### Improvement Recommendations Offered by the Industry

1. The Bureau should change its enforcement focus from furniture retailers to furniture and foam manufacturers and importers of record because they are the source of the problem, not wholesalers or retailers. The focus on retailers should be on advertising and service delivery. This change would result in better use of limited staff to inspect manufacturers and large importer warehouses, rather than small retailers.
2. When testing, the Bureau should request and test cushion samples only, not an entire piece of furniture. This will speed up testing and reduce cost.
3. The State should consider hiring inspectors with furniture experience rather than just state employees. There are many retired independent furniture sales people that are qualified and would make excellent inspectors. The California Furniture Manufacturers Association offered to provide training classes for inspectors to teach them what to look for in their inspections.
4. The Bureau needs to keep its website updated with the latest legislative changes and the names of violators to encourage compliance.
5. The Bureau needs to improve outreach and industry/consumer education through more direct mail, webinars, teleconferences, podcasts, and workshops in Northern and Southern California.

## **Home Appliance and Electronic Retail & Repair Industry Research**

### **Industry Overview**

Industries in the Electronics and Appliance Stores subsector retail new electronics and appliance merchandise from point-of-sale locations. They primarily engage in the retailing of new products such as household-type appliances, consumer-type electronic products, computers and software.

Household appliances typically include refrigerators, dishwashers, ovens, irons, coffee makers, hair dryers, electric razors, room air-conditioners, microwave ovens, sewing machines, and vacuum cleaners. Consumer products include radios, televisions, cameras, and other electronic goods.

Computer and software stores primarily engage in retailing new computers, computer peripherals, and prepackaged computer software without retailing other consumer-type electronic products or office equipment, office furniture and office supplies; or retailing these new products in combination with repair and support services.

The staff typically include management and administrative support, sales personnel knowledgeable in the characteristics and warranties of the line of goods retailed, and may also include trained installers and repairpersons to handle the maintenance and repair (M&R) of the electronic equipment and appliances.

### **Industry Activity and Relevant Trends**

Market research from the US Census and Appliance Magazine indicates from 2010 through 2014, the number of shipments of major home appliances (washers, dryers, dishwashers, refrigerators, freezers, ranges and ovens), residential heating and air conditioning units, and residential and commercial water heaters remained relatively stable with minor fluctuations from year to year. This condition is due in part to a drop in new, existing and investment-home sales from 2013 to 2014. However, vacation home sales for 2013 saw almost a 30% increase over 2012 sales and solid double-digit annual growth in home improvement spending. New home features in 2014 included energy-efficient appliances and programmable thermostats.

### **The Condition of Appliance Original Equipment Manufacturers, Retailers and Suppliers**

The world's three largest global appliance makers, Whirlpool (USA), Electrolux (Sweden) and BSH Bosch Siemens (Germany) experienced growth in the 4% - 7% range in 2014 over 2013. Panasonic (Japan) saw a 10% increase over the same period, while LG Electronics (Korea) experienced a minor drop in North America and a 9% increase in domestic sales. Small appliance OEM Helen of Troy, Ltd. reported a 2% increase and global HVAC company Ingersoll-Rand stated sales were up 3% over the same period. Finally, iRobot Corporation, maker of robotic home appliances, reported 17% growth in sales from 2013 to 2014.

The US Census Bureau's estimated 2014 sales for Electronics & Appliance retailers were up about 6.7% from \$8.47 billion to \$9.05 billion. Overall, US manufacturing technology orders were slightly down for the year but the North American robotics market had its best-ever year of robot shipments in 2013. The North American robot suppliers saw 11% growth in units and 7% in dollars.

### Electronic & Precision Equipment Repair and Maintenance

Based on US Census Bureau and other federal statistics, the electronic & precision equipment repair and maintenance (EPERM) industry has seen steady growth from 2010 through 2014. Over this period, industry sales grew 14.3% from \$16.8 billion to \$19.2 billion while the total number of firms grew 1.8% from 10.7 million to 10.9 million. The number of employees grew 4.6% from 102.5 million in 2010 to 107.2 million in 2014. In 2014, the average revenue per firm was \$1.8 million and the average number of employees was 10. The market forecast through 2019 estimates of growth rate of about 4% per year.

Table 10 shows the top ten states represent \$11 billion (over 58%) of the total \$19.2 billion market for this industry. Texas is the leader closely followed by California.

**Table 10**  
**Geographic Market Distribution in the Top 10 States**

	State	Market Size (millions)	% Total
1	Texas	\$2,133	11.1%
2	California	\$1,935	10.1%
3	Florida	\$1,250	6.5%
4	Pennsylvania	\$911	4.7%
5	Massachusetts	\$911	4.7%
6	Virginia	\$904	4.7%
7	New York	\$874	4.6%
8	North Carolina	\$776	4.0%
9	Tennessee	\$678	3.5%
10	New Jersey	\$656	3.4%

Source: Appliance Magazine, US Census and other federal statistics

The following table 11 shows the industry service break-down by percent of sales. Maintenance and repair of computer and peripheral equipment (except monitors) has the highest market share at 30.8% followed by non-medical other electronic & precision equipment (18.6%), communications equipment (15.3%), and precision electronic medical equipment.

**Table 11**  
**Industry Service Break Down by Percent of Sales**  
**(\$ millions)**

	Product/Service	Sales	% Total
1	Computer & peripherals (except monitors) M&R	\$5,917	30.8%
2	Non-medical electronic & precision equipment M&R	\$3,573	18.6%
3	Communications equipment M&R	\$2,935	15.3%
4	Precision electronic medical equipment M&R	\$2,242	11.7%
5	Consumer electronics M&R	\$1,792	9.3%
6	Resale of merchandise	\$1,192	6.2%
7	Office equipment (except #1) M&R	\$673	3.5%
8	IT technical support services	\$464	2.5%

9	Other sales	\$382	2.0%
<b>Totals</b>		<b>\$19,190</b>	<b>100.0%</b>

Source: Appliance Magazine, US Census and other federal statistics

Key industry financial metrics indicate cost of goods average 51%, gross profit averages 46% and net profits average 7%. The largest expenditures are for labor, rent and parts.

The following Table 12 shows the average median salary for industry occupations. Management positions average \$97,830 (highest) and office and administrative support positions average \$29,980 (lowest). Sales positions average \$44,820 while technical staff (installers and repairers) average from \$35,000 to \$39,000.

**Table 12  
Median Salary by Industry Occupation**

Job Position	Avg. Median Salary
Management positions	\$97,830
Computer and mathematical positions	\$56,470
Sales and related positions	\$44,820
Installer, M&R positions	\$38,930
Office & administrative support positions	\$29,980

Source: Appliance Magazine, US Census and other federal statistics

### **Industry Association Feedback**

CPS HR learned the following through interviews with the National Electronic Service Dealers Association (NESDA) and the Association of Home Appliance Manufacturers (AHAM):

- The industry matches the economy. Last year it started to tick up after falling in 2008. According to Appliance Magazine who tracks industry statistics, the industry was up about 5%.
- Older owners of maintenance and repair (M&R) companies are retiring and phasing out. They often lack the interest to learn the new technologies and can't afford to change. In addition, it's difficult to find qualified workers and getting parts is a problem because of a changing "replace" instead of "fix" mentality.
- Warranty issues and service contracts get most people in the industry excited or agitated. Typically consumers are upset with the performance of repair people and waiting extended periods of time.
- There are no lemon laws for appliances anywhere in the country but legislation is usually initiated on a single personal experience, not an industry systemic problem. Someone, like a legislator, has a bad experience so they try to fix the problem through legislation alone, perhaps without root cause analysis. As product life decreases, the manufacturer's incentive is to reduce the warranty as they would prefer to sell new appliances instead of repairing them. That's why rebates need to be high enough to incentivize buying over repairing. This hurts the repair industry. However, given the high cost of new products it's often less expensive to repair than buy new.

- An important focus of the home appliance industry is on end-of-life recycling. For example, a refrigerator has a useful life of 20-23 years. With the new technologies and the concept of planned obsolescence, many product lifecycles have been declining over the years.

## **Service Contract Industry Research**

### **Service Contracts Defined**

Service contracts, also known as extended warranties or extended service plans, are popular among consumers as a cost-effective way to protect electronic devices, consumer goods, appliances and new and used autos beyond the terms provided by the manufacturer's or seller's original warranty. There are approximately 250 million sold annually. Service contracts offer flexible benefits that can include product repairs, replacement, technical support and emergency repairs and service.

Service contracts differ from a manufacturer's warranty. With a service contract, the consumer pays a separate charge while the cost of a manufacturer's warranty is included in the purchase price of the product. Service contracts are designed to provide protection after a manufacturer's warranty expires but they can also overlap by providing additional benefits generally not included in a manufacturer's warranty.

A typical service contract covers repair of a product or the replacement of a product with an equivalent model within a specified time period when the failure of the product is due to an inherent defect or a defect in materials or workmanship. Service contracts also often cover failure due to normal wear-and-tear.

Many retailers and other sellers offer service contracts at the time a consumer purchases a home, auto or consumer product. There are also many after-sales providers of service contracts that allow consumers to take time to decide if he or she wants to have added protection before or after the manufacturer's warranty expires.

Typically, a service contract can be transferred to a new owner of the product by providing the name and address of the new owner to the contract provider or administrator. Your specific contract will detail transfer eligibility and terms, as well as specify any requirements such as time considerations or transfer fees.

Some service contracts may have a deductible. Most service contracts do not. It's important for consumers to carefully read the terms of their contracts and to fully understand what is covered and what is not.

Most laws governing service contracts require a grace period, which allows consumers to get a full refund if they change their mind within the specified period of time. After the grace period, service contracts typically provide a consumer with the right to cancel at any time during the life of the contract.

Consumers can typically initiate claims easily and quickly by calling a toll-free phone number. Claims and repairs may be handled or authorized by the manufacturer, retailer, dealer, an independent company or others.

## **Consumer Goods Service Contracts**

It is important for consumers to consider the implications of a product failure and their options should that happen. Key considerations, for instance, might include the logistics of arranging quality repair service on short notice, the need to find a temporary replacement product during what can be extended repair downtime, the cost of the actual repair, any potential cost of the temporary replacement and the cost to completely replace the product if it cannot be repaired.

## **Auto Service Contracts**

Many auto service contracts require a consumer to adhere to all of the manufacturer's recommendations for routine maintenance, such as oil and spark plug changes. Failure to do so could void the contract. It is important for the consumer to keep detailed records, including receipts, to prove that the vehicle was properly maintained.

Approximately 37 states have enacted specific laws governing motor vehicle service contracts. Many service contracts are backed by A+ rated insurers, who provide additional financial solvency on long-term contracts. In many states, service contracts come with a grace period, usually 30 days, during which a consumer can return the contract for a full refund. Service contracts also can be cancelled mid-term.

## **Home Service Contracts**

Service contracts for the home help homeowners protect their largest investment by providing a flexible array of services. They can cover defects in major structural components of your home and/or the major systems of the home, such as the electrical, plumbing, and heating and air conditioning systems. Home Service Contracts often cover a home's major appliances and can also provide for service or repair due to normal wear and tear. Service contracts for the home are sold by realtors, builders and independent providers. They can be purchased at the time of sale and are typically transferable to a new owner. And service contracts are also available for used homes.

## **Service Contracts Act**

In 2012, the Service Contract Industry Council (SCIC), a national trade association whose members offer approximately 80% of all service contracts sold in the U.S., played a significant role in the development of the Service Contract Model Act (Act). The service contract model has been adopted by the National Association of Insurance Commissioners. The purpose of the Act is to create a legal framework within which service contracts are defined, may be sold, and are regulated within a state. The Act declares that service contracts, as defined, are not insurance and not subject to the insurance code. The intent of the Act is to add significant consumer protections and eliminate unnecessary administration.

In addition to definitions, the Act covers: requirements for doing business, required disclosures for reimbursement insurance policies and service contracts, prohibited acts, record keeping requirements, termination of the reimbursement insurance policy, obligations of reimbursement insurance policy insurers, enforcement provisions, the authority to develop regulations, and a separability provision. The Act is included as attachment 3 to this report.

An interview with industry officials revealed that nationally, most states regulate service contracting firms as insurance entities or not at all. As a result, California is out of step with the rest of the country. This issue starts with the definition of a service contract. These contracts typically cover personal property or consumer goods, not commercial services. California's definition results in a prescriptive list of products subject to frequent change. Other states use a more general, stable definition. In most states, service contracts for auto, home appliance warranties and consumer goods are covered by the state insurance department.

Except for California and Florida, most states have adopted the National Association of Insurance Commissioners model for service contracts. Also, only California and Florida license individual locations like retail stores which act as a sales representative and sell service contracts but don't view themselves as service contractors.

The most popular way to offer a service contract is as an obligor. The obligor buys a contract liability insurance policy to ensure against repair or replacement loss. Service contract administrators are obligors. Service contract sellers may or may not be obligors.

The officials contend a problem for the industry and California consumers is the Bureau's interpretation of the Song-Beverly Act. The Act specifies a clear description of the product is needed to file a claim. The Bureau interprets this to mean serial numbers are needed to approve a claim. This puts a burden on the consumer if they failed to register the serial number with the company. The official indicated that in most cases the obligor doesn't care about the level of specificity and generally won't deny a claim for the lack of serial numbers. In general, there is no claims adjustment process with service contracts. Products are typically replaced because it often costs less to replace than repair. However, the industry may decide to repair instead based on cost or size thresholds.

## Consumer Survey Results

To provide additional feedback to the Bureau, a survey targeted to a sample audience of at least 650 California consumers (actual responses 682) was designed and implemented. The survey was conducted using a vetted panel of survey respondents who met the predetermined criteria of being:

- California residents
- 18+ years of age
- Established consumer activity pertinent to the Bureau's areas of product and services oversight

The survey panel was provided by an international marketing firm with established survey panels populated by qualified respondents. The survey was delivered as an on-line survey provided to the respondents via an email to a personal email account. The survey includes questions or statements requiring a scaled response from among predetermined responses; additionally, two open-ended questions asked for short written responses to broad questions. The two questions were:

1. *Do you have any questions on areas for improvement for this DCA Bureau's overall outreach and communications to consumers to promote awareness of protections and rights in California?*
2. *Do you have any other feedback to add that will contribute to this DCA Bureau's mission and consumer protection related to:*
  - a. *Electronic and appliance repair business registration and regulation and/or*
  - b. *Service contact registration and regulation on various consumer products and/or*
  - c. *The manufacture and sale of upholstered furniture, bedding and thermal insulation products and/or*
  - d. *The testing for sanitization of used and/or rebuilt bedding products offered by a retailer*

The reporting that follows will include the scaled response frequencies; all written responses to the two general questions are included in Attachment 4 completely unedited and un-redacted. A summary of key findings precedes the greater detail in the results tables.



### Summary of Survey Key Findings

The following summarizes selected key findings from the consumer survey.

<b>Consumer Product Category</b>	<b>Purchased product <u>with or without</u> warranty or service contract  (% of responders)</b>	<b>Why did <u>not</u> purchase service contract  (Top 2 reasons cited)</b>	<b>Satisfaction with product based on purchase price</b>	<b>Used the service contract  (purchased service contract)</b>	<b>Satisfaction with service contract process used</b>	<b>Satisfaction with product repair or replacement</b>
<b>Home Appliance</b>	75.0%	Contract cost and product quality & reliability did not warrant contract	77.1% somewhat or highly satisfied	68.8%	95.1%	92.7%
<b>Consumer Electronics</b>	86.2%	Contract cost and product quality & reliability did not warrant contract	93.4% somewhat or highly satisfied	58.5%	84.7%	85.4%
<b>Upholstered Home Furniture</b>	48.5%  (23.5% of above purchase was result of advertised sale)	Contract cost and product quality & reliability did not warrant contract	91.3% somewhat or highly satisfied	76.4%	91.5%	92.5%

*Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation  
Market Condition Assessment Final Report 2015*

<b>Bedding, Mattresses, Futons</b>	62.3% (28.6% of above purchases were result of advertised sale)	N/A	66.6%	N/A	N/A	N/A
<b>Note: the product categories below were subject to more limited survey questions</b>						
<b>Jewelry</b>	17.7%	N/A	N/A	73.6%	89.9% somewhat or very satisfied	N/A
<b>Lawn &amp; Garden Equipment</b>	13.9%	N/A	N/A	75.8%	94.4% somewhat or very satisfied	N/A
<b>Power Tools</b>	18%	N/A	N/A	64.2%	88.5% somewhat or very satisfied	N/A
<b>Fitness Equipment</b>	14.8%	N/A	N/A	63.4%	93.7% somewhat or very satisfied	N/A
<b>Small Kitchen Appliances</b>	18.6%	N/A	N/A	52.8%	84.8% somewhat or very satisfied	N/A
<b>Eyeglasses</b>	17.2%	N/A	N/A	61.5%	94.4% somewhat or very satisfied	N/A

## **Consumer Awareness of DCA & Importance of Consumer Protection Provided**

Final survey items focused on survey responder awareness, **before this survey**, of DCA/Bureau roles and areas of oversight, in addition to how important the consumer protection is to the consumer.

<b>Survey Item (awareness <u>before</u> the survey)</b>	<b>% of YES responses</b>	<b>Importance of the consumer protection in this program (% of somewhat and very important responses)</b>
Awareness of DCA and its general mission	47.3%	N/A
Awareness of products and services in this survey under DCA jurisdiction	33.3%	N/A
Awareness of service contracts under DCA consumer protection	N/A	81.0%
Awareness of flammability standards for bedding & upholstered furniture under DCA consumer protection	40%	79.5%
Awareness of used and re-built bedding sanitization under DCA consumer protection	26.7%	81.7%
Awareness of appliance repair businesses under DCA consumer protection	32.7%	81.3%
Awareness of electronics repair businesses under DCA consumer protection	31.9%	81.3%

**HOME APPLIANCE PRODUCT:**

<b>Have you purchased a home appliance product (examples: clothes washer, dryer, dishwasher, stove/oven, trash compactor, refrigerator, or freezer) in the last 10 years?</b>											
<b>Yes – with Service Agreement/Warranty:</b> 240 - 34.9%					<b>Yes – without Service Agreement/ Warranty:</b> 261 – 37.9%		<b>Yes – Don't know if had Service Agreement</b> 15 – 2.2%		<b>No:</b> 171 - 24.9%	<b>Don't Know:</b> 1 - 0.01%	
<b>What was your level of satisfaction with the product considering its purchase price?</b>											
Very Dissatisfied (1)		Somewhat Dissatisfied		Neither Satisfied or Dissatisfied		Somewhat Satisfied		Very Satisfied (5)		Average (SD)	<b>N/A</b>
6 (1.2%)		16 (3.1%)		19 (3.7%)		185 (35.9%)		290 (41.2%)		4.43 (.80)	
<b>Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?</b>						<b>Why did you not purchase the service contract? (Select all that apply). N=171</b>				<b>N/A</b>	
<b>Yes:</b> 165 (68.8%)						<b>No:</b> 75 (31.3%)		Product value was relatively low not needing a service contract			48 28.1%
<b>Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed</b>	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)	<b>N/A</b>	Cost of the service contract	144 84.2%		
	1 (0.6%)	4 (2.4%)	3 (1.8%)	74 (44.8%)	83 (50.3%)	4.42 (.71)		Terms and conditions of the service contract	30 17.5%		
								Was not aware of the option for a service contract	15 8.8%		
<b>When you received the repaired or</b>	1 (0.6%)	3 (1.8%)	8 (4.8%)	57 (34.5%)	96 (58.2%)	4.48 (.73)		The quality or expected reliability of the	146 85.4%		

replaced product, what was your satisfaction with the quality of the repair or replacement?								product did not indicate to me a need for a service contract		
								Don't know	8 4.7%	

**CONSUMER ELECTRONICS PRODUCT:**

**Have you purchased a consumer electronics product (examples: television, radio, stereo/home theater components, CD/DVD/Blu-ray player, desktop computer, laptop computer, tablet computer, personal media player, cell phone, printer, fax machine, video camera, etc.) in the last 5 years?**

<b>Yes – with Service Agreement/Warranty:</b> 258 – 37.7%	<b>Yes – without Service Agreement/ Warranty:</b> 323 – 47.2%	<b>Yes – Don't know if had Service Agreement</b> 9 – 1.3%	<b>No:</b> 87 - 12.7%	<b>Don't Know:</b> 8 - 1.2%
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What was your level of satisfaction with the product considering its purchase price?						N/A
Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Average (SD)	
3 (0.5%)	10 (1.7%)	26 (4.4%)	196 (33.2%)	355 (60.2%)	4.51 (.71)	

Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?							Why did you <u>not</u> purchase the service contract? (Select all that apply). N=323		N/A	
<b>Yes:</b> 151 (58.5%)							<b>No:</b> 107 (41.5%)	Product value was relatively low not needing a service contract		76 23.5%
Satisfaction rating with the <u>service</u>	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)	N/A	Cost of the service contract		163 50.5%
	3 (2.0%)	9 (6.0%)	11 (7.3%)	47 (31.1%)	81 (53.6%)	4.28 (.98)		Terms and conditions of the service contract	36 11.1%	

<b>process you were directed to follow to get the repair, maintenance or replacement completed?</b>								Was not aware of the option for a service contract	16 5.0%
<b>When you receive the repaired or replaced product, what was your satisfaction with the quality of the repair or replacement?</b>	2 (1.3%)	9 (6.0%)	11 (7.3%)	44 (29.1%)	85 (56.3%)	4.33 (.94)		The quality or expected reliability of the product did not indicate to me a need for a service contract	171 52.9%
								Don't know	20 6.2%

**HOME FURNITURE PRODUCT:**

<b>Have you purchased an upholstered home furniture product in the last 10 years?</b>										
<b>Yes – with Service Agreement/Warranty:</b> 123 – 18.0%					<b>Yes – without Service Agreement/ Warranty:</b> 206 – 30.1%		<b>Yes – Don't know if had Svc. Agree.</b> 3 – 0.4%	<b>No:</b> 345 - 50.4%	<b>Don't Know:</b> 8 - 1.2%	
<b>Yes – Purchase was a result of an advertised sale:</b> 161 – 23.5%			<b>Yes – purchase was NOT result of an advertised sale:</b> 163 – 23.8%			<b>Yes – Don't know if purchase was result of an advertised sale:</b> 8 – 1.2%				
<b>What was your level of satisfaction with the product considering its purchase price?</b>										
Very Dissatisfied (1)		Somewhat Dissatisfied		Neither Satisfied or		Somewhat Satisfied		Very Satisfied (5)		Average (SD)
3 (0.9%)		7 (2.1%)		19 (5.7%)		129 (38.9%)		174 (52.4%)		4.40 (.77)
<b>Did you have to use the extended warranty, maintenance agreement, or service contract for</b>								<b>Why did you not purchase the service contract? (Select all that apply). N=206</b>		<b>N/A</b>
<b>Yes:</b> 94					<b>No:</b> 29	Product value was relatively low		44 21.4%		

(76.4%)							(4.1%)	not needing a service contract	
<b>Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?</b>	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)	N/A	Cost of the service contract	68 33.0%
	3 (3.2%)	1 (1.1%)	4 (4.3%)	37 (39.4%)	49 (52.1%)	4.36 (.88)		Terms and conditions of the service contract	11 5.3%
<b>When you received the repaired or replaced product, what was your satisfaction with the <u>quality of the repair or replacement</u>?</b>	3 (3.1%)	1 (1.1%)	3 (3.2%)	43 (45.7%)	44 (46.8%)	4.32 (.86)		Was not aware of the option for a service contract	52 25.2%
								The quality or expected reliability of the product did not indicate to me a need for a service contract	98 47.6%
								Don't know	14 6.8%

### BEDDING/MATTRESSES

Have you purchased any bedding sets including mattresses or futons in the last 10 years?					
<b>Yes – purchased was a result of an advertised sale:</b>		<b>Yes – purchase was NOT the result of an advertised sale:</b>		<b>Yes – Don't know if purchase was result of an advertised sale</b>	
196 28.6%		206 30.1%		25 3.6%	
<b>No:</b>		<b>Don't Know:</b>			
247 36.1%		11 1.6%			
What was your level of satisfaction with the product considering its purchase price?					
Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Average (SD)
2 (0.5%)	17 (4.0%)	30 (7.0%)	140 (32.8%)	238 (33.8%)	4.39 (.82)
N/A					

**JEWELRY:**

<b>Have you purchased a service contract (extended warranty) for a JEWELRY product during the last five years?</b>								
<b>Yes:</b> 121 17.7%							<b>No:</b> 554 81.2%	<b>Don't Know:</b> 7 1.0%
<b>Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?</b>								
<b>Yes:</b> 89 (73.6%)							<b>No:</b> 32 (26.4%)	<b>N/A</b>
<b>Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?</b>	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)	<b>N/A</b>	
	0 (0.0%)	0 (0.0%)	9 (10.1%)	34 (38.2%)	46 (51.7%)	4.42 (.67)		

**LAWN/GARDEN EQUIPMENT:**

<b>Have you purchased a service contract (extended warranty) for a LAWN/GARDEN EQUIPMENT product during the last five years?</b>								
<b>Yes:</b> 95 13.9%							<b>No:</b> 580 85.0%	<b>Don't Know:</b> 7 1.0%
<b>Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?</b>								
<b>Yes:</b> 72 (75.8%)							<b>No:</b> 23 (24.2%)	<b>N/A</b>
	Very Dissatisfied (1)	Somew er d or ied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)	<b>N/A</b>		



Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?	1 (1.4%)	2 (2.8%)	1 (1.4%)	35 (49.3%)	32 (45.1%)	4.34 (.77)		
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**POWER TOOLS:**

<b>Have you purchased a service contract (extended warranty) for a POWER TOOLS product during the last five years?</b>							
<b>Yes:</b> 123 18.0%						<b>No:</b> 551 80.8%	<b>Don't Know:</b> 8 1.1%
<b>Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?</b>							
<b>Yes:</b> 79 (64.2%)						<b>No:</b> 44 (35.8%)	<b>N/A</b>
<b>Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?</b>		Very Dissatisfied (1)	Somewhat Dissatisfied 3 (3.8%)	Neither Satisfied or Dissatisfied 5 (6.4%)	Somewhat Satisfied 33 (42.3%)	Very Satisfied (5) 36 (46.2%)	

**FITNESS EQUIPMENT:**

<b>Have you purchased a service contract (extended warranty) for a FITNESS EQUIPMENT product during the last five years?</b>							
<b>Yes:</b> 101 14.8%						<b>No:</b> 576 84.5%	<b>Don't Know:</b> 5 0.7%
<b>Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?</b>							
<b>Yes:</b> 64 (63.4%)						<b>No:</b> 37 (36.6%)	<b>N/A</b>

	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)		
Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?	0 (0.0%)	0 (0.0%)	4 (6.3%)	18 (28.1%)	42 (65.6%)	4.59 (.61)	N/A	

**SMALL KITCHEN APPLIANCE:**

Have you purchased a service contract (extended warranty) for a SMALL KITCHEN APPLIANCE product during the last five years?								
Yes:						No:	Don't Know:	
127 18.6%						546 80.1%	9 1.3%	
Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?								
Yes:						No:		
67 (52.8%)						60 (47.2%)	N/A	
	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)		
Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?	1 (1.5%)	2 (3.0%)	7 (10.6%)	22 (33.3%)	34 (51.5%)	4.30 (.89)	N/A	

**EYEGLASSES:**

Have you purchased a service contract (extended warranty) for an EYEGLASSES product during the last five years?								
Yes:						No:	Don't Know:	
117 17.2%						554 81.2%	11 1.6%	
Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?								
Yes:						No:		
							N/A	

72 (61.5%)							45 (38.5%)	
Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)	N/A	
	0 (0.0%)	1 (1.4%)	3 (4.2%)	34 (47.2%)	34 (47.2%)	4.40 (.64)		

**GENERAL DCA AWARENESS:**

Question	Yes	No	Don't Know	Follow Up Question	Rating	Mean (SD)	
Before this survey I was aware of the California State Department of Consumer Affairs (DCA) and its general mission.	321 (47.3%)	312 (46.0%)	45 (6.6%)		(none)		
Before this survey I was aware that the consumer products and services in California covered in this survey are included in the safety and consumer protection jurisdiction of the DCA.	226 (33.3%)	388 (57.2%)	64 (9.4%)	How important is it to you that service contracts on consumer products are under the consumer protection roles of the California DCA?	Very unimportant	12 (1.8%)	4.23 (.89)
					Somewhat unimportant	8 (1.2%)	
					Neither important or unimportant	109 (16.1%)	
					Somewhat important	229 (33.8%)	
					Very Important	320 (47.2%)	
Before this survey I was aware that bedding and upholstered	271 (40.0%)	354 (52.2%)	53 (7.8%)	How important is to you that bedding and upholstered furniture fire	Very unimportant	12 (1.8%)	4.23 (.90)
					Somewhat unimportant	9	

Question	Yes	No	Don't Know	Follow Up Question	Rating	Mean (SD)
furniture products in California are tested by DCA for resistance to fire (flammability) requirements.				resistance standards are under the consumer protection roles of the California DCA?		(1.3%)
					Neither important or unimportant	118 (17.4%)
					Somewhat important	213 (31.4%)
					Very Important	326 (48.1%)
Before this survey I was aware that used/rebuilt bedding products offered by retailers are tested by DCA for meeting sanitization requirements.	181 (26.7%)	438 (64.6%)	59 (8.7%)	How important is it to you that bedding sanitization standards are under the consumer protection role of the California DCA?	Very unimportant	14 (2.1%)
					Somewhat unimportant	8 (1.2%)
					Neither important or unimportant	102 (15.0%)
					Somewhat important	184 (27.1%)
					Very Important	370 (54.6%)
Before this survey I was aware that appliance repair businesses in California are registered under the consumer protection roles of the DCA.	222 (32.7%)	398 (58.7%)	58 (8.6%)	How important is it to you that electronic and appliance repair businesses are under the consumer protection role of the California DCA?	Very unimportant	9 (1.3%)
					Somewhat unimportant	6 (0.9%)
					Neither important or unimportant	112 (16.5%)
					Somewhat Important	216 (31.9%)
					Very Important	335 (49.4%)
Before this survey I was aware that electronics repair businesses in California are registered under the consumer protection roles of the DCA.	216 (31.9%)	414 (61.1%)	48 (7.1%)			

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Limited survey respondent demographics were captured at the end of the survey and are reported in the table below.

<b>Demographic</b>	<b>Sub-group choices</b>	<b>Percentage of total respondents</b>
<b>Age (years)</b>	18-29	11.9%
	30-39	21.3%
	40-49	17.9%
	50-59	18.2%
	60-69	19.0%
	70 or greater	11.6%
	Decline to state	0.1%
<b>Gender</b>	Female	53.3%
	Male	46.4%
	Decline to state	0.3%
<b>Housing Situation</b>	Own home	66.5%
	Renter	29.6%
	Other housing arrangement	3.4%
	Decline to state	0.4%
<b>Annual Household Income</b>	>\$100K	20.2%
	>\$75K--\$100K	19.2%
	>\$50K--\$75K	18.3%
	>25K--\$50K	19.3%
	<\$25K	18.3%
	Decline to state	4.6%

## Responses to open-ended questions

The two questions at the end of the survey were:

1. *Do you have any questions on areas for improvement for this DCA Bureau's overall outreach and communications to consumers to promote awareness of protections and rights in California?*
2. *Do you have any other feedback to add that will contribute to this DCA Bureau's mission and consumer protection related to:*
  - a. *Electronic and appliance repair business registration and regulation and/or*
  - b. *Service contact registration and regulation on various consumer products and/or*
  - c. *The manufacture and sale of upholstered furniture, bedding and thermal insulation products and/or*
  - d. *The testing for sanitization of used and/or rebuilt bedding products offered by a retailer*

All written responses to the two open-ended question follow in Attachment 4. While not all respondents provided written comments, which is typical of a survey of this sort, it is possible to characterize responses generally:

- Most responses are generally positive about the DCA role and consumer protections provided—relatively few responses are negative or dismissive of DCA mission and roles.
- Many responders are not very informed about DCA and specific programs and services outside the limited scope of this consumer survey.
- Many responders believe there is a need for stronger and more varied outreach, visibility, communication, and publicizing of DCA programs and services using a wide variety of media.
- A moderate number of responders expressed the view that they, in retrospect, wished they had more knowledge of DCA when they experienced consumer issues or problems in the past.

## Attachment 1: Industry Research Sources Reviewed

1. **Furniture Today** ([www.furnituretoday.com](http://www.furnituretoday.com)) market research for furniture and bedding retailers, wholesalers and manufacturers.
2. **Association of Home Appliance Manufacturers** ([www.aham.org](http://www.aham.org)) – national organization of manufacturers that administers voluntary certification program for repair of certain consumer appliances.
3. **National Electronic Service Dealers Association** ([www.nesda.com](http://www.nesda.com)) – national organization of service dealers who provide voluntary certification for technicians, managers and service facilities.
4. **Service Contract Industry Council** ([www.go-scic.com](http://www.go-scic.com)) – national organization whose membership consists of most of the service contract administrators registered by BEARHFTI and some major retailers.
5. **California Retailers Association** ([www.calretailers.com](http://www.calretailers.com)) – California lobbyists who represent major retailers whose products and/or service contracts are covered by BEARHFTI.
6. **Professional Servicer’s Organization of California** ([www.psoca.org](http://www.psoca.org)) – California trade association whose membership is primarily independent repair dealers (electronic and appliance). They also work with manufacturers on providing training, etc.
7. **American Home Furnishings Alliance** ([www.ahfa.us](http://www.ahfa.us)) – national association of furniture manufacturers.
8. **International Sleep Products Association** ([www.sleepproducts.org](http://www.sleepproducts.org)) – national organization that seeks uniformity in industry standards and government regulations.
9. **National Council of Textile Organizations** ([www.ncto.org](http://www.ncto.org)) – national association representing the textile sector.
10. **Polyurethane Foam Association** – ([www.pfa.org](http://www.pfa.org)) – trade association of foam manufacturers and suppliers.
11. **Association For Contract Textiles** ([www.contracttextiles.org](http://www.contracttextiles.org)) – trade association consisting principally of textile wholesalers and furniture manufacturers.
12. **California Furniture Manufacturers Association** ([www.cfma.com](http://www.cfma.com)) – association whose intent is to bring furniture manufacturer and suppliers together.

## **Attachment 2: Furniture Industry Research**

*Furniture Today* magazine is the source for the following four furniture and bedding tables.

### **Top 100 Furniture Stores (\$ millions)**

Rank	Company, State	2013 Est. Sales	# of Stores
1	Ashley Furniture HomeStores, WI	\$3,114.8	493
2	IKEA, PA	\$2,690.0	38
3	Williams-Sonoma, CA	\$2,185.0	554
4	Rooms To Go, FL	\$1,780.0	131
5	Mattress Firm, TX	\$1,387.0	1,361
6	Berkshire Hathaway furniture division, NE	\$1,372.2	33
7	Pier 1 Imports, TX	\$1,209.2	991
8	Restoration Hardware, CA	\$1,205.0	65
9	Raymour & Flanigan, NY	\$1,150.5	102
10	La-Z-Boy Furniture Galleries, MI	\$1,017.0	281
11	Sleepy's, NY	\$1,000.0	939
12	American Signature, OH	\$960.4	126
13	Sleep Number, MN	\$922.3	440
14	Bob's Discount Furniture, CT	\$758.0	47
15	Havertys, GA	\$746.1	119
16	Crate and Barrel, IL	\$735.0	103
17	Ethan Allen, CT	\$702.2	200
18	Art Van, MI	\$555.0	82
19	Sleep Train, CA	\$471.2	299
20	Mathis Brothers, OK	\$417.9	18
21	Slumberland, MN	\$417.3	126
22	American Furniture Warehouse, CO	\$406.1	13
23	Cost Plus World Market, CA	\$367.0	265



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24	Room & Board, MN	\$344.0	13
25	America's Mattress, IL	\$313.8	395
26	More Furniture for Less, CA	\$302.6	27
27	Bassett Home Furnishings, VA	\$296.2	87
28	Badcock Home Furniture & more, FL	\$291.0	305
29	Haynes Furniture, VA	\$270.0	15
30	City Furniture, FL	\$263.9	26
31	Arhaus Furniture, OH	\$260.0	46
32	Hill Country Holdings, TX	\$258.2	24
33	Conn's, TX	\$243.7	79
34	Living Spaces, CA	\$235.0	10
35	HOM Furniture, MN	\$215.8	22
36	Macy's Furniture Gallery, NY	\$215.0	62
37	Levin Furniture, PA	\$192.4	26
38	Design Within Reach, CT	\$185.0	39
39	Farmers Home Furniture, GA	\$183.0	180
40	El Dorado Furniture, FL	\$165.4	12
41	Kane's Furniture, FL	\$160.0	17
42	Baer's, FL	\$154.5	15
43	Z Gallerie, CA	\$154.2	56
44	The Room Place, IL	\$154.0	22
45	Regency Furniture, MD	\$153.0	19
46	Furniture Mart USA, SD	\$150.1	33
47	Thomasville Home Furnishings Stores, NC	\$150.0	68
48	Steinhafels, WI	\$131.3	17
49	Dufresne Spencer Group, MS	\$130.4	35
50	ABC Carpet & Home, NY	\$130.0	4
51	Furnitureland South, NC	\$129.0	1

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52	Gallery Furniture, TX	\$124.0	2
53	Jerome's, CA	\$123.3	10
54	Crest Furniture, NJ	\$121.3	14
55	Grand Home Furnishings, VA	\$121.3	19
56	Bernie & Phyl's Furniture, MA	\$113.3	8
57	Back to Bed/Bedding Experts/Mattress Barn, IL	\$106.0	131
58	Stickley, Audi & Co., NY	\$104.3	13
59	Chair King/Fortuneoff Backyard Store, TX	\$101.5	38
60	Gardner-White, MI	\$100.0	10
61	Big Sandy Superstore, OH	\$100.0	25
62	Sit 'n Sleep, CA	\$99.3	31
63	Broad River Furniture, NC	\$96.1	15
64	Innovative Mattress Solutions, WV	\$96.0	150
65	Wolf Furniture, PA	\$95.5	13
66	Mattress Warehouse, MD	\$91.0	165
67	Walter E. Smithe Furniture, IL	\$90.0	11
68	Morris Furniture, OH	\$89.3	24
69	Jennifer Convertibles, NY	\$85.0	61
70	Lacks Valley Stores, TX	\$83.6	12
71	Darvin Furniture, IL	\$83.0	1
72	FAMSA, TX	\$81.0	25
73	The RoomStore, AZ	\$79.4	11
74	Bob Mills Furniture, OK	\$79.0	7
75	Kittle's Furniture, IN	\$79.0	13
76	Hudson's, FL	\$78.0	16
77	Schewel Furniture, VA	\$77.0	51
78	Mitchell Gold + Bob Williams, NC	\$75.0	18
79	Sam Levitz Furniture, AZ	\$72.6	5

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80	C.S. Wo & Sons, HI	\$71.0	16
81	American Mattress, IL	\$67.0	92
82	Kimbrell's, NC	\$66.2	50
83	Roche Bobois, NY	\$65.9	23
84	EBCO, AZ	\$65.9	10
85	Louis Shanks of Texas, TX	\$64.0	3
86	Melaney's Furniture, PA	\$61.6	7
87	FFO Home, OK	\$61.6	32
88	Phillips Home Furnishings, MO	\$60.1	0
89	Home Furniture, LA	\$57.9	8
90	Wellsville Carpet Town, NY	\$54.5	12
91	Walker Furniture, NV	\$54.4	23
92	Weekends Only Furniture Outlet, MO	\$54.2	5
93	LoveSac, CT	\$50.0	54
94	Conlin's Furniture, MT	\$50.0	18
95	Miskelly Furniture, MS	\$49.6	6
96	JCPenney Home Store, TX	\$48.0	29
97	Russell Turner Furniture Holding Corp, GA	\$47.5	11
98	Gardiners Furniture, MD	\$46.5	5
99	Belfort Furniture, VA	\$45.5	5
100	Boston Interiors, MA	\$44.5	7
<b>Total</b>		<b>\$35,231.4</b>	

**Top 25 US Bedding Retailers  
(\$ millions)**

<b>Rank</b>	<b>Company, State</b>	<b>2013 Sales</b>	<b>2012 Sales</b>	<b>% change</b>
1	Mattress Firm, TX	\$1,264.0	\$1,070.0	18.1%
2	Sleepy's, NY	\$949.0	\$910.0	4.3%
3	Sleep Number, MN	\$762.7	\$762.3	0.1%

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4	Sleep Train, CA	\$416.5	\$403.9	3.1%
5	Ashley Furniture HomeStores, WI	\$390.0	\$350.0	11.4%
6	Macy's, NY	\$326.0	\$320.0	1.9%
7	Sam's Club, AK	\$325.0	\$310.0	4.8%
8	America's Mattress, IL	\$282.4	\$269.2	4.9%
9	Berkshire Hathway furniture division, NE	\$245.0	\$232.0	5.6%
10	Rooms to Go, FL	\$210.0	\$180.0	16.7%
11	Sears, IL	\$185.0	\$190.0	-2.6%
12	Raymour & Flanigan, NY	\$179.3	\$159.3	12.6%
13	Costco, WA	\$158.0	\$138.0	14.5%
14	Big Lots, OH	\$145.0	\$142.0	2.1%
15	Art Van, MI	\$143.0	\$134.0	6.7%
16	Slumberland, MN	\$138.0	\$130.0	6.2%
17	Bob's Discount Furniture, CT	\$124.6	\$116.1	7.3%
18	American Signature, OH	\$106.8	\$106.5	0.3%
19	Badcock Home Furniture & more, FL	\$102.8	\$101.5	1.2%
20	Back to Bed/Bedding Experts/Mattress Barn, IL	\$102.0	\$100.0	2.0%
21	Innovative Mattress Solutions, VA	\$87.0	\$84.0	3.6%
22	Sit 'n Sleep, CA	\$84.2	\$83.0	1.4%
23	Mattress Warehouse, CA	\$82.0	\$77.0	6.5%
24	Havertys, GA	\$80.6	\$77.1	4.6%
25	Mathis Brothers, OK	\$77.7	\$65.0	19.5%
<b>Total</b>		<b>\$6,966.6</b>	<b>\$6,510.9</b>	<b>7.0%</b>

**Key Sources for the US Furniture Market  
(\$ millions)**

<b>Rank</b>	<b>Company</b>	<b>2013</b>	<b>2012</b>	<b>% change</b>
1	Ashley Furniture Inds.	\$3,658.3	\$3,515.8	4.1%

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2	La-Z-Boy	\$1,404.4	\$1,030.0	6.2%
3	Furniture Brands Internationals	\$650.0	NA	NA
4	Klaussner Furniture Inds.	\$524.3	\$542.3	0.0%
5	Dorel Inds.	\$476.4	\$479.6	-0.7%
6	Sauder Woodworking	\$475.0	\$458.9	3.5%
7	Flexsteel Inds.	\$382.0	\$340.9	12.0%
8	Lacquer Craft	\$369.7	\$380.0	-2.7%
9	Man Wah Holdings	\$365.7	\$329.1	11.1%
10	Ethan Allen Interiors	\$342.0	\$338.4	1.1%
11	Bernhardt Furniture	\$313.5	\$280.0	12.0%
12	Home Meridian International	\$275.8	\$267.3	3.2%
13	L & P Consumer Products Unit	\$266.4	\$261.7	1.8%
14	Standard Furniture Manufacturing	\$220.3	\$180.3	22.2%
15	Hooker Furniture	\$219.2	\$209.6	4.5%
16	Best Home Furnishings	\$218.6	\$203.0	7.7%
17	Bassett Furniture Inds.	\$210.9	\$180.2	17.1%
18	Sherrill Furniture	\$208.6	\$181.4	15.0%
19	Natuzzi	\$201.5	\$206.8	-2.5%
20	Franklin	\$171.3	\$184.3	-7.1%
	<b>Total</b>	<b>\$10,611.2</b>	<b>\$10,201.5</b>	<b>4.0%</b>

**Top 15 US Bedding Producers  
(\$ millions)**

Rank	Company	2013 Sales	2012 Sales	% change
1	Serta	\$1,552	\$1,473	5.4%
2	Sealy	\$1,236	\$1,212	2.0%
3	Simmons	\$1,228	\$1,054	16.5%
4	Tempur-Pedic	\$864	\$882	-2.0%

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5	Select Comfort	\$352	\$358	-1.6%
6	Corsicana	\$320	\$300	6.7%
7	King Koil	\$148	\$150	-1.3%
8	Therapedic	\$125	\$123	1.6%
9	Englander	\$100	\$99	1.0%
10	Restonic	\$88	\$85	3.5%
11	Kingsdown	\$84	\$84	0.0%
12	Symbol	\$71	\$70	1.4%
13	Spring Air	\$59	\$64	-7.8%
14	E.S.Kluft	\$55	\$50	10.0%
15	Ashley Furniture Inds.	\$51	\$45	13.3%
	<b>Total</b>	<b>\$6,333</b>	<b>\$6,049</b>	<b>4.7%</b>

## Attachment 3: Service Contract Industry Model Law

### SERVICE CONTRACTS ACT

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#### **Section 1. Scope and Purpose**

- A. The purposes of this Act is to create a legal framework within which service contracts are defined, may be sold and are regulated in this state. It declares that service contracts, as defined, are not insurance and not otherwise subject to the insurance code. It adds significant consumer protections and eliminates unnecessary administration.
- B. The following are exempt from this Act:
  - (1) Warranties;
  - (2) Maintenance agreements;
  - (3) Warranties, service contracts or maintenance agreements offered by public utilities on their transmission devices to the extent they are regulated by [insert name of state agency that regulates public utilities];
  - (4) Service contracts sold or offered for sale to persons other than consumers; and
  - (5) Service contracts on tangible property where the tangible property for which the service contract is sold has a purchase price of one hundred dollars (\$100) or less, exclusive of sales tax. Motor vehicle manufacturer's service contracts on the motor vehicle manufacturer's products need only comply with sections 3G, 5A, 5D – 5L, 6, and 10, as applicable, of this Act. Motor vehicle manufacturers are exempt from the registration requirement of section 3D.
- C. The types of agreements referred to in subsections B and C of this section, and service contracts governed pursuant to this {chapter} are not insurance and do not have to comply with any provision of the insurance law of this state.

#### **Section 2. Definitions**

- A. As used in this Act: "Administrator" means the person who is responsible for the administration of the service contracts or the service contracts plan or who is responsible for any submission required by the Act.

- B. “Commissioner” means the commissioner of insurance of this state.
- C. “Consumer” means a natural person who buys other than for purposes of resale any tangible personal property that is distributed in commerce and that is normally used for personal, family or household purposes and not for business or research purposes.
- D. “Maintenance agreement” means a contract of limited duration that provides for scheduled maintenance only and does not include repair or replacement.
- E. “Motor Vehicle Manufacturer” means a person that:
  - (1) Manufactures or produces motor vehicles and sells motor vehicles under its own name or label;
  - (2) Is a wholly owned subsidiary of the person who manufactures or produces motor vehicles;
  - (3) Is a corporation which owns 100 percent of the person who manufactures or produces motor vehicles;
  - (4) Does not manufacture or produce motor vehicles, but sells motor vehicles under the trade name or label of another person who manufactures or produces motor vehicles;
  - (5) Manufactures or produces motor vehicles and sells such motor vehicles under the trade name or label of another person who manufactures or produces motor vehicles; or
  - (6) Does not manufacture or produce motor vehicles but, pursuant to a written contract, licenses the use of its trade name or label to another person who manufactures or produces motor vehicles that sells motor vehicles under the licensor’s trade name or label.
- F. “Non-original manufacturer’s parts” means replacement parts not made for or by the original manufacturer of the property, commonly referred to as “aftermarket parts.”
- G. “Person” means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate or any similar entity or combination of entities acting in concert.
- H. “Premium” means the consideration paid to an insurer for a reimbursement insurance policy.
- I. “Provider” means a person who is contractually obligated to the service contract holder under the terms of the service contract.
- J. “Provider fee” means the consideration paid for a service contract.
- K. “Reimbursement insurance policy” means a policy of insurance issued to a provider to either provide reimbursement to the provider under the terms of the insured service contracts issued or sold by the provider or, in the event of the provider’s non-performance, to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider.
- L. “Service contract” means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement or maintenance of property or indemnification for repair, replacement or maintenance, for the operational or structural failure of any motor vehicle, residential or other property due to a defect in materials, workmanship, accidental damage from handling, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental and emergency road service and road hazard protection. Service contracts may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or interruption. Service contract also includes a contract or agreement sold for a separately stated consideration for a specific duration that provides for any of the following:
  - (1) the repair or replacement or indemnification for the repair or replacement of a motor vehicle



for the operational or structural failure of one or more parts or systems of the motor vehicle brought about by the failure of an additive product to perform as represented;

- (2) the repair or replacement of tires and/or wheels on a motor vehicle damaged as a result of coming into contact with road hazards including but not limited to potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps;
- (3) the removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;
- (4) the repair of chips or cracks in or the replacement of motor vehicle windshields as a result of damage caused by road hazards;
- (5) the repair of damage to the interior components of a motor vehicle caused by wear and tear but which expressly excludes the replacement of any part or component of a motor vehicle's interior; or
- (6) the replacement of a motor vehicle key or key-fob in the event that the key or key-fob becomes inoperable or is lost or stolen; or
- (7) other services or products which may be approved by the Commissioner.

Service contracts are not insurance in this state or otherwise regulated under the insurance code.

- M. "Service contract holder" or "contract holder" means a person who is the purchaser or holder of a service contract.
- N. "Warranty" means a warranty made solely by the manufacturer, importer or seller of property or services without consideration, that is not negotiated or separated from the sale of the product and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor or other remedial measures, such as repair or replacement of the property or repetition of services.

### **Section 3. Requirements for Doing Business**

- A. A provider may, but is not required to, appoint an administrator or other designee to be responsible for any or all of the administration of service contracts and compliance with this Act.
- B. Service contracts shall not be issued, sold or offered for sale in this state unless the provider has:
- (1) Provided a receipt for, or other written evidence of, the purchase of the service contract to the contract holder; and
  - (2) Provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase.
- C. A provider shall provide a consumer with a complete sample copy of the service contract terms and conditions prior to the time of sale upon a request for the same by the consumer. A provider may comply with this provision by providing the consumer with a complete sample copy of the terms and conditions or by directing the consumer to a website containing a complete sample of the terms and conditions of the service contract.
- D. Each provider of service contracts sold in this state shall file a registration with the Commissioner consisting of their name, full corporate address, telephone number and contact person and designate a person in this state for service of process. Each provider shall pay to the Commissioner a fee in the amount of two hundred dollars (\$200) upon initial registration and every year thereafter. Said registration need only be updated by written notification to the Commissioner if material changes occur in the registration on file.

- E. In order to assure the faithful performance of a provider's obligations to its contract holders, each provider shall be responsible for complying with the requirements of one of the following three subdivisions:
- (1) Insure all service contracts under a reimbursement insurance policy issued by an insurer licensed, registered, or otherwise authorized to do business in this state, and either:
    - (a) at the time the policy is filed with the commissioner, and continuously thereafter, (i) maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars (\$15,000,000) and (ii) annually file copies of the insurer's financial statements, its NAIC Annual Statement, and the actuarial certification required by and filed in the insurer's state of domicile; or
    - (b) at the time the policy is filed with the commissioner, and continuously thereafter, (i) maintain surplus as to policyholders and paid-in capital of less than fifteen million dollars (\$15,000,000) but at least equal to ten million dollars (\$10,000,000), (ii) demonstrate to the satisfaction of the commissioner that the company maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than 3 to 1, and (iii) annually files copies of the insurer's audited financial statements, its NAIC Annual Statement, and the actuarial certification required by and filed in the insurer's state of domicile; or
  - (2) Maintain a funded reserve account for its obligations under its contracts issued and outstanding in this state. The reserves shall not be less than forty percent (40%) of gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account shall be subject to examination and review by the commissioner; and Place in trust with the commissioner a financial security deposit, having a value of not less than five percent (5%) of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than \$25,000.00, consisting of one of the following:
    - (i) A surety bond issued by an authorized surety;
    - (ii) Securities of the type eligible for deposit by authorized insurers in this state;
    - (iii) C a s h ;
    - (iv) A letter of credit issued by a qualified financial institution; or
    - (v) Another form of security prescribed by regulations issued by the Commissioner;
  - (3) Maintain, or together with its parent company maintain, a net worth or stockholders' equity of \$100 million; and Upon request, provide the Commissioner with a copy of the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which shows a net worth of the provider or its parent company of at least \$100 million. If the provider's parent company's Form 10-K, Form 20-F, or financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the provider relating to service contracts sold by the provider in this state.
- F. Except for the requirements specified in Section 3D and 3E, above, no other financial security requirements shall be required by the commissioner for service contract providers.
- G. Service contracts shall require the provider to permit the service contract holder to return the service contract within 20 days of the date the service contract was mailed to the service contract holder or within 10 days of delivery if the service contract is delivered to the service contract holder at the time of sale or within a longer time period

permitted under the service contract. Upon return of the service contract to the provider within the applicable time period, if no claim has been made under the service contract prior to its return to the provider, the service contract is void and the provider shall refund to the service contract holder, or credit the account of the service contract holder, with the full purchase price of the service contract. The right to void the service contract provided in this subsection is not transferable and shall apply only to the original service contract purchaser, and only if no claim has been made prior to its return to the provider. A 10 percent penalty per month shall be added to a refund that is not paid or credited within 45 days after return of the service contract to the provider.

(1) Subsequent to the time period specified in subsection (1) or if a claim has been made under the service contract within that time period, a service contract holder may cancel the service contract and the provider shall refund to the contract holder 100% of the unearned pro rata provider fee, less any claims paid. A reasonable administrative fee may be charged by the provider not to exceed 10% of the gross provider fee paid by the service contract holder.

H. Premium Taxes:

(1) Provider fees collected on service contracts shall not be subject to premium taxes.

(2) Premiums for reimbursement insurance policies shall be subject to applicable taxes.

I Except for the registration requirements in Section 3D, providers and related service contract sellers, administrators, and other persons marketing, selling or offering to sell service contracts are exempt from any licensing requirements of this state.

J. The marketing, sale, offering for sale, issuance, making, proposing to make and administration of service contracts by providers and related service contract sellers, administrators, and other persons shall be exempt from all other provisions of this state's insurance law.

**Section 4. Required Disclosures - Reimbursement Insurance Policy**

A. Reimbursement insurance policies insuring service contracts issued, sold or offered for sale in this state shall state that the insurer that issued the reimbursement insurance policy shall either reimburse or pay on behalf of the provider any covered sums the provider is legally obligated to pay or, in the event of the provider's non-performance, shall provide the service which the provider is legally obligated to perform according to the provider's contractual obligations under the service contracts issued or sold by the provider.

B. In the event covered service is not provided by the service contract provider within 60 days of proof of loss by the service contract holder, the contract holder is entitled to apply directly to the reimbursement insurance company.

**Section 5. Required Disclosure - Service Contracts**

A. Service contracts marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state shall be written, printed, or typed in clear, understandable language that is easy to read, and shall disclose the requirements set forth in this section, as applicable.

B. Service contracts insured under a reimbursement insurance policy pursuant to Section 3E (1) of this Act shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are insured under a service contract reimbursement insurance policy." The service contract shall also state the name and address of the insurer.

C. Service contracts not insured under a reimbursement insurance policy pursuant to Section 3E (1) of this Act shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed by the full faith and credit of the provider."

D. Service contracts shall state the name and address of the provider, and shall identify any administrator if different from the provider, the service contract seller, and the service contract holder to the extent

that the name of the service contract holder has been furnished by the service contract holder. The identities of such parties are not required to be preprinted on the service contract and may be added to the service contract at the time of sale.

- E. Service contracts shall state the total purchase price and the terms under which service contract is sold. The purchase price is not required to be pre-printed on the service contract and may be negotiated at the time of sale with the service contract holder.
- F. Service contracts shall state the existence of any deductible amount, if applicable.
- G. Service contracts shall specify the merchandise and services to be provided and any limitations, exceptions, or exclusions
- H. Service contracts covering automobiles shall state whether the use of the non-original manufacturers' parts is allowed.
- I. Service contracts shall state any restrictions governing the transferability of the service contract, if applicable.
- J. Service contracts shall state the terms, restrictions or conditions governing cancellation of the service contract prior to the termination or expiration date of the service contract by either the provider or the service contract holder. The provider of the service contract shall mail a written notice to the contract holder at the last known address of the service contract holder contained in the records of the provider at least five (5) days prior to cancellation by the provider. Prior notice is not required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the service contract holder to the provider, or a substantial breach of duties by the service contract holder relating to the covered product or its use. The notice shall state the effective date of the cancellation and the reason for the cancellation. If a service contract is cancelled by the provider for a reason other than nonpayment of the provider fee, the provider shall refund to the contract holder 100% of the unearned pro rata provider fee, less any claims paid. A reasonable administrative fee may be charged by the provider not to exceed 10% of the gross provider fee paid by the service contract holder.
- K. Service contracts shall set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and any requirement to follow owner's manual.
- L. Service contracts shall state whether or not the service contract provides for or excludes consequential damages or pre-existing conditions, if applicable. Service contracts may, but are not required to, cover damage resulting from rust, corrosion or damage caused by a non-covered part or system.

#### **Section 6. Prohibited Acts**

- A. A provider shall not use in its name the words insurance, casualty, surety, mutual or any other words descriptive of the insurance, casualty or surety business; or a name deceptively similar to the name or description of any insurance or surety corporation, or to the name of any other provider. The word "guaranty" or similar word may be used by a provider. This section shall not apply to a company that was using any of the prohibited language in its name prior to the effective date of this Act. However, a company using the prohibited language in its name shall include in its service contracts a statement in substantially the following form: "This agreement is not an insurance contract."
- B. A provider or its representative shall not in its service contracts or literature make, permit or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted.
- C. A person, such as a bank, savings and loan association, lending institution, manufacturer, or seller of any product, shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property.
- D. A motor vehicle service contract provider or its representative shall not, directly or indirectly, represent

in any manner, whether by written solicitation or telemarketing, a false, deceptive or misleading statement with respect to:

- (1) such provider's affiliation with a motor vehicle manufacturer;
- (2) such provider's possession of information regarding a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty;
- (3) the expiration of a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty; or
- (4) a requirement that such motor vehicle owner register for a new motor vehicle service contract with such provider in order to maintain coverage under the motor vehicle owner's current motor vehicle service contract or manufacturer's original equipment warranty.

#### **Section 7. Record keeping Requirements**

##### **A. Books and Records:**

- (1) The provider shall keep accurate accounts, books, and records concerning transactions regulated under this Act.
- (2) The provider's accounts, books, and records shall include the following:
  - (a) Copies of each type of service contracts sold;
  - (b) The name and address of each service contract holder to the extent that the name and address have been furnished by the service contract holder;
  - (c) A list of the locations where service contracts are marketed, sold, or offered for sale; and
  - (d) Written claims files which shall contain at least the dates and description of claims related to the service contracts.
- (3) Except as provided in Section 7B, the provider shall retain all records required to be maintained by section 7 for at least one (1) year after the specified period of coverage has expired.
- (4) The records required under this Act may be, but are not required to be, maintained on a computer disk or other record keeping technology. If the records are maintained in other than hard copy, the records shall be capable of duplication to legible hard copy at the request of the commissioner.

**B** A provider discontinuing business in this state shall maintain its records until it furnishes the commissioner satisfactory proof that it has discharged all obligations to contract holders in this state.

#### **Section 8. Cancellation of Reimbursement Insurance Policy**

As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy until a notice of termination in accordance with [insert citation to the law that governs the termination of insurance contracts] has been mailed or delivered to the commissioner. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts issued by providers prior to the date of the termination.

#### **Section 9. Obligation of Reimbursement Insurance Policy Insurers**

**A.** Insurers issuing reimbursement insurance to providers are deemed to have received the premiums

for such insurance upon the payment of provider fees by consumers for service contracts issued by such insured providers.

- B. This Act shall not prevent or limit the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the issuer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay pursuant to the provisions of the service contract.

### **Section 10. Enforcement Provisions**

- A. The commissioner may conduct examinations of providers, administrators, insurers or other persons to enforce the provisions of this Act and protect service contract holders in this state. Upon request of the commissioner, the provider shall make all accounts, books, and records concerning service contract sold by the provider available to the commissioner which are necessary to enable the commissioner to reasonably determine compliance or noncompliance with this Act.
- B. The commissioner may take action which is necessary or appropriate to enforce the provisions of this Act and the commissioner's regulations and orders, and to protect service contract holders in this state.
  - (1) If a provider has violated this Act or the commissioner's regulations or orders, the commissioner may issue an order directed to that provider to cease and desist from committing violations of this Act or the commissioner's regulations or orders; may issue an order prohibiting a service contract provider from selling or offering for sale service contracts in violation of this Act; or may issue an order imposing a civil penalty on that provider, or any combination of the foregoing, as applicable.
    - (a) A person aggrieved by an order issued under this paragraph may request a hearing before the commissioner. The hearing request shall be filed with the commissioner within 20 days of the date the commissioner's order is effective:
    - (b) If a hearing is requested, an order issued by the commissioner under his section shall be suspended from the original effective date of the order until completion of the hearing and final decision of the commissioner; and
    - (c) At the hearing, the burden shall be on the commissioner to show why the order issued pursuant to this paragraph is justified. The provisions of [insert citation to statutes concerning hearings before the commissioner] shall apply to a hearing requested under this section.
  - (2) The commissioner may bring an action in any court of competent jurisdiction for an injunction or other appropriate relief to enjoin threatened or existing violations of this Act or of the commissioner's orders or regulations. An action filed under this paragraph may also seek restitution on behalf of persons aggrieved by a violation of this Act or orders or regulations of the commissioner.
  - (3) A person who is found to have violated this Act or orders or regulation of the commissioner may be assessed a civil penalty in an amount determined by the commissioner of not more than five hundred dollars (\$500.00) per violation and no more than ten thousand dollars (\$10,000.00) in the aggregate for all violations of a similar nature. For purposes of this section, violations shall be of a similar nature if the violation consists of the same or similar course of conduct, action, or practice, irrespective of the number of times the act, conduct, or practice which is determined to be a violation of this Act occurred.

### **Section 11. Separability Provision**

If any provision at this Act, or the application of the provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of the provision to person or circumstances other than those as to which it is held invalid, shall not be affected.

**Section 12. Effective Date**

- A. A person engaged in the service contract business, as a provider or otherwise, in this state on or before the effective date of this Act, which submits an application for registration as a provider pursuant to this Act within 30 days after the Commissioner makes the application available, may continue to engage in business as a provider in this state until final agency action is taken by the commissioner regarding the registration application and all rights to administrative judicial review have been exhausted or expired.
- B. This Act shall become effective on January 1, .

## Attachment 4: Responses to Open-ended Consumer Survey Questions

Aware of DCA & General Mission?	Do you have any suggestions on areas for improvement for this DCA Bureau's overall outreach and communication to consumers to promote awareness of protections and rights in California? (Responses are completely unedited, not corrected or redacted.)
Yes	<p>A public service announcement (psa) ad would probably do.</p> <p>advertise and let people know about you</p> <p>Advertise online</p> <p>ahh not sure what suggestions i have to offer at this time</p> <p>Continuously improve product quality, and strengthen management.</p> <p>cool</p> <p>Create a complaint review board to oversee repair complaints.</p> <p>dben mejorar el estilo una nueva imagen y tecnologia</p> <p>DCA needs to make the public more aware of them and the services that they offer through maybe advertising through tv or the Internet or even ads in the local newspapers as we consumers usually forget that you are there for us. Even myself who had a husband that worked for the DCA in the dental affairs office.</p> <p>DCA should let the public know that they are here and what they stand for. Let more people be aware of DCA.</p> <p>Electronic and appliance repair business registration and regulation</p> <p>Enforce, on a timely basis, those retailers that are not properly registered with the State of CA.</p> <p>every store must have awareness of the products people buying items to help them aware</p> <p>Get your information out to the Public. Most people are aware of Consumer Affairs protection, but that's all.</p> <p>good (x5)</p> <p>good service (x2)</p> <p>have a tag, brochure, something that states your purpose on each purchased item--a tag on a mattress, a sticker on a refrigerator, etc. have a statement on every website page that sells items. Like something on Amazon, or Sears, etc. that spells out your purpose and our rights. Have brochures in the physical stores--Pacific Sales, Sears, etc.make the business pay for them. a few cents for each.</p> <p>I can' think of any suggestions. To me it seems everything is covered.</p> <p>I don't know that everyone is aware of your services. I had the opportunity to volunteer for a local consumer advocate of a tv station and learned a lot more about what you do. I suspect that more consumer education in the way of public service messages would be helpful. Personally I have always been able to get consumer satisfaction when I've had issues!</p> <p>I purchased furniture from easylife and they went out of business, although I did get a warrinty i couldn't use it</p> <p>I think it's important that we have such a bureau and hopefully they are aggressive in keeping providers of various services in line. It's scary out there and I don't know of one soul who has never been burned.</p> <p>I think its really good that we have agencies like the DCA to look out for the protection of the consumer.</p> <p>I think letting people know that they do all this should somehow be brought to consumers</p> <p>I think that were I to have a problem with any product, I would be sure to try and find a resolution. I think manufacturers provide sufficient information with their products.</p> <p>I think the DCA needs to expand its communication efforts so that the public is more aware of the scope of their oversight. I was completely unaware of most of the oversight provided with the exception of licensing</p>



Aware of DCA & General Mission?	Do you have any suggestions on areas for improvement for this DCA Bureau's overall outreach and communication to consumers to promote awareness of protections and rights in California? (Responses are completely unedited, not corrected or redacted.)
	I think there should be a separate insert with all small appliances indicating the DCA's coverage
	I was not aware of the breadth of DCA's coverage. Not sure how to make it more well-known. Maybe Public Service Announcements on TV? Larger labels on products explaining the coverage and benefits?
	i would just provide more information so people know what you actually do....for example, tv commercials would be a good way to get that information out to the general public because I believe most people don't understand this bureau's function.
	I would suggest more follow up questions.
	I wouldn't know how to promote this awareness, but it is needed for other people that don't know about DCA.
	IF THEY INCLUDED THEIR INFORMATION ON PRODUCTS THAT ARE COVERED IN CALIFORNIA.
	include a notice on roducts telling consumers about their rights and how they can make a complaint about a product
	Information about the DCA should be easily available to the public, as to the functions and areas of responsibilities of the agency. That way the public can make educated actions in response to purchase problems. Also the public will be able to know if and/or when the agency oversteps its rules and regulations.
	Investigate and enforce existing rules and regulations. Inspect work done
	It all depends on the publicity be given to this because it is given to know the people continue ignoring the existence of this, I think it would be good to make more consumer knowledge regarding this area.
	it is very important because buyers would have more confidence in buying, and shops, would be more careful when applying the guarantee to stay out of trouble...
	it looks good
	It would be nice to publicize what the DCA bureau does through a public service announcement. I was never aware of the role that the DCA bureau covers. It's a nice organization that promotes awareness and protection for consumers and should be advertised as such.
	It would help if you asked more people about their beliefs and intrests on those subjects.
	its powerful
	Just more information about the DCA, especially where products are sold
	keep stuff fire retarded
	Keep the good work going on
	Let the consumer get the maximum benefit
	Loyalty program
	Make more awareness to consumers about DCA Bureau
	maybe more psa spots on tv to remind people that there is such a bureau
	Maybe some PSAs on television
	Maybe to receive a brief letter in home mailbox or email box to inform me of just what the DCD does would be wonderful.
	Maybe TV commercial as a psa.
	media, flyers, pamphlets
	Monthly newsletters about what exactly this branch of state governement does to protect the community.
	Mor communication of consumer rights and how to contact the DCA
	more comercial, pamphlets when purchasing, an app

Aware of DCA & General Mission?	Do you have any suggestions on areas for improvement for this DCA Bureau's overall outreach and communication to consumers to promote awareness of protections and rights in California? (Responses are completely unedited, not corrected or redacted.)
	More commercials or a brochure included with your major purchase, sales people should make consumers aware
	More info included when products are purchased
	more information
	more PSA's
	More publicity on enforcement actions taken
	More Publicity, lots dont know your there
	Most governmental Bureau's are a complete waste of public money.
	N/A (x5)
	Nine
	ninguna, creo que ya estan haciendo todo lo correcto
	no comments
	no not really, i suppose mandatory in prices would be nice at some point seeing how were going into the futuristic age lol
	No Problem
	no suggestions. Seems like most everything is covered.
	No. Do you realize that there are persons, like me, who prefer to do their own repairs/maintenance of such things as computers? Can you conceive of my repairing, as I did today, my own thermoelectric refrigerator?
	No. I feel California has gone to the dogs. It is the most liberal, litigious, and heavily taxed state in the nation and I recently left it for good. I hope never to return
	<b>No/None/None at this time/no suggestions (x128)</b>
	None everything is great
	<b>not sure (x5)</b>
	Not sure how you would "get the word out" unless you have an attachment to each of these types of items or something in the packaging.
	Oak Furniture on Bechelli Lane Redding Ca doesn't stand behind their chairs. My girlfriend bought 6 chairs 3 broke, each chair was \$200. He refused to repair them saying that her kids abused them. I won't buy there and will tell others to stay away from that store. kamm6038@yahoo.com
	Pay attention to complaints by consumers / Advertise that you are monitoring these industries
	People need to know more about what you do.makes me feel good about buying products
	Perhaps have sales people let you know when you buy a covered product. Perhaps a sign in the store.
	Please advertise
	please communicate to consumers more that the agency is there to protect them, so they know to contact the agency in the event of a problem
	Please keep the good work going on guys and thanks a lot for being there.
	por los momentos no
	Prominently displayed language in stores, websites, and advertisements.
	Provide product quality, strengthen customer service level of service.
	Provides quality service
	Que esta muy bien que todo producto sea revisado y respaldado por DCA
	Regulate contractors!
	Sending emails and/or broadcasting short, interesting television spots to remind consumers of this agency and it's relevance might help.

Aware of DCA & General Mission?	Do you have any suggestions on areas for improvement for this DCA Bureau's overall outreach and communication to consumers to promote awareness of protections and rights in California? (Responses are completely unedited, not corrected or redacted.)
	<p>signage in stores including info and a phone #/webpage / a card with the basics attached to each product</p> <p>Since I was not aware of how many products and services fell under the DCA's authority, I believe more of a public service announcement or campaign would be helpful to inform the public of everything the DCA encompasses.</p> <p>SMALL BROCHERE OR STICKER WITH PERPUS STATEMENT AND WEBSITE/PHONE CONTACT INFORMATION</p> <p>speed up the processing of LVN licenses and stop charging us nurses that fee for schooling of nurses. No one helped us when we needed tuition money.</p> <p>Stop trying to be a nanny operation and save me money by closing the DCA Bureau.</p> <p>Suggest a sign at all busnesses stating that products and services are under dca jurisdiction with a contact number.</p> <p>take out more ads, PSA's, etc</p> <p>Television promotion / Social media</p> <p>The average consumer is probably not aware of the DCA Bureau at all, much less what it oversees &amp; how it affects them. There should be periodic announcements in the media, reminding the public of its function. And the media needs to provide more public service announcements (free to the advertisers) of consumer issues that can/should be overseen by the DCA.</p> <p>The Bureau is doing a good job, nothing specific to suggest.</p> <p>The DCA web site is a valuable place to promote awareness of protections and rights of consumers in CA. The various pamphlets on various topics are also good sources for communication to consumers.</p> <p>There should be information on the product or product box about the services available</p> <p>They need to give more information to consumer on mass media like in television.</p> <p>They should have public ads regarding their service alerting the public of DCA's mission.</p> <p>they should try to advise people as to what the cover. I was unaware of the mattress regulation</p> <p>Think they need to advertise their services more so consumers are aware.</p> <p>Try to be a little more visable</p> <p>use plain language as much as possible</p> <p>use psa's</p> <p>Used Cars</p> <p>very good (x2)</p> <p>We suggest the complaints their solving now you do faster because the too much time to do that</p> <p>wwwawww gooood</p> <p>Yea do what I right</p> <p>Yes, it would be very helpful to have protection awareness website on all purchases under your control. I also think it would be great for website info page. Each different item would have a link so consumers could log in and get I info needed for that item / / Thank you</p> <p>Yes, you do not have responses that take into account that some people are technicians and do NOT need service contracts.</p>
Don't Know	<p>At the point of sale a notice could be provided to the Buyer as simply as providing a web address to obtain more detailed information about the DCA Bureau.</p> <p>have a notice in the business place</p> <p>I beleave California is doing great in this area</p> <p>I didn't know or understand the role that DCA plays part in consumer affairs. My bold suggestion would be to implement product registration be with DCA rather than in individual companies due</p>

Aware of DCA & General Mission?	Do you have any suggestions on areas for improvement for this DCA Bureau's overall outreach and communication to consumers to promote awareness of protections and rights in California? (Responses are completely unedited, not corrected or redacted.)
	<p>to the lack of maintenance. I think this way it would offer a more centralized location for product registrations. In addition, due to high volume of non-compliant consumer registration with availability of product repair, replacement, etc. To accommodate this I would prefer a registration of warranted items be instant upon purchase receipt at store level implementation. Maybe suggested it be a flagged dialog box that comes up upon purchase and information is pre-filled from customer information or can be entered manually and it can be simple (basic info email, name, phone, address or Drivers Lic.) then sent to cloud storage. After information collected it can be sent to DCA for records. It can be by DL and lookup service which can store all purchase on purchasers DL. Therefore no more additional information would be needed. Later information can be accessed per needed incidents of repair, replacement and or other application.</p> <p>i don't care</p> <p>I don't know what DCA offers.</p> <p>I expected there was somewhere to complain to but never have though this would be most useful for high end products and services. Wonder if state standards differ from federal. PSAs, maybe an annual review newsletter of issues and actions for the news.</p> <p>I THINK THERE SHOULD BE ADVERTISING ON RADIO AND TV.</p> <p>let people know their responsibility and daily duties</p> <p>no as I really was unaware of it</p> <p>No/None/None at this time/no suggestions (x27)</p> <p>Perhaps there should be more outreach and information or at least have the information out there be more noticeable.</p> <p>The reason I don't know about various things on the survey is that I have not had to make any claims other than through the purchased item and its warranty.</p>
No	<p>1. ALL of your verbiage appears to have been written by lawyers or other low intelligence creatures. / Write your stuff for humans NOT as if we're bureaucrats ourselves. / 2. Edit everything down. / 3. Assume FIRST that the market and capitalism WILL take care of most problems. Yelp, bulletin / boards, whatever. ONLY then should the DCA do ANYTHING. Don't step in just because it / rationalizes your fat salaries and work longevity. / 4. Eliminate 90% of your rules and specs. Be smart. Don't be comprehensive. / 5. You WILL not do any of these things even though this is what the public wants. Your brains just / don't fit this way of thinking. And yet we don't feel sorry for your limited perspective.</p> <p>A web url or handout with purchase of merchandise or products protected by the DCA Bureau would be helpful to let consumers know who to contact if necessary.</p> <p>Advertise so that consumers know the bureau exists / Perhaps require the DCA be listed on some items sold in California</p> <p>advertise that they exist</p> <p>All unlicensed dealers should be reported .And fined if they do not follow protocol /</p> <p>An advertisement program needs to be initiated so that consumers are aware of their rights and who to contact for any disciplinary action.</p> <p>be efficient and keep costs low so I won't have my taxes raised</p> <p>Bought a LayzBoy rocker / recliner made from tan micro fabric. Very comfortable chair, sleeps good. Will never buy anything covered in micro fabric again. Seems it absorbs skin oils and turns very dark and is impossible to get clean. So the arms of the chair look filthy and feel oily. Still servicable, just looks nasty. Bought a Frigidair refrigerator with a cross top freezer that is deeper than the one it replaced. Works fine, only problem is every thing I want to get out of it somehow crawls to the back of it.</p> <p>Bring more awareness.</p>

Aware of DCA & General Mission?	Do you have any suggestions on areas for improvement for this DCA Bureau's overall outreach and communication to consumers to promote awareness of protections and rights in California? (Responses are completely unedited, not corrected or redacted.)
	buying a warranty for your product does not work when your item has an issue the warranty doesnt apply or cover the damage thats not right you pay a lot of money for the warranty when you need it it dont apply or cover the damage .they need to focus on reality they know actually the commen damage for all the products they sell they should warranties cover commen issues
	Can't think of anything
	continue caring for California consumers
	CREO QUE DEBERIAN TENER MAS PUBLICIDAD O INFORMACION, CREO QUE MUCHA GENTE NO TIENE CONOCIMIENTO DE LA OFICINA DCA
	DCA needs more publicity. I wasn't aware of its coverage.
	Didn't realize you existed
	Do education as well as letting the public know your role in cost effective ways, maybe inserts to utility bills where a nominal fee is required as well as disclose information anytime a service contract is entered into.
	Do more advertising..
	do more online advertising about it
	easier to understand language
	Easy to read and direct to the point with any purchase and not in fine print
	educate consumers through better advertising. I am unaware (ignorant) of my rights.
	Face book,PSAs.
	Find a way to let consumers know of their service
	good
	Gosh I wish I had known about you before and I wish there were a way to look at shops that have been sanctioned by the DCA.
	Have retailers have notices or brochures displayed
	how about ads in local papers?
	I believe consumers should be told of where there purchase came from
	I believe the government can't do the job efficiently , it seems like a big expensive bureaucracy /
	I did not know the name of the agency, so sending flyers or e-mails would make the public more aware and how to contact the DCA with any concerns.
	I did not know there is such a government structure before this survey, let alone its functions. I would like to see more public education and awareness about this agency.
	I didn't know about it so I guess they need to get the information out to the public, but I don't know what would be the best way.
	I didn't know it even existed... but I assume taxpayer money is how it's funded, and that money shouldn't be wasted on commercials and other advertisements.
	I didn't much about this agency so maybe some public service ads or some kind of communication about themselves
	I don't have any comments at all. I have no clue to the outreach or communication that would be done.
	i dont know
	I don't know enough about these rules to comment
	I guess they might want to actually get out so people even know that they exist
	I had no idea this Bureau existed until today, I thought there was a federal organization that did this job.I guess an add saying the Bureau exists would help it.
	I have never heard of them so I think that they should run commercials or something to get people to know more about them.

Aware of DCA & General Mission?	Do you have any suggestions on areas for improvement for this DCA Bureau's overall outreach and communication to consumers to promote awareness of protections and rights in California? (Responses are completely unedited, not corrected or redacted.)
	I haven't heard anything about them, so maybe they should advertise more or send flyers to people in the mail about what they do and how to contact them if you have questions.
	I haven't heard that the DCA had that far of a reach. The questions about that office provided me information that I hadn't had before this survey. It's my belief that CA is the most over regulated goverment in any that I've ever seen. I also have never heard of people buying used mattresses.
	I just think that service & warranties should be more comprehensive. The reason I don't usually purchase them is because whenever I've needed to use them in the past, there's always a reason why my damage/replacement/etc is not covered. It's a waste of money.
	I really don't know anything about it . . . so honestly anything that was done to promote outreach and communication would be helpful. I've been in CA for 4 1/2 years, and I don't think I've noticed one thing about the topic.
	I really never heard anything about the DCA until this survey. It would be good If the DCA advertised their services more.often.
	I think a mailer/direct mail would be important for cunsumers.
	I think large newspaper or magazine ads or tv commercials to show what the department of consumer affairs offers to customers.
	I think more should be done to make people aware of the DCA and what it can do for them, but I don't have any suggestions as to what should be done.
	I think that there should be more information put out to let the public know the DCA Bureau exists and what it does.
	I think the DCA can be advertised on TV or Internet so it can let more people to aware this.
	I think the seller of the product should share this information at the time of the sale. Also, this information should be posted in a way to be seen on any website for the product.
	i think they just need to have some kind of ad or something that shows how they are taking care of these products we buy and use
	I think they need to do a better job of promoting themselves to the public because i was totally unaware that they even existed. I never knew what they could or would do for both the consumer and the retail stores.
	I was not aware of all the components of the DCA Bureau. It might be wise to consider PSAs on broadcast media and advertising in print media. Also, links in on-line venues connected with shopping sites.
	I wish I would have known more about DCA, I bought a refrigerator from sears and 13 months later, one month after the warranty ran out it crashed, and Sears would do NOTHING to help, they refused to do anything for a brand new refrigerator, so now I boycott Sears and tell everyone NOT to shop there
	I would like to see a series of ublic service announcements that would let the public know more about they do.
	I would suggest more marketing efforts to get your mission out there.
	I would suggest that the labels on the products like furnature and mattresses be larger and more direct to customers.
	If there was a website where I could see what products had the most issues would be helpful.
	I'm confident that the DCA is doing everything they can and should under their current mandate.
	include a flier for your agency in the DMV renewal letter.
	Include brief descriptions of the testing that the DCA required for the product on the product's packaging

Aware of DCA & General Mission?	Do you have any suggestions on areas for improvement for this DCA Bureau's overall outreach and communication to consumers to promote awareness of protections and rights in California? (Responses are completely unedited, not corrected or redacted.)
	Include brief printed materials to be provided with the products for consumers to read, maybe along with product manuals etc. Website where consumers can learn more about consumer rights can also be integrated into product packaging.
	Include tags on all "bigger ticket" items (say, retailing for more than \$400) describing the item's compliance with the DCA and a consumer hotline to report non-compliance.
	Instead of spending money on surveys, you might consider a public relations campaign to introduce citizens to your services and explain how your policies protect the public. I've lived in California for over 25 years and have never heard of DCA Bureau.
	is very good for me i like it so much is good
	It would. Be nice to have a written notice attached to the item large enough For customers to notice.
	Just let us know about you.
	less regulation would be a nice change
	Let people know what you do.
	lower price
	Mail campaign to inform residents of the department's role.
	mail to every address
	make consumers aware of this
	Make more people aware of it.
	make people more aware of your business
	Make this bureau and it's important benefits known to the public, even if it means some type of "advertising"!
	Making people aware of the DCA's function and how they can help consumers. Provide a toll free number for people to make complaints or comments. More control over service companies like American Home Shield.
	Material provided by retailers outlining the DCA Bureau's mission
	Maybe a newsletter or something in the mail.
	Maybe an ad or flyer to get to know this department.
	maybe just to be more visible -- to let consumers know you exist in the first place, in case they ever have problems or complaints and want to pro-actively contact you. before this survey, i didn't even realize this agency existed or at least not for all of these products and services.
	maybe sending out flyers in the mail with a overall view of what consumers should expect from the dca bureau, and what our rights as coconsumers are
	Maybe social media
	more advertising about the bureau would be very helpful.
	More awareness
	More commercials and advertisements to educate people.
	More grassroots approach.
	More prominent notice included in paperwork for products covered by the DCA.
	More public awareness. Maybe with some advertising
	more visible presence at point of sale
	need more details on how it provides protections for consumers and any recourse consumers have
	Need to let people know
	no good idea, but general mailings about the bureau might at least raise awareness of its existence

Aware of DCA & General Mission?	Do you have any suggestions on areas for improvement for this DCA Bureau's overall outreach and communication to consumers to promote awareness of protections and rights in California? (Responses are completely unedited, not corrected or redacted.)
	no im good
	no suggestions but I am pleased to know that there is such a bureau
	no suggestions. Consumer Reports recommends against buying warranties!
	No, because I have no idea what the DCA entails.
	no, but a good idea
	No, I had never heard of this department before today
	No, since this is the first time I've heard of DCA I have to read more about you and what you do before giving suggestions
	No, sorry, never gave it much thought. Buyer beware still remains prominent regardless of how many government agencies, rules, etc., apply.
	No/None/None at this time/no suggestions (x123)
	None at all everything is great.
	none, I've never heard of it until today
	Not allow products to be sold in California
	not sure. it's ok
	Notice more noticeable or prevalent on packaging.
	O think the public needs to be made more aware of ths Bureau
	only idea that occurs to me would be to include written documentation of the pertinent info with the items at time of purchase
	Only that you somehow make yourself more well know. Commercials, etc.
	Perhaps a posting on social media sites explaining the DCA and its mission would be helpful. Perhaps an insert in ballots would be educational to the public at large.
	place the statement by the item being sold, have the customer sign that he/she read and understands it, have the seller break down the most important parts to the customer, send a copy home with customer
	Price control for all items in the state.
	Print flyers or notes and have them placed near checkout stands or cash registers.
	promote your awareness better. perhaps signage in stores where warranties are offered.
	public service announcement ads
	Put it on the product on the box so people know who they can report any problems to.
	Reach out with social media so people can be informed
	send notifications to purchasers of these products to make them aware
	Should have more tv advertisements to bring awareness to this organization or mail out information to residents
	Since I did not really know this bureau existed, I cannot think of any suggestions, etc.
	Since I wasn't aware of the DCA Bureau's role until today, I would suggest that they require merchant to at most issue a slip with some of these rights or have it posted in view the same way employee's rights are to be in sight at workplaces.
	Stores should provide DCA information to customers
	Stores subject to DCA should display a placard saying so.
	Television shows that explain what a consumer should do if they can't get help from the retailer.
	The internet is always a great place to get information to a vast majority / of people. I think a banner that automatically pops would be a great idea.. / Perhaps mailing the information...Now that I think about it when I bought this / PC my rights were different in California, they had to do so many repairs and / start the warranty over again until they were completely fixed...I was so grateful..



Aware of DCA & General Mission?	Do you have any suggestions on areas for improvement for this DCA Bureau's overall outreach and communication to consumers to promote awareness of protections and rights in California? (Responses are completely unedited, not corrected or redacted.)
	Through internet campaigns, billboards or TV ads.
	TO PUT ADDS IN TV,RADIOS NEWS PAPERS EVERYWHERE SO PEOPLE LIKE ME AND KNOW ABOUT THIS SERVICE /
	TV Commerical
	Until this survey I was unaware of the DCA Bureau. I'm not sure how to out reach your services. Perhaps TV service announcements?
	use social media
	Wow - I didn't even know there was a place that I could go if I had issues. This is the first I heard about it. It should be listed with contacted information on receipts for all purchases that they cover so we are aware. The information should also give us information on the mission of the DCA and what we can contact them regarding.
	Yes
	YES ADVERTISE BETTER DID NOT KNOW ANYTHING ABOUT YOU
	yes to make all new products warranty cost free
	Yes Use the full name of the Bureau, and not the initials ( put the initials in parentheses) to establish the name of the bureau more clearly: I do not at this moment remember what DCA stands for. I think that would raise the visibility of the Bureau. / Maybe some a few dramatized public service commercials would help. / Also, a small decal to be used in the windows or other materials of repair businesses might help.
	yes, if there was commercials on the radio or TV to let people know about this.
	Yes. I would have the DCA mail info, on what they do, to all residents in the US.
	Yes. Tags on all items you cover with general instructions to the consumer of your role in the process and the address, ph, fax, and website contact information.
	You need a press agent. What about point of sale informational posters in the stores where these items are sold?

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APPENDIX B – BUREAU BREEZE COSTS, FUNDING, AND GRAPHIC  
FUND CONDITIONS

**Department of Consumer Affairs**  
**BreEZe Costs and Funding**  
**FY 2009-10 through FY 2016-17**  
(amounts in whole \$)

	FY 2009-10		FY 2010-11		FY 2011-12		FY 2012-13		FY 2013-14		FY 2014-15	FY 2015-16	FY 2016-17
	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Proposed*	Proposed*	Proposed*
<b>BreEZe Costs</b>													
Solution Vendor - Accenture LLP		-		-	1,200,000	869,926	4,081,649	387,607	5,029,513	4,478,770	5,375,928	9,732,344	11,750,441
DCA Staff and OE&E	2,080,000	372,732	2,080,000	1,096,247	3,280,829	3,199,363	3,636,888	4,655,450	6,742,294	7,979,320	8,026,062	13,111,845	7,046,014
Data Center Services		-		-	1,101,843	147,645	1,667,899	138,410	136,072	137,472	155,376	156,096	156,096
Other Contracts		44,151		53,169	860,120	645,011	899,600	1,178,588	2,357,360	1,751,269	2,814,819	4,428,850	4,543,800
Oversight		10,168		345,993	537,276	488,034	537,276	393,232	559,920	478,328	563,234	643,512	
<b>Total Costs</b>	<b>2,080,000</b>	<b>427,051</b>	<b>2,080,000</b>	<b>1,495,409</b>	<b>6,980,068</b>	<b>5,349,979</b>	<b>10,823,312</b>	<b>6,753,287</b>	<b>14,825,159</b>	<b>14,825,159</b>	<b>16,935,419</b>	<b>28,072,647</b>	<b>23,496,351</b>
<b>BreEZe Funding Needs</b>													
Total Costs	2,080,000	427,051	2,080,000	1,495,409	6,980,068	5,349,979	10,823,312	6,753,287	14,825,159	14,825,159	16,935,419	28,072,647	23,496,351
Redirected Resources	2,080,000	427,051	2,080,000	1,495,409	4,169,882	3,198,486	4,448,886	4,818,002	5,806,881	5,806,881	7,405,427	7,426,449	2,080,000
<b>Total BreEZe BCP</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>2,810,186</b>	<b>2,151,493</b>	<b>6,374,426</b>	<b>1,935,285</b>	<b>9,018,278</b>	<b>9,018,278</b>	<b>9,529,992</b>	<b>20,646,198</b>	<b>21,416,351</b>

Board / Bureau Name	FY 2009-10		FY 2010-11		FY 2011-12		FY 2012-13		FY 2013-14		FY 2014-15	FY 2015-16	FY 2016-17
	Budget	Actual	Budget	Actuals	Budget	Actuals	Budget	Actuals	Budget	Actuals	Proposed	Proposed	Proposed
Bureau of Electronic and Appliance Repair	10,955	4,202	10,955	29,480	42,275	36,875	10,955	2,739	60,955	60,955	29,305	82,397	72,560

\* Figures identified in FY 2014-15 through FY 2016-17 are still pending approval

**Bureau of Electronic and Appliance Repair  
Fund Analysis: Governor's Budget w/BreEZe SPR 3.1  
Release 3**

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
	Actual					Projected*		
Beginning Fund Balance (Incl. Prior Year Adj.)	\$ 2,095,000	\$ 2,270,000	\$ 2,270,000	\$ 1,935,000	\$ 2,183,000	\$ 2,366,000	\$ 2,021,000	\$ 1,698,000
Total Revenue	\$ 2,106,000	\$ 2,222,000	\$ 2,303,000	\$ 2,373,000	\$ 2,564,000	\$ 2,533,000	\$ 2,497,000	\$ 2,496,000
Transfers/General Fund Loans	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expenditures	\$ 1,920,000	\$ 2,244,000	\$ 2,660,000	\$ 2,157,000	\$ 2,381,000	\$ 2,878,000	\$ 2,820,000	\$ 2,861,000
BreEZe Cost	\$ 4,202	\$ 29,480	\$ 36,875	\$ 2,739	\$ 60,955	\$ 29,305	\$ 82,397	\$ 72,560
Expenditures (less BreEZe)	\$ 1,915,798	\$ 2,214,520	\$ 2,623,125	\$ 2,154,261	\$ 2,320,045	\$ 2,848,695	\$ 2,737,603	\$ 2,788,440
Ending Fund Balance	\$ 2,281,000	\$ 2,248,000	\$ 1,913,000	\$ 2,151,000	\$ 2,367,000	\$ 2,020,000	\$ 1,698,000	\$ 1,333,000
Months in Reserve	12.2	10.1	10.6	10.8	9.9	8.6	7.1	5.6



\* Projected years assume full budget appropriation is expended

**Department of Consumer Affairs**  
**BreEZe Costs and Funding**  
**FY 2009-10 through FY 2016-17**  
(amounts in whole \$)

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Board / Bureau Name	FY 2009-10		FY 2010-11		FY 2011-12		FY 2012-13		FY 2013-14		FY 2014-15	FY 2015-16	FY 2016-17
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\* Figures identified in FY 2014-15 through FY 2016-17 are still pending approval

**Home Furnishings and Thermal Insulation**  
**Fund Analysis: Governor's Budget w/BreEZe SPR 3.1**  
**Release 3**

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
	Actual					Projected*		
Beginning Fund Balance (Incl. Prior Year Adj.)	\$ 4,029,000	\$ 4,306,000	\$ 3,741,000	\$ 2,271,000	\$ 1,847,000	\$ 3,261,000	\$ 2,277,000	\$ 1,555,000
Total Revenue	\$ 4,066,000	\$ 3,734,000	\$ 4,071,000	\$ 3,879,000	\$ 4,390,000	\$ 4,118,000	\$ 4,211,000	\$ 3,869,000
Transfers/General Fund Loans	\$ -	\$ -	\$ -1,500,000	\$ -	\$ 1,500,000	\$ -	\$ -	\$ -
Total Expenditures	\$ 3,764,000	\$ 4,367,000	\$ 4,049,000	\$ 4,369,000	\$ 4,476,000	\$ 5,101,000	\$ 4,932,000	\$ 5,006,000
BreEZe Cost	\$ 3,019	\$ -	\$ 50,746	\$ 4,620	\$ 86,479	\$ 46,073	\$ 125,910	\$ 111,117
Expenditures (less BreEZe)	\$ 3,760,981	\$ 4,367,000	\$ 3,998,254	\$ 4,364,380	\$ 4,389,521	\$ 5,054,927	\$ 4,806,090	\$ 4,894,883
Ending Fund Balance	\$ 4,331,000	\$ 3,673,000	\$ 2,263,000	\$ 1,781,000	\$ 3,262,000	\$ 2,277,000	\$ 1,556,000	\$ 418,000
Months in Reserve	11.9	10.9	6.2	4.8	7.7	5.5	3.7	1.0



\* Projected years assume full budget appropriation is expended

**Highlights**

- o Historical expenditure savings maintain fund balance/solvency

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## APPENDIX C – BUREAU ORGANIZATION CHART, APRIL 2015

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Department of Consumer Affairs  
 Bureau of Electronic and Appliance Repair,  
 Home Furnishings and Thermal Insulation

April 1, 2015

CURRENT

Authorized Positions:  
 EAR (110)-15.5, HFTI (200)-27.9

BL 12-03 (999 BLANKET):  
 EAR-0.4, HFTI-1.2

ENGINEERING / RESEARCH  
 Sue Xu  
 Test Engineer  
 609-200-3404-001  
  
 Said Nurbaksh  
 Test Engineer  
 609-200-3404-002

Awet P. Kidane  
 DCA Director  
  
 Tracy Rhine  
 Chief Deputy Director  
  
 Justin Paddock  
 Bureau Chief  
 609-200-8806-002

INVESTIGATIONS UNIT  
 Dale Chessey  
 Staff Services Manager I  
 609-200-4800-001

LICENSING / POLICY  
 Karen Skelton  
 Staff Services Manager I  
 609-110-4800-001

LABORATORY  
 Carrie Cathalifaud  
 Supervising Chemist  
 609-200-8070-001

ADMIN / ENFORCEMENT  
 Theresa Berzinas  
 Staff Services Manager I  
 609-200-4800-002

Rick Diamond Field Representative 609-110-8836-001	Lynn Fullmer Field Representative 609-110-8836-006
Levi Jacobe Field Representative 609-110-8836-002	Lawrence Perlman Field Representative 609-110-8836-008
Raleigh Jacobe Field Representative 609-110-8836-003	Nicholas Parra Staff Services Analyst 609-200-5157-003
VACANT Field Representative 609-110-8836-005	

Leo Virata  
 Inspector III  
 609-200-8832-001

Zenaida Mercado  
 Inspector II  
 609-200-8833-003

Theresa Baeza  
 Inspector II  
 609-200-8833-004

Susan Florentine  
 Inspector II  
 609-200-8833-006

Lorrain Coones  
 Inspector I  
 609-200-8834-002

Nancy Torres-Mancia  
 Inspector I  
 609-200-8834-003

Licensing  
 Michelle Linton-Shedd  
 AGPA  
 609-110-5393-002

Donald Watts  
 Staff Services Analyst  
 609-110-5157-005

VACANT  
 Program Technician II  
 609-110-9928-001

Kristin Fuller  
 Program Technician II (0.5)  
 609-110-9928-003

Michael Weiss  
 Program Technician II (0.9)  
 609-200-9928-001

Nicole Giguere  
 Program Technician II  
 609-200-9928-002

Avra Wallace-Schoell  
 Program Technician II  
 609-200-9928-003

Policy Unit  
 Diana Godines  
 AGPA  
 609-200-5393-800

Terri Rice  
 AGPA  
 609-200-5393-001

Rosemarie Pecota Chemist 609-200-8060-001	Daniel Aguilera Textile Technician II 609-200-8082-006
Rajinder Sandhu Chemist 609-200-8060-002	Horfa Aguilera Textile Technician II 609-200-8082-004
Steve Fischer Chemist 609-200-8060-003	Wayne Lowi-Teng Textile Technician II 609-200-8082-005
Karen Sawyer Textile Technician II 609-200-8082-003	Crystal Hernandez Office Technician (T) 609-110-1139-004

<u>Admin.</u> Virginia McQueen Office Technician (T) 609-200-1139-002	<u>Enforcement Unit</u> Marjorie McGavin AGPA 609-200-5393-804
Victoria Hernandez Office Technician (G) 609-110-1138-001	Alisa Driscoll Staff Services Analyst 609-200-5157-001
Eric Saldivar Office Technician (G) 609-110-1138-002	Shalom Rojas Staff Services Analyst 609-110-5157-002
	Arthur Wautier Staff Services Analyst 609-110-5157-003

Awet P. Kidane, Director

Justin Paddock, Chief

Vanessa Haynes, C&P Analyst

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## Major Studies

Recommendations of the Service Contract  
Working Group October 2016

# BEARHFTI

BUREAU OF ELECTRONIC & APPLIANCE REPAIR,  
HOME FURNISHINGS & THERMAL INSULATION

## RECOMMENDATIONS OF THE SERVICE CONTRACT WORKING GROUP

OCTOBER 2016

STATE OF CALIFORNIA



DEPARTMENT OF CONSUMER AFFAIRS





# **Recommendations of the Service Contract Working Group**

**October 2016**





## **Service Contract Working Group Members**

Christine Brandt, Macy's

Scott Cauwels, Best Buy

Don Erwin, Professional Servicers Association of California

Ken Levine, Cozen O'Connor

Stephen McDaniel, Meenan Law Firm, Service Contract Industry Council

Jon Tomashoff, California Department of Insurance

David Velasquez, Bureau Advisory Council

Pamela Williams, California Retailers Association



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# Introduction



## **Purpose of the Report**

Consumer service contracts have been regulated by the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau) since 1994. Since that time, the scope of the Bureau's jurisdiction has expanded considerably and continues to expand to cover a myriad of products. In addition, offerings and marketing techniques have changed and contracts have evolved from offering product repair to offering product replacement. Further, the number of service contract registrants continues to increase annually.

The Bureau's last formal study of the service contract industry was conducted in 1999; the market has evolved in many ways since that time. The Bureau underwent Sunset Review in 2013 and presented the Legislature with a report on November 1, 2013, that provided background information on the program, the state of the industry, and identified various regulatory issues relevant to the Bureau's enforcement authority.

## **AB 2740**

Assembly Bill 2740 (Bonilla, Chapter 428, Statutes of 2014) extended the Bureau's operations until January 1, 2019, and recommended that the Bureau provide the Legislature with additional information regarding certain areas of its jurisdiction. In its report, the Bureau studied both the electronic and appliance repair market and the home furnishings and thermal insulation market to determine whether regulatory activities were appropriate, necessary, and should be continued, and recommended areas of deregulation and areas to monitor in order to better target resources and evaluate consumer risk and impact.

AB 2740 requires the Bureau to "conduct market condition assessments to study these markets and determine if current statutes and regulations reflect the needs of the markets, where risk to consumers is greatest, where resources could be refocused or expanded, and whether continued regulation is clearly necessary across all segments of these markets."

After the Bureau conducted the market assessment, it determined further inquiry was necessary to evaluate the regulatory needs of the service contract industry to ensure improved consumer protection. In order to gain a solid perspective on the marketplace, the Bureau formed a Working Group consisting of members representing key industries (service contract administrators, manufacturers, retailers, servicers, and other affected participants), and the California Department of Insurance, to prepare a report to the Bureau that details what aspects of service contract statutes and regulations require modification.

## **Role of the Working Group**

The service contract industry and its regulated entities manifest the most dynamic growth of all the licensed populations regulated by the Bureau, and the offerings that are marketed to consumers are constantly evolving. The entities involved in the service contract industry span across states and, in some instances, countries. While the Bureau is aware of current offerings via filings from applicants and registrants, it has found that current statutes and regulations do not always address the numerous aspects of the industry and its unique position that bridges consumers, retailers, administrators, and repair facilities. In addition, the contract terms are frequently modified to meet other state requirements which often necessitate legal research to ensure compliance with California and federal rules. It is crucial that the Bureau keep abreast of industry issues to ensure consumer protection and equitable regulation of the industry.





# History and the Current Regulatory Environment of the Industry



## History of Regulation

### National

The United States Congress enacted the Magnuson-Moss Warranty Act (Act)<sup>1</sup> in 1975 to require uniform disclosures and minimum standards with respect to warranty coverage provided on products used for personal, family, and household use. The Act vested jurisdiction in the Federal Trade Commission (FTC) to administer and promulgate rules to implement the Act with respect to service contracts.<sup>2</sup> The FTC promulgated its rules on December 31, 1975.<sup>3</sup> See Appendix A for full wording of the Act.

The Act and FTC rules differentiate between a warranty and a service contract based primarily on the fact that a written warranty is part of the basis of the bargain of the purchase of the product. In contrast, a service contract is sold to a consumer for consideration separate and apart from the purchase of a covered product. In other words, a warranty is part of a consumer's purchase of a product while a service contract is a separate agreement for which the consumer must decide whether or not they wish to pay.

Under the Act, a service contract is a written instrument in which a supplier agrees to perform services relating to the maintenance, or repair, or both, of a consumer product over a fixed period or for a specified duration of time.<sup>4</sup> Agreements that meet the statutory definition of a service contract that are sold and regulated under state law as contracts of insurance do not come under the Act's provisions.<sup>5</sup>

Throughout the years, regulation of service contracts has been primarily undertaken by the states. According to the Bureau's report "The Service Contract Industry in California: Market Trends and Policy Issues," published August 31, 1999, there were thirty-five states that had some form of regulation regarding service contracts covering consumer goods. Currently, every state in the country has either enacted a law regulating the service contract industry, enacted a law defining and exempting the service contract industry from regulation as insurance, or informally opined that a service contract is not subject to regulation as an insurance product.

### Model Act Adoption by States

The National Association of Insurance Commissioners (NAIC) is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC staff supports these efforts and represents the collective views of state regulators domestically and internationally. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.<sup>6</sup>

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<sup>1</sup> Pub. L. 93-637, 15 U.S.C. §§ 2301 et. seq.

<sup>2</sup> 15 U.S.C. § 2306(a).

<sup>3</sup> 16 C.F.R. pt. 700.

<sup>4</sup> 15 U.S.C. § 2301(8). The Act defines a "supplier" as "any person engaged in the business of making a consumer product directly or indirectly available to consumers." 15 U.S.C. § 2301(4).

<sup>5</sup> 16 C.F.R. § 700.11(a) (indicating that, "to the extent the Magnuson-Moss Warranty Act's service contract provisions apply to the business of insurance, they are effective so long as they do not invalidate, impair, or supersede a State law enacted for the purpose of regulating the business of insurance.").

<sup>6</sup> About the NAIC, at [http://naic.org/index\\_about.htm](http://naic.org/index_about.htm).

In 1995, the NAIC put forth the Service Contract Model Act (Model Act or Model #685),<sup>7</sup> which has been adopted by thirty-four states including California. The NAIC, with input from insurance industry members and other interested parties, drafted the Model Act in an attempt to provide consistency and a framework geared towards uniform regulation by each state's department of insurance. Some of these state laws were enacted with slight variations using the Model Act as the basis for their regulatory framework. For example, California adopted statutory language related to the Model Act, but only for vehicles.

A report published by the NAIC in 2014 states that twenty-eight states are designated as Category One. These states have adopted a comprehensive version of Model #685 for service contracts in at least one area (motor vehicle, residential, or appliance service contracts).<sup>8</sup> While California is listed in Category One as one of the states with this adoption, service contracts regulated by the Bureau do not fall under this scenario and are regulated under the California Business and Professions Code (BPC). The California Department of Insurance (CDI) regulates vehicle service contracts under a regulatory framework that is very similar to the Model Act<sup>9</sup> and regulates "whole home" service contracts under the home protection contract laws in the California Insurance Code (CIC).<sup>10</sup>

Category Two states provide partial service contract oversight. The thirteen states in this category "have adopted a more limited scheme of regulating service contracts by simply excluding service contracts from falling under their respective insurance codes, but not otherwise setting out the full array of registration and the financial responsibility requirements contained in the statutory provisions of Model #685."<sup>11</sup>

Category Three states are classified as having "no applicable legislation or an indication from state regulators or legislators that service contracts do not constitute insurance and are unregulated or regulated in a very limited manner."<sup>12</sup> Eight states are designated as Category Three.

Florida is separately discussed as having a "comprehensive licensure process of service agreement companies" and their approach was deemed "by far the most comprehensive regulatory approach in the country."<sup>13</sup>

### California

Five years before passage of the federal Magnuson-Moss Warranty Act, California codified the Song-Beverly Consumer Warranty Act in 1970 under the California Civil Code (Song-Beverly).<sup>14</sup> Song-Beverly did not initially contain language regarding service contracts and instead focused on express warranties, "as is" sales, and implied warranties at the point of sale of a product.

Several legislative bills regarding consumer product service contracts were introduced as early as 1988; however, the first bill was not passed until 1993 (SB 798 Rosenthal, Chapter 1265, Statutes of 1993), which placed service contracts sold for the same

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<sup>7</sup> Service Contracts Model Act MDL-685 (NAIC Jan. 1997). See Appendix B.

<sup>8</sup> Nat Pope, Chiharu Ishida, Peter Kaufman & Frederick W. Langrehr, *Extended Warranties in the U.S. Marketplace: A Strategy for Effective Regulation*, 33 J. INS. REG., No. 3, at 8 (NAIC Pub'ns 2014) [hereinafter *Extended Warranties*].

<sup>9</sup> Cal. Ins. Code §§ 12800 et seq.

<sup>10</sup> Cal. Ins. Code §§ 12740 et seq.

<sup>11</sup> *Extended Warranties*, *supra* note 8, at 9.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Cal. Civil Code §§ 1790-1795.8.

products (consumer electronic equipment and major home appliances) under the Bureau's repair jurisdiction and updated Song-Beverly to include definitions and provisions regarding service contracts. The legislation included a sunset date of January 1, 1998, which has been extended every sunset review cycle. The current sunset date is January 1, 2019. The Bureau promulgated regulations in 1994<sup>15</sup> and the first registrations were issued in June 1995.

Initial legislation was sponsored as a result of retailers and service contract administrators offering contracts without adequate financial backing and when these companies disappeared, consumers were left with contracts that were worthless. The most egregious example was an Oklahoma-based company named EWC, Inc. (EWC), which filed for reorganization under chapter 11 of the United States Bankruptcy Code in July 1991, and subsequently vanished. "EWC, through retailers and distributors, sold several million warranties across the country."<sup>16</sup>

Last summer's demise of Oklahoma City-based EWC [Inc.][sic] amid charges that its chairman looted the company socked 3.2 million consumers with an estimated repair tab totaling \$55 million. The collapse of the Long Beach-based Leo's Stereo electronics chain later that month came as a powerful aftershock in Southern California, leaving thousands more consumers with useless warranties.<sup>17</sup>

Other companies that sold contracts to California consumers but disappeared in the late 1980s and early 1990s include Pacific Stereo, Fedmart Stores, Gemco, Zody's, Crazy Eddies, and Handy Andy TV and Appliances.

As time passed, service contracts began to be offered on a variety of consumer products outside of consumer electronic/home office equipment and major home appliances. Concern about ensuring the same type of consumer protection over service contracts for these products grew, and companies that sold contracts on other products sought legislation to add the same level of regulation and requirements that were in place for the products already under the Bureau's jurisdiction.

In 2003, the Bureau's authority over service contracts was extended to include: furniture, jewelry, lawn and garden equipment, power tools, fitness equipment, telephone equipment, small kitchen appliances and tools, and home health care products. The initial law included provisions for financial backing of service contracts (insurance, escrow account, or providing a Form 10-K as filed with the Securities and Exchange Commission). The amendment also allowed for the alternative official backing of \$100,000,000 or more in net worth, evidenced in an audited statement.

In 2005, regulations were promulgated to define "home health care products."

In 2010, the addition of "accessories" of electronic sets and appliances was added to the regulated products list, the limit on incidental payment of indemnity was removed, and service contract administrators were allowed to become sellers and/or obligors on the service contracts, which was prohibited in the original law.

In 2013, service contracts on optical products (eyewear) were added to the Bureau's jurisdiction.

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<sup>15</sup> Now primarily at 16 Cal. Code Regs. §§ 2755 to 2758.5.

<sup>16</sup> *EWC Creditor Lists Proposed*, OKLAHOMAN, Feb. 27, 1992.

<sup>17</sup> *No Guarantee Behind Sales of Extended Warranties*, LOS ANGELES TIMES, Dec. 28, 1991.

The Bureau's registration population for service contract sellers, as of January 1, 2016, was 10,519 service contract sellers and 44 third-party service contract administrators.

A California Legislative and Regulatory History matrix can be found in Appendix C.

### **What is a Service Contract in California and Who are the Entities Involved?**

California BPC section 9855(a) defines a service contract as follows:

“Service contract” means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance, replacement, or repair of an electronic set or appliance, as defined by this chapter, and their accessories or of furniture, jewelry, lawn and garden equipment, power tools, fitness equipment, telephone equipment, small kitchen appliances and tools, optical products, or home health care products, and may include provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, power surges, food spoilage, or accidental damage from handling. “Service contract” shall not include a contract in writing to maintain structural wiring associated with the delivery of cable, telephone, or other broadband communication services. “Service contract” shall not include a contract in which a consumer agrees to pay a provider of vision care services for a discount on optical products or contact lenses for a specified duration.

A service contract must meet all of the terms and provisions of Song-Beverly, specifically California Civil Code (CCC) sections 1794.4 and 1794.41,<sup>18</sup> to ensure there is proper disclosure to the consumer of the coverage, such as commence and end dates, product identification, exclusions, cancellation provisions, etc. A contract that does not comply with these sections is not a legal offering in the State of California.

Service contracts are typically sold at the same time a new product is purchased, either through a brick and mortar retailer or an internet retailer. Service contracts may also be sold aftermarket through a source other than a retailer. It is also common for a manufacturer to offer a service contract “in the box” where the consumer may purchase a contract after they get home or through an aftermarket solicitation, prompted by the return of a product registration card. Service dealers who perform repairs may also offer a service contract once the repair is complete to provide consumers with later coverage. Companies outside the “retail chain of distribution” may also offer contracts with certain limitations. In addition, service contract administrators may direct sell to a consumer as an aftermarket offering. A sample service contract is found in Appendix D.

BPC section 9855(b) defines a service contract administrator as follows:

“Service contract administrator” or “administrator” means a person who performs or arranges the collection, maintenance, or disbursement of moneys to compensate any party for claims or repairs pursuant to a service contract, and who also performs or arranges any of the following activities on behalf of service contract sellers:

- (1) Providing service contract sellers with service contract forms.
- (2) Participating in the adjustment of claims arising from service contracts.
- (3) Arranging on behalf of service contract sellers the insurance required by Section 9855.2.

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<sup>18</sup> Cal. Bus. & Prof. Code § 9855.5 (“A service contractor shall comply with the provisions of Sections 1794.4 and 1794.41 of the Civil Code.”).

A service contract administrator shall not be an obligor on a service contract unless all service contracts under which the service contract administrator is obligated to perform are insured under a service contract reimbursement insurance policy.

BPC section 9855(c) defines a service contract seller as:

- (1) "Service contract seller" or "seller" means a person who sells or offers to sell a service contract to a service contractholder, including a person who is the obligor under a service contract sold by the seller, manufacturer, or repairer of the product covered by the service contract.
- (2) "Service contract seller" or "seller" also means a third party, including an obligor, who is not the seller, manufacturer, or repairer of the product. However, a third party shall not be an obligor on a service contract unless the obligor obtains a service contract reimbursement insurance policy for all service contracts under which the third party is obligated under the terms of a service contract.
- (3) "Service contract seller" or "seller" shall not include the following:
  - (A) A bank or bank holding company, or the subsidiary or affiliate of either, or a financial institution, licensed under state or federal law, selling or offering to sell a service contract unless that entity is financially and legally obligated under the terms of a service contract.
  - (B) An electrical device manufacturer or electrical contractor who constructs, installs, or services electrical devices, which include any unit of an electrical system intended to carry electrical energy as part of a building's electrical system, including raceways, conductors, invertors, conduit, wires, switches, or other similar devices.

BPC section 9855(e) defines a service contractor as:

"Service contractor" means a service contract administrator or a service contract seller.

BPC section 9855(g) defines an obligor as:

Obligor is the entity financially and legally obligated under the terms of a service contract.

## California Requirements vs. Other States' Requirements

### California Registration Requirements and Enforcement

California law requires that all service contract administrators and service contract sellers (including third party obligors) obtain and maintain a registration with the Bureau.<sup>19</sup> Service contractors who register with the Bureau as required are exempt from all provisions of the Insurance Code unless the BPC expressly provides otherwise.<sup>20</sup> A registered service contract administrator who is an obligor may also sell contracts without having to obtain an additional service contract seller registration.<sup>21</sup>

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<sup>19</sup> Cal. Bus. & Prof. Code § 9855.1(a) (indicating this requirement in the negative by providing that, "It shall be unlawful for any person to act as a service contractor in this state unless that person first registers with the bureau in accordance with the provisions of this chapter and maintains a valid registration.").

<sup>20</sup> Cal. Bus. & Prof. Code § 9855.1(b).

<sup>21</sup> Cal. Bus. & Prof Code § 9855.15.

California registration requirements for sellers and administrators consist of:

- A completed application;
- Registration Fee – currently \$75 per location;
- A copy of the proposed service contract form;
- A certificate of qualification filed with the California Secretary of State if the business is outside the state (this does not include internet sellers);
- The current value of the service contracts in force, unless covered by a service contract reimbursement policy; and
- Evidence of financial backing – one of the following:
  - Form 10-K or 20-F required by the Securities and Exchange Commission.
  - Service contract reimbursement insurance policy (required for all contracts that are administered by a third party administrator or the obligations are met by a third party obligor).
  - Evidence of a funded escrow account equal to a minimum of 25 percent of deferred revenues from the service contracts in force.
  - Most recent audited financial statement showing a net worth of not less than \$100,000,000.<sup>22</sup>

All locations that issue, sell, or offer for sale (including internet sites) service contracts to California consumers are required to obtain and maintain a valid registration.

Registrations are issued for a one year timeframe and renew annually.<sup>23</sup> The current renewal is set at \$75 per location.<sup>24</sup> Evidence of financial backing is also required to be updated annually.

A service contractor is required to file its service contract forms prior to their use.<sup>25</sup> Bureau staff review contracts for compliance with CCC sections 1794.4 and 1794.41 (Song-Beverly), that there is appropriate evidence of financial backing, and that the appropriate registration has been obtained for each entity required to be registered.

The Bureau is authorized to deny, suspend, revoke, or place on probation the registration of a service contractor for any act, omission, or crime that is committed by the service contractor or any employee, partner, officer, or agent of the service contractor for any of the following reasons:

- Any conduct that constitutes fraud or dishonest dealing.
- Conviction of a crime that has a substantial relationship to the qualifications, functions, and duties of the service contractor.
- Assisting in or abetting the violation of, or conspiring to violate, any provision of article 4.5, of BPC chapter 20, regulating service contractors, or of regulations adopted under that article.<sup>26</sup>

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<sup>22</sup> Cal. Bus. & Prof Code § 9855.2; 16 Cal. Code Regs. § 2757.

<sup>23</sup> Cal. Bus. & Prof. Code § 9873(a)(1).

<sup>24</sup> 16 Cal. Code Regs. § 2760(d).

<sup>25</sup> Cal. Bus. & Prof Code § 9855.3(a); 16 Cal. Code Regs. § 2758.5.

<sup>26</sup> Cal. Bus. & Prof Code § 9855.7.



The Bureau also has the authority to issue citations, which include a monetary fee, for the following violations:

Failure to file a service contract with the Bureau as required by BPC section 9855.3(a) or any rule adopted thereunder.

Failure to comply with the service contract disclosure provisions of Song-Beverly as set forth in CCC sections 1794.4 and 1794.41.<sup>27</sup>

Violation of any regulation adopted under BPC article 4.5.

Making or authorizing statements or advertisements which are untrue or misleading; or making false promises of a character likely to influence, persuade, or induce a customer to purchase a service contract as proscribed by BPC chapter 20.<sup>28</sup>

There is an appeal process in place for citations. They may either be appealed to a citation review conference which is decided at the Bureau Chief's level, or they may be appealed to an administrative law judge under the California Administrative Procedure Act.<sup>29</sup>

Citations are issued with penalties on a graduated scale as follows:

First citation:	\$100-\$500
Second citation (within 1 year):	\$500-\$1,000
Third citation (within 2 years):	\$1,000-\$2,000
Fourth citation (within 2 years)	\$1,000-\$2,000
The Fourth citation may also result in revocation, suspension or probation. <sup>30</sup>	

#### California Department of Insurance

The California Department of Insurance (CDI) has specific jurisdiction over Home Protection Contracts and Portable Electronic Device Insurance. CIC section 12740(a) provides the following definition:

“Home protection contract” means a contract or agreement whereby a person, other than a builder, seller, or lessor of the home which is the subject of the contract, undertakes for a specified period of time, for a predetermined fee, to repair or replace all or any part of any component, system or appliance of a home necessitated by wear and tear, deterioration or inherent defect, arising during the effective period of the contract, and, in the event of an inspection conducted pursuant to subdivision (b) of Section 12761, by the failure of that inspection to detect the likelihood of any such loss.

CIC section 1758.69(d)(1)(A) defines “portable electronics” as:

Personal, self-contained, easily carried by an individual, battery-operated electronic communication, viewing, listening, recording, gaming, computing, or global positioning devices, including cell or satellite phones, pagers, personal global positioning satellite units, portable computers, portable audio listening, video viewing or recording devices, digital cameras, video camcorders, portable gaming systems, docking stations,

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<sup>27</sup> Cal. Bus. & Prof Code § 9855.5.

<sup>28</sup> Cal. Bus. & Prof Code § 9855.8(a).

<sup>29</sup> Cal. Bus. & Prof Code §§ 9855.8(b)(3) & (4).

<sup>30</sup> 16 Cal. Code Regs. § 2771.

automatic answering devices, their accessories, and service related to the use of those devices.

CIC section 1758.69(e)(1) defines the insurance covering these products as:

"Portable electronics insurance" means a contract providing coverage for the repair or replacement of portable electronics against any one or more of the following causes of loss: loss, theft, mechanical failure, malfunction, damage, or other applicable perils.

CIC section 1758.69(e)(2)(A) exempts service contracts on portable electronic devices under the Bureau's regulation as follows:

"[p]ortable electronics insurance" does not include ... [a] service contract governed by Article 4.5 (commencing with Section 9855) of Chapter 20 of Division 3 of the Business and Professions Code.

### **Other State Models**

Other states have taken different approaches to the regulation of service contracts on consumer goods. Following are examples of some of these different approaches:

#### Exemption States

States such as Tennessee and Pennsylvania have simply chosen to define what constitutes a service contract and statutorily deregulate the product as otherwise qualifying as insurance. For example, Tennessee's law provides as follows:

(a) The marketing, sale, offering for sale, issuance, making, proposing to make and administration of a service contract shall not be construed to be the business of insurance and shall be exempt from regulation as insurance pursuant to this title [the state's insurance code].

(b) For purposes of this section, "service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the service, repair, replacement or maintenance of property or indemnification for service, repair, replacement or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental, road hazard and emergency road service. "Service contract" shall include motor vehicle extended service contracts and agreements. Service contracts may provide for the service, repair, replacement, or maintenance of property for damage resulting from power surges and accidental damage from handling.<sup>31</sup>

#### Passively Regulated States

States such as New Jersey and Ohio do not actively regulate service contracts. They have chosen to define service contract and set forth requirements for companies engaging in the service contract business, but do not impose any affirmative duties on a service contract obligor to register or file with a state agency. New Jersey's law essentially mimics the Model Act with the exception of there being no registration.<sup>32</sup>

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<sup>31</sup> Tenn. Code Ann. § 56-2-126. The Pennsylvania Insurance Code includes a virtually identical statute at 40 Pa. Cons. Stat. Ann. § 477f.

<sup>32</sup> N.J. Stat §§ 56:12-86, et seq.

Ohio law, similar to that of Tennessee, defines and exempts a service contract from regulation as insurance, but only as long as the service contract obligor maintains insurance backing.<sup>33</sup>

#### Regulated States

Other states, like California, have a detailed regulatory framework in place that requires registration, disclosures, financial backing, etc. These state laws are based upon the Model Act, but have some variations in them.

### Comparison of Model Act with California Regulation

California did not adopt the Model Act when it came to the service contract regulation on products under the Bureau's scope of authority; however, in comparing the Model Act with the Bureau's operative statutes and regulation, the following are noted:

The Model Act is intended for inclusion in a state's insurance code as administered by the state's insurance regulatory authority. In California, regulation of service contracts on consumer goods is by way of the BPC, Song-Beverly, and Bureau regulations, all administered by the Bureau.

The Model Act is more general and applies to "property" where California statute, BPC section 9855, provides a listing of specific items.

The Model Act does not regulate contracts sold on items with a purchase price of less than \$100. California has no price minimum for products covered under service contracts.

The Model Act specifically excludes "maintenance agreements." In contrast, California law allows for maintenance only service contracts to be regulated by the Bureau and does not prohibit labeling an offering as a "maintenance agreement."

Song-Beverly requires that a service contract be delivered to the consumer within 60 days of purchase. The Model Act states only "within a reasonable time from the date of purchase."

The Model Act requires the insurer's name and address to be listed for insured contracts, along with language indicating that the contract holder is entitled to make a claim directly against the insurance company if the service contractor fails to pay or provide service on a claim within 60 days after proof of loss has been filed.

For third-party obligors, California only permits a service contractor to purchase a reimbursement insurance policy to demonstrate financial backing. The Model Act includes this requirement as well as options to demonstrate financial backing, such as permitting a contractor to maintain a funded reserve along with a

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<sup>33</sup> Ohio Rev. Code Ann. 3905.423.

financial security deposit in trust with the state. For service contractors otherwise, the financial alternatives allowed for demonstrating financial backing are as follows:

Type of Backing	Model Act	California
Reimbursement Insurance Policy	✓	✓
Escrow Account	N/A	25% of in-force contracts
Financial Security Deposit (surety bond, securities, cash, letter of credit) with the insurance commissioner and a funded reserve account	✓	N/A
Maintain a net worth of not less than \$100 million	✓	✓
10-K or 20-F filing with Securities & Exchange Commission showing net worth greater than sum of deferred revenues from service contracts	N/A	✓

# Trends and Perceptions



The Working Group has compiled input concerning the environment of the industry by examining past research from a variety of sources. Some of the sources drawn on were the *Response to Issues and Recommendations Pursuant to the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's 2014 Sunset Review* prepared by CPS HR Consulting, the *2014 National Warranty Survey* conducted by Mason-Dixon Polling & Research, Inc., and the *1999 Service Contract Industry in California* report. These studies give valuable input concerning the prevailing perceptions of consumers to the industry, consumer sentiment regarding service contracts, and the industry's views and recommendations on the efficacy of regulation.

### Consumer Perception of Service Contracts

As part of the *Response to Issues and Recommendations Pursuant to the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's 2014 Sunset Review*, a consumer survey was conducted by CPS HR Consulting and covered various topics within the scope of the Bureau's jurisdiction, including service contracts. This survey yielded the following information:

In cases where a service contract was not purchased, the reasons given by consumers surveyed were the cost of the contract and the product quality and reliability did not warrant a contract.

In cases where a service contract was purchased on items under the Bureau's jurisdiction:

- An average of 66.1% consumers surveyed used the service contract they purchased;
- 90.8% of the consumers surveyed who had purchased a service contract were somewhat or very satisfied with the service contract process used; and
- 90.2% of the consumers surveyed were satisfied with the product repair or replacement.

81% of the consumers surveyed felt it was somewhat or very important that service contracts for consumer products were under the consumer protection role of the California Department of Consumer Affairs.

The complete survey can be found in Appendix E.

In November 2014, a *National Warranty Survey* was commissioned by the Service Contract Industry Council and conducted by Mason-Dixon Polling & Research, Inc. The results of that survey were as follows:

67% of the consumers surveyed agreed that they would rather "spend a little more money if it saved them time."

71% of the consumers surveyed agreed that it was worth it to pay a little more to know that they "did not have to deal with the hassles of repair."

The main reasons listed for purchasing extended warranties were:

- Avoid a big, unexpected expense
- Avoid the hassle of repairs
- Feel the policy will pay out more than it cost to purchase
- Peace of mind / reduce stress or worry

49% of the consumers surveyed who had purchased a service contract were very satisfied with their decision to purchase and 35% were somewhat satisfied.

The complete survey can be found in Appendix D.

## Industry Comments and Recommendations

In addition, the *Response to Issues and Recommendations Pursuant to the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation's 2014 Sunset Review* also contained recommendations garnered from interviews with service contract industry members. Following are excerpts from that report:

The most popular, though not only, way to offer a service contract may be as an obligor. The obligor buys a contracted liability insurance policy (CLIP) to ensure against repair or replacement loss. Service contract administrators are obligors and service contract sellers may also be, but don't have to be.

Nationally, most states regulate service contracting firms as insurance entities or not at all. As a result, California is out of step with the rest of the country. This issue starts with the definition of a service contract. These contracts typically cover personal property or consumer goods, not commercial services. California's definition follows a prescriptive laundry list of products and services that changes often.<sup>34</sup>

Except for California and Florida, most states have adopted the National Association of Insurance Commissioners (NAIC) model for service contracts. Also, only California and Florida license individual locations like retail stores which sell service contracts, such as large electronic appliance store chains, but don't view themselves as service contractors. However, it is recognized these retail licenses generate valuable revenue for the state and probably won't be eliminated.

A problem for the industry and California consumers is the Bureau's interpretation of the Song-Beverly Act. The Act specifies that a clear description of the product is needed to file a claim. The Bureau currently interprets this to mean serial numbers are needed to approve a claim. This puts a burden on the consumer if they failed to register the serial number with the company. According to the industry official, the obligor does not care and generally will not deny a claim for the lack of serial numbers. In general, there is no claims adjustment, just replacement because it often costs less to replace than repair. However, the industry may decide to repair instead if they reach a cost or size threshold.

There have been discussions about service vendors undergoing background checks because they provide services in the home.

## Service Contract Offerings – Current and Future

Initially, service contracts were for the repair of items which failed to perform as intended, and were geared towards "big-ticket" items that were of a repairable nature. As the industry shifted to offering service contracts on a variety of items, including less expensive products, the offerings moved from covering repair to offering a comparable replacement product and, in some instances, a refund of the price for a comparable replacement. In a recent review of 176 contracts filed with the Bureau over a six-month period, 171 contracts had either repair or replacement clauses, four contracts contained replacement only causes, and only one contract was for repair-only.

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<sup>34</sup> Other states use a more generalized, stable definition. In most states, auto and home appliance warranties and consumer goods are covered by the state insurance department. However, while many states regulate the industry through their department of insurance, service contracts are not classified as insurance products in most states.



The Bureau has received a number of offerings for products outside its jurisdiction for items such as area rugs, shoes, orthotic insoles, and home alarm systems, among other items. While these contracts must still meet CCC requirements that cover “consumer products,” they do not fall under the Bureau’s purview for registration and the Bureau has no authority for complaint handling or enforcement for these offerings.

The CDI has also received a submission for coverage of consumer drones. Based on the nature of the offering, it was deemed to be insurance, but it is likely that the Bureau will see offerings for these devices in a service contract.

It is evident that the service contract market will continue to grow based on these expanded offerings. As new products are developed, technology advances, and the industry perceives an opportunity to offer contract coverage on existing products that have not traditionally been in the service contract realm, the range of contracts and coverage options will also continue to grow.

The industry views this as the most problematic aspect of California’s law and the most significant difference between California’s regulation of the industry and the rest of the country. California’s list of products within the definition of a service contract is a patchwork and several industry stakeholders recommend that the definition be expanded to reference the general definition for consumer goods used in the Magnuson-Moss Warranty Act. Removing the list would bring California in line with the treatment of the industry by the rest of the states, whereas today California limits the definition to a specific list of products.



# Working Group Recommendations



## 1. Further Review the Bureau's Jurisdiction of Various Consumer Products

When first placed under the Bureau's jurisdiction, service contracts covered electronics and major home appliances. Having personnel experienced in the repair of these items was of great assistance in determining if the repairs performed under the service contract were in keeping with industry standards. As the Bureau's jurisdiction expanded, this no longer held true. For example, the Bureau has no expertise in the repair of jewelry products.

The Bureau's regulation of service contracts has incrementally expanded over time from electronic and appliance products to jewelry, lawn and garden equipment, power tools, fitness equipment, telephone equipment, small kitchen appliances and tools, optical products, and home health care products. In addition, the Bureau is frequently sent service contracts for review that fall outside the Bureau's jurisdiction and therefore, companies are not obligated to meet service contract requirements of the BPC that are required if the associated product were, for instance, an appliance. While these offerings are subject to the provisions of Song-Beverly, they are deemed a civil matter and the only consumer recourse is via the court system. For example, a service contract for a water heater (a product not under the Bureau's jurisdiction) can be provided by a company without the need to meet financial backing requirements and could close its doors the day after selling a service contract to a consumer.

Other states, however, whether by adopting the Model Act or by enacting other legislation, regulate all consumer products and do not distinguish consumer protections for varying types of products.

**Working Group Recommendation:** The current jurisdiction of the Bureau should be discussed in detail during its next Sunset Review process. The Legislature should consider removal of the list of specific products from BPC section 9855(a) in favor of "consumer products with the exclusion of vehicles." Consumer products could then be defined as, "tangible personal property that is distributed in commerce and that is normally used for personal, family or household purposes and not for business, educational, governmental, or research purposes."

An additional comment from some members of the group was that home protection insurance or protection plans oversight should be moved from CDI to the Bureau. However, such a significant change would limit plan coverages to device failure for traditional service contract reasons and not provide protection for natural events such as floods.<sup>35</sup>

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<sup>35</sup> Several states have adopted this form of regulation: 1) Virginia Department of Agriculture and Consumer Services regulates service contracts on consumer products; 2) Oregon Construction Contractors Board regulates home warranties (a fairly recent move from the Division of Insurance regulating these products); 3) Texas Real Estate Commission regulates whole home warranties and the Texas Department of Licensing and Regulation regulates service contracts on consumer goods.

## 2. Ensure Product Cancellation of Coverage Consistency

Song-Beverly requires service contracts for a used motor vehicle, a home appliance, or a home electronic product to provide for cancellation by a consumer for a full refund (less any claims) within the first 30 days. For all other consumer products, the consumer is entitled to 60 days in which to cancel for a full refund (less any claims). When the law was created, the majority of service contracts were sold for appliances and electronic equipment, however the market has shifted in contract offerings to many other products. There does not appear to be a reason to separate used vehicles, appliances, and electronics<sup>36</sup> from the other service contract offerings. Many companies have opted to provide for a 60-day cancellation clause for all products so that they may use standardized contract language.

CCC section 1794.41(a)(4), within Song-Beverly, states:

(4) The contract shall be cancelable by the purchaser under the following conditions:

(A) Unless the contract provides for a longer period, within the first 60 days after receipt of the contract, or with respect to a contract covering a used motor vehicle without manufacturer warranties, a home appliance, or a home electronic product, within the first 30 days after receipt of the contract, the full amount paid shall be refunded by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract, and if no claims have been made against the contract. If a claim has been made against the contract either within the first 60 days after receipt of the contract, or with respect to a used motor vehicle without manufacturer warranties, home appliance, or home electronic product, within the first 30 days after receipt of the contract, a pro rata refund, based on either elapsed time or an objective measure of use, such as mileage or the retail value of any service performed, at the seller's option as indicated in the contract, or for a vehicle service contract at the obligor's option as determined at the time of cancellation, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract.

(B) Unless the contract provides for a longer period for obtaining a full refund, after the first 60 days after receipt of the contract, or with respect to a contract covering a used motor vehicle without manufacturer warranties, a home appliance, or a home electronic product, after the first 30 days after the receipt of the contract, a pro rata refund, based on either elapsed time or an objective measure of use, such as mileage or the retail value of any service performed, at the seller's option as indicated in the contract, or for a vehicle service contract at the obligor's option as determined at the time of cancellation, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract. In addition, the seller may assess a cancellation or administrative fee, not to exceed 10 percent of the price of the service contract or twenty-five dollars (\$25), whichever is less.

**Working Group Recommendation:** Amend the statute to remove the references to a 60-day cancellation provision and standardize the “free look” period for all products at 30 days. This provision should be effective for all programs started after a target date so that currently utilized contracts are not required to be resubmitted.

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<sup>36</sup> The Bureau has no jurisdiction over vehicles or service contracts associated with them.

### 3. Update Bureau Review and Labeling of Service Contracts

BPC section 9855.3(a) states:

The service contract form to be issued by the service contractor shall be filed with the director by the service contractor prior to its use.

BPC section 9855.5 states:

A service contractor shall comply with the provisions of Sections 1794.4 and 1794.41 of the Civil Code.

CCC sections 1794.4 and 1794.41 (Song-Beverly) provide the requirements for the contents and disclosures in service contracts. By viewing all contracts prior to being used, the Bureau is able to ensure compliance with statutory requirements before any contracts are actually sold.

As the service contract industry has evolved, contract offerings have become more complex. Changes to the amount of coverage (e.g. replacement in lieu of repair), the introduction of new product technology, changes in laws related to the industry, and updated marketing strategies to promote sales have increased the amount of available offerings to consumers. With the increased volume of contracts available, the level of filings and workload associated with the review and tracking of contracts has grown significantly.

In reviewing dozens of contracts each month, one of the primary challenges comes with determining:

- Which contracts are currently in force;
- Which contract submissions are considered “replacements” for existing contracts;
- What amendments have been made to a contract and the effective date(s);
- Whether there may be concurrent versions of contracts in force;
- The point at which a program is no longer being offered;
- The point at which there are no longer contracts in force under a program; and
- Whether the contract is a partial submission (e.g., updated declaration pages) where the associated contract is not identified.

Often, different contracts bear the same form number and there may or may not be a revision date on the contract to distinguish it from other filings. To add to the dilemma, retailers provide filings of contracts which do not correspond with what is on file by their administrator and in some instances are offering contracts for an obsolete program.

**Working Group Recommendation:** Update existing statutes/regulations to require service contractors to print a unique form number and revision date on all contract filings to ensure straightforward identification of contracts. Specifically, the Working Group recommends updating statute as follows:

BPC 9855.3. Service Contract on File with Director

(a) The service contract form, along with all documents incorporated by reference into the contract, to be issued by the service contractor shall be filed with the director by the service contractor no later than 30 days prior to its use.

(1) The term “incorporated by reference” shall mean all documents referred to in the contract that are not a part of the body of the contract.

These can include documents such as: invoices, declaration pages, sales receipts, etc.

(2) All contracts must be identified by a unique form number and date of last revision.

(3) If, in the opinion of the Bureau, the submitted contract is unjust, unfair, inequitable, misleading, or deceptive,<sup>37</sup> the Bureau may reject the offering.

(A) The Bureau may adopt rules to objectively quantify these terms.

(4) Once submitted for review, no further changes may be made to the text of the contract without resubmission to the Bureau.

CDI regulations may contain some helpful provisions when drafting legislative language on these matters. For example, 10 Cal. Code Regs. § 2211 provides as follows:

Every document submitted pursuant to this Article, except rate schedules and actuarial memoranda, must have a form number in the lower left-hand corner of each page. The form number must be different from any other form number on any document previously filed with or approved by the Commissioner for that insurer. A revised version of a previously filed or approved document which contains any change whatsoever (subject to Section 2202(d) of this Article) is not the same form and its issuance is unlawful unless the revised version is properly submitted and filed or approved with its own unique form number.

The Working Group discussed other states' criteria for reviewing forms. For example, Virginia's service contract law, VA Code § 38.2-2623(B), states:

“The provider or its representative shall not in its service contracts or literature make, permit or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a service contract.”

In addition, Florida disapproves an insurance policy form if it: (a) Contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract. (b) Has any title, heading, or other indication of its provisions which is misleading. (c) Is printed or otherwise reproduced in such manner as to render any material provision of the form substantially illegible. (d) Contains provisions that are unfair or inequitable or encourage misrepresentation.<sup>38</sup> Additional discussion may be needed to determine when regulatory changes will be necessitated to further define “unjust, unfair, inequitable, misleading, or deceptive”.

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<sup>37</sup> This is the standard used by CDI in determining if a policy should be approved [Cal. Ins. Code § 795.5].

<sup>38</sup> Fla. Stat. § 627.411(1)



#### 4. Update Financial Backing Requirements

All service contracts sold in California are required to hold some form of financial backing. The intent of this is to ensure that the obligor is capable of fulfilling their contractual obligations.

There are currently four means by which a service contract may be secured. These are:

An audited financial statement showing a net worth of the company of greater than \$100 million.

A Form 10-K, or equivalent if a foreign company, showing net worth of more than the deferred revenues from the service contracts in force.

A service contract reimbursement policy.

A secured escrow account holding at least 25% of the deferred revenues from the service contracts in force.

In practice, these options leave smaller, privately-held companies with only a single option (the escrow account) by which they can back sold contracts. The Form 10-K option is available only to publicly-traded companies and insurance companies will not issue policies to cover relatively smaller numbers of contracts.

Initially, many financial institutions were willing to facilitate secured escrow accounts; however, due to restrictions placed on banks as to what they could do with the deposited funds, many institutions have ceased to offer these accounts.

Until recently, there was only one bank that still offered these escrow accounts. The Bureau has recently been informed that this institution will no longer be offering these accounts to new depositors. This institution has, however, stated that it will continue to administrate the current accounts. With the withdrawal of this last institution, there is currently no avenue by which a smaller, privately-held company may secure financial backing and provide self-administrated contracts.

**Working Group Recommendation:** The working group discussed a number of options that may be explored, along with challenges relating to each alternative. There are numerous tradeoffs to each of these options. For example, some bolster competition in the industry and enable smaller business models to succeed (competition enabling the reduction in price of these contracts), while others ensure solid vehicles to ensure claims are addressed regardless of the status of the obligor. Further discussion and debate during the Bureau's sunset review should evaluate the following alternatives:

Certified financial statement to demonstrate a company's positive net worth.

- This option will allow companies to submit financial statements certified by the company officers stating the net worth of the company. This net worth can then be used to complete the "net worth test".<sup>39</sup> This method will not be as costly as the independent audit, but is subject to a higher possibility of fraud and error.

Independent audit to demonstrate a company's positive net worth.

- Audited balance sheets and income statements would be used in much the same way as the above option, but certified by an independent certified public accountant (CPA).

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<sup>39</sup> 16 Cal. Code Regs. Section 2757.2

- This option is more expensive to the company than the above described method, but the independent nature of the audit decreases the likelihood of fraud or error and holds the CPA liable both to the Bureau and to the California Board of Accountancy.

A security deposit and a funded reserve account.

- This option places funds into a reserve account with a member bank of the Federal Reserve, whose deposits are insured by the Federal Deposit Insurance Company (FDIC) that can be used to ensure that the consumer is afforded a level of protection.
- There can be a requirement that the account be separated from the company's other accounts and identified as for the benefit of California contract holders. This method is described in detail in the Model Act.
- In the event of a large payout of the covered service contracts, the funds can be dispensed from the reserve account. This will ease the burden on the obligated institution.
- It is important to note that, in the event of a complete dissolution of the obligor, there is no guarantee that the reserve account will not be seized by a bankruptcy receiver for the purpose of paying other debts. Furthermore, while the security deposit will be held in reserve solely for the purpose of reimbursement to the consumers, the Bureau will be required to coordinate this disbursement either directly or by contracting with an independent third-party.

Not allowing for options other than a service contract reimbursement policy, a Form 10-K showing a net worth greater than the amount of deferred revenues, or an audited financial statement of greater than \$100 million.

- An opinion was expressed that it may be favorable not to allow smaller and privately-held companies to administer their own contracts. The risk to consumers associated with allowing these business entities to issue and back their own contracts may be untenable. These businesses will still be able to offer third party administrated contracts.
- This option would be a restriction on smaller businesses and create an inequitable marketplace. It will stifle competition from legitimate companies that may have particular expertise in the product to be covered.

## 5. Create a Clearer Delineation between Service Contracts and Insurance

### Regulatory Overlap

Current law exempts service contracts regulated by the Bureau from regulation by CDI; however, there are areas where regulation can overlap due to ambiguities in the law. Consumers are afforded options when it comes to purchasing protection for their products, but depending on whom they purchase protection from and what the protection entails, this can make determining the proper regulatory oversight difficult.

When regulation of service contracts was first implemented by the Bureau, the products to be covered by service contracts were limited to appliances and electronics. Service contract sellers were limited to the retail chain of distribution (i.e. manufacturer, retailer, or product repair business). In time, however, the law was extended to additional products and additional business types were allowed to offer service contracts, namely, third party obligors that were outside of the retail chain of distribution.

Service contracts on appliances, for example, may be offered at point of sale or after market. These are typically offered by a retailer, manufacturer, or servicer; however, current law does not limit who may offer a service contract, as long as:

- The covered products fall within the scope of the Bureau's jurisdiction;
- Financial obligations are met;
- Contracts comply with the requirements of Song-Beverly; and
- The company is properly registered with the Bureau.

Coverage for appliances may also be offered as part of a home protection contract, which is an insurance product under the Insurance Code. These contracts require licensure and oversight by the CDI.

In the same light, consumers may also purchase a service contract on portable electronic devices, or may purchase portable electronic insurance. Both of these offerings may be available at a retailer at the time of purchase, or may be offered aftermarket to the consumer, sometimes via mail or phone solicitation, and many companies (e.g., mobile device carriers) will offer both types of coverage.

### Statutory Definitions – Insurance Code

California Insurance Code (CIC) section 12740(a) provides the following definition for establishing the jurisdiction of the CDI in this area:

“Home protection contract” means a contract or agreement whereby a person, other than a builder, seller, or lessor of the home which is the subject of the contract, undertakes for a specified period of time, for a predetermined fee, to repair or replace all or any part of any component, system or appliance of a home necessitated by wear and tear, deterioration or inherent defect, arising during the effective period of the contract, and, in the event of an inspection conducted pursuant to subdivision (b) of Section 12761, by the failure of that inspection to detect the likelihood of any such loss.

CIC section 12741(b) states that this part [CIC section 12741] shall not apply to:

Any service contract, guarantee, or warranty intending to guarantee or warrant the repairs or service of a home appliance, system or component, provided such service contract, guarantee, or warranty is issued by a person who has sold, serviced, repaired or provided replacement of that

appliance, system or component at the time of, or prior to issuance of the contract, guarantee, or warranty; and, provided, further, that the person issuing the service contract, guarantee, or warranty does not engage in the business of a home protection company.

CIC section 1758.69(d)(1)(A) defines “portable electronics” as:

Personal, self-contained, easily carried by an individual, battery-operated electronic communication, viewing, listening, recording, gaming, computing, or global positioning devices, including cell or satellite phones, pagers, personal global positioning satellite units, portable computers, portable audio listening, video viewing or recording devices, digital cameras, video camcorders, portable gaming systems, docking stations, automatic answering devices, their accessories, and service related to the use of those devices.

CIC section 1758.69(e)(1) defines the insurance covering these products as:

"Portable electronics insurance" means a contract providing coverage for the repair or replacement of portable electronics against any one or more of the following causes of loss: loss, theft, mechanical failure, malfunction, damage, or other applicable perils.

CIC section 1758.69(e)(2)(A) exempts service contracts on portable electronic devices under the Bureau’s regulation as follows:

“[p]ortable electronics insurance” does not include ... [a] service contract governed by Article 4.5 (commencing with Section 9855) of Chapter 20 of Division 3 of the Business and Professions Code.

Statutory Definitions – Business & Professions Code and Civil Code

Business & Professions Code (BPC) section 9855(a) defines a service contract as:

“Service contract” means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance, replacement, or repair of an electronic set or appliance, as defined by this chapter, and their accessories or of furniture, jewelry, lawn and garden equipment, power tools, fitness equipment, telephone equipment, small kitchen appliances and tools, optical products, or home health care products, and may include provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, power surges, food spoilage, or accidental damage from handling. “Service contract” shall not include a contract in writing to maintain structural wiring associated with the delivery of cable, telephone, or other broadband communications services. “Service contract” shall not include a contract which a consumer agrees to pay a provider of vision care services for a discount on optical products or contact lenses for a specified duration.

BPC sections 9801(h) and 9801(i) define electronic set and appliances as follows:

"Electronic set" includes, but is not limited to, any television, radio, audio or video recorder or playback equipment, video camera, video game, video monitor, computer system, photocopier, or facsimile machine normally used or sold for personal, family, household, or home office use.

"Appliance" or "major home appliance" includes, but is not limited to, any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher,

trash compactor, or room air-conditioner normally used or sold for personal, family, household, or home office use, or for use in private motor vehicles.

California Civil Code (CCC) section 1791(o) defines service contract as:

“Service contract” means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

CCC sections 1794.41(b) and 1794.41(c) state:

Nothing in this section shall apply to a home protection plan that is issued by a home protection company which is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.  
If any provision of this section conflicts with any provision of Part 8 (commencing with Section 12800) of Division 2 of the Insurance Code, the provision of the Insurance Code shall apply instead of this section.

#### Deciphering Offerings under Existing Law

A service contract subject to Bureau authority must cover a product listed in BPC section 9855, and must meet the contractual coverage criteria for a specified duration and provisions for maintenance, repair or replacement.

If the contract language states that it is insurance, it is deemed insurance and not a service contract. In addition, although some individual appliances are subject to Bureau regulation, the nature of a contract that covers multiple household products and systems is in keeping with a home protection plan offering and not a service contract. An exception would be a consumer who purchases only Bureau-regulated products from a retailer at one point of sale or through a manufacturer offering protection solely for the products it manufactures.

A dilemma arises when coverage is provided on products regulated by both regulatory entities and there is no clear determination of insurance vs. service contract via the language in the document. The CCC does not specify what a service contract may include or exclude, as long as the limitations and exclusions are delineated in the contract.

Depending on the insurance coverage, offerings may provide for risk emanating from a peril outside of the functional design of a product. These would be risks that a normal service contract may exclude, such as theft, loss or damage due to external peril (weather, fire, etc.) However, current service contract law does not specifically prohibit such coverage and insurance law does not state that these offerings are only insurance in these circumstances. While both regulatory entities work together to decipher specific offerings, a more clear distinction and determination of whether an offering is a service contract or insurance—commensurate with the statutory and regulatory authority to regulate these offerings—is needed to provide appropriate licensure, enforcement, and consumer protection by both agencies.

**Working Group Recommendation:** Update existing statutes to ensure consumers and businesses can easily distinguish between service contract and insurance offerings. Specifically, update statutes as follows:

Recommendations of General Agreement

Add statutory language requiring that all offerings must identify whether they are a service contract offering or an insurance offering.

Amend BPC section 9855(a) to remove the “but not limited to” provision from incidental payment of indemnity. This would remove the current ambiguity of the law that currently allows for perils that are usually associated with the concept of insurance.

Add statutory language to further define accidental damage from handling as damage caused to the covered product while being used in a manner commensurate with the design of the product.

Allow for the expansion of the incidental payment of indemnity section by regulatory change.

Points of Debate within the Working Group

Blanket Coverage of Items by Class:

The service contract industry supports allowing service contracts that cover classes of products (e.g. televisions). The liability to the obligor would be limited by means of a specified dollar amount or number of repairs. This is currently not allowable by current practices due to the lack of specific identity of the covered product (a requirement of Song-Beverly). This model, however, is permissible as a home protection plan.

Third Party Obligors after Point of Sale:

There is ongoing debate over allowing third party obligors to sell contracts on multiple items after the point of sale under service contract laws.

Multiple Products Covered under One Contract at the Point of Sale:

This model is allowable under current law; however, debate was raised as to whether it should be classified as an insurance offering.

Due to the above-stated points of debate, this matter will require further discussion and should be monitored throughout the Bureau’s Sunset Review process.

## 6. Update Insurers' Notice Requirements to the Bureau

Service contracts that are financially backed by a reimbursement insurance policy may be affected by termination of the policy by either the policyholder or the insurer. While the BPC requires that these policies contain a provision that the Bureau shall be notified of termination, it does not prescribe at what point notification must occur, nor does it place a liability on the insurer for covering those contracts until notification has been fulfilled.

California BPC section 9855.4 states in part that:

A service contract reimbursement insurance policy shall contain a provision under which the insurer shall notify the bureau in writing of the termination or nonrenewal of the service contract reimbursement insurance policy.

The Model Act offers the following language, which requires the mailing or delivering of that notice be executed before termination of a reimbursement can commence:

As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy until a notice of termination in accordance with [insert citation to the law that governs the termination of insurance contracts] has been mailed or delivered to the commissioner. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts issued by providers prior to the date of the termination.

**Working Group Recommendation:** Update existing statute to require insurance companies to serve the Bureau Chief with notice prior to the termination of the reimbursement insurance policy. Specifically, the Working Group recommends updating statute as follows:

BPC section 9855.4:

(b) A service contract reimbursement insurance policy shall contain a provision under which the insurer shall notify the bureau in writing of the termination or nonrenewal of the service contract reimbursement insurance policy. The reimbursement insurance policy shall not be terminated until a notice of termination has been mailed or delivered to the Chief of the Bureau. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts by providers prior to the date of termination.

## 7. Administrators' Annual Reporting Requirements

Currently, BPC section 9855.3(b) requires that a service contract administrator file a service contract reimbursement policy with its application for renewal. While this ensures that the contract has adequate financial backing, additional annual reporting requirements would improve consumer protection.

The administrator is required, under CCC section 2756(c), to disclose the name and address of all service contract sellers who sell or offer contracts administrated by the administrator with their initial application. Under CCC section 2758(b), administrators are required to maintain a listing of all retailers that sell contracts administrated by the administrator, however, it is not required that this list ever be reported beyond the initial application. Since the majority of administrators are located outside of California, it is not possible to do a physical audit or verification of those records. The tracking of who is authorized to sell an administrator's contracts is an important component of ensuring the legal offering of contracts and that retailers are properly registered to offer contracts to consumers.

In addition, contract programs are started and stopped at the discretion of the administrator in response to consumer needs, financial considerations, and the requirements of the administrator's business model. While BPC section 9855.3(a) requires filing a contract with the Bureau prior to the contract being sold, there exists no requirement to report to the Bureau when a contract is no longer being offered.

**Working Group Recommendation:** Update existing statutes to increase the annual reporting requirements of administrators. Specifically, the Working Group recommends updating statutes as follows:

Add BPC section 9855.3(d) to read:

On request from the Bureau, a service contract administrator shall provide a full listing of all retailers authorized to sell the administrator's contracts and a list of the form numbers of all contracts currently being sold. The administrator shall have no more than 30 days, from the date of service, to comply with this request.

The Working Group further recommends that this filing requirement be added to Government Code section 6254. This will exempt the submitted information from disclosure subsequent to a Public Records Act request.



## 8. Remove Single-Year Agreement Restriction between Manufacturers and Dealers

CCC section 1793.2(a)(1)(B) allows the manufacturer to enter into agreements with independent service dealers to fulfill the manufacturer's warranty obligations under Song-Beverly. This section includes a provision that the contract between the manufacturer and the independent service dealer may cover a period of no more than one year.

At the Working Group's request, Bureau staff conducted legislative history research on this provision and found the term limitation was added by SB 568 (Roberti, Chapter 416, Statutes of 1976). The Bureau was able to obtain committee analyses and correspondence from the State Archives on this bill. Based on the Bureau's review, the Bureau concluded that the reason for this provision is not explicitly stated in any of the material available; however, this restriction appears to have been added to create an opportunity in which the business relationships between the parties may be re-evaluated. Several other provisions were also added in this bill and many stakeholders expressed their support at the time.

Discussions among the Working Group have established a general consensus that this provision is unnecessary and may, in some instances, prove needlessly burdensome to both manufacturers and service dealers in the current business environment.

**Working Group Recommendation:** No consensus was achieved on this matter. Some Working Group members believed that this provision was a private contractual matter between the service dealer and the manufacturer and, as such, should not be restricted. It was suggested that statute be revised to read:

CCC section 1793.2(a)(1)(B):

As a means of complying with this paragraph, a manufacturer may enter into warranty service contracts with independent service and repair facilities. The warranty service contracts may provide for a fixed schedule of rates to be charged for warranty service or warranty repair work; however, the rates fixed by those contracts shall be in conformity with the requirements of subdivision (c) of Section 1793.3. The rates established pursuant to subdivision (c) of Section 1793.3, between the manufacturer and the independent service and repair facility, do not preclude a good faith discount that is reasonably related to reduced credit and general overhead cost factors arising from the manufacturer's payment of warranty charges direct to the independent service and repair facility. ~~The warranty service contracts authorized by this paragraph may not be executed to cover a period of time in excess of one year, and may be renewed only by a separate, new contract or letter of agreement between the manufacturer and the independent service and repair facility.~~

Others in the working group expressed concern that this provision prevented the manufacturers from locking the service dealers into an unfair pricing model and should not be removed.

## 9. Other Considerations/Challenges

The general consensus of the Working Group is that if any change is made to current statutes, care must be taken that the change gives ample lead time to the industry to effect the change. The Working Group also recommends that grandfathering provisions be put in place so as to not unduly burden the Bureau or the industry by forcing the resubmission of all programs currently in use.

Further discussion may be needed to address other matters that were presented, but proved beyond the scope of the Working Group.

A concern has been voiced regarding service contractors being unable to fulfill a repair on an item due to the availability of parts from the manufacturer. CCC section 1793.03 requires manufacturers to provide parts and literature for three years if the wholesale price is \$50–\$99.99, and for seven years if the wholesale price is \$100 or more. In instances where the manufacturer either goes out of business or otherwise fails to supply the parts or literature, the service contractor may be liable for replacement of the product in lieu of repair. It was recommended that this provision of the CCC be adopted into the BPC.

Inconsistency between state and federal arbitration law was also addressed as a point of interest. If the contract administrator is outside of the State of California, arbitration is governed by federal law as a matter of interstate commerce. However, if the administrator is located inside of the state, California law holds precedence. This matter is being continually evaluated in the courts and should continue to be monitored throughout the Bureau's Sunset Review process.

Adhesion clauses in service contracts are also a matter that was briefly discussed. The Working Group was unable to form a consensus on how to address them; however, this matter may be addressed when considering the Working Group's suggestion regarding the Bureau's authority to reject offerings found to be unjust, unfair, inequitable, misleading, or deceptive. The matter should be monitored throughout the Bureau's Sunset Review process.

# Appendices



# Appendix A



## 15 USC Ch. 50: CONSUMER PRODUCT WARRANTIES

### From Title 15—COMMERCE AND TRADE

#### CHAPTER 50—CONSUMER PRODUCT WARRANTIES

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### §2301. Definitions

For the purposes of this chapter:

(1) The term "consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed).

(2) The term "Commission" means the Federal Trade Commission.

(3) The term "consumer" means a buyer (other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of an implied or written warranty (or service contract) applicable to the product, and any other person who is entitled by the terms of such warranty (or service contract) or under applicable State law to enforce against the warrantor (or service contractor) the obligations of the warranty (or service contract).

(4) The term "supplier" means any person engaged in the business of making a consumer product directly or indirectly available to consumers.

(5) The term "warrantor" means any supplier or other person who gives or offers to give a written warranty or who is or may be obligated under an implied warranty.

(6) The term "written warranty" means—

(A) any written affirmation of fact or written promise made in connection with the sale of a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time, or

(B) any undertaking in writing in connection with the sale by a supplier of a consumer product to

refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking,

which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

(7) The term "implied warranty" means an implied warranty arising under State law (as modified by sections 2308 and 2304(a) of this title) in connection with the sale by a supplier of a consumer product.

(8) The term "service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair (or both) of a consumer product.

(9) The term "reasonable and necessary maintenance" consists of those operations (A) which the consumer reasonably can be expected to perform or have performed and (B) which are necessary to keep any consumer product performing its intended function and operating at a reasonable level of performance.

(10) The term "remedy" means whichever of the following actions the warrantor elects:

- (A) repair,
- (B) replacement, or
- (C) refund;

except that the warrantor may not elect refund unless (i) the warrantor is unable to provide replacement and repair is not commercially practicable or cannot be timely made, or (ii) the consumer is willing to accept such refund.

(11) The term "replacement" means furnishing a new consumer product which is identical or reasonably equivalent to the warranted consumer product.

(12) The term "refund" means refunding the actual purchase price (less reasonable depreciation based on actual use where permitted by rules of the Commission).

(13) The term "distributed in commerce" means sold in commerce, introduced or delivered for introduction into commerce, or held for sale or distribution after introduction into commerce.

(14) The term "commerce" means trade, traffic, commerce, or transportation—

- (A) between a place in a State and any place outside thereof, or
- (B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(15) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, or American Samoa. The term "State law" includes a law of the United States applicable only to the District of Columbia or only to a territory or possession of the United States; and the term "Federal law" excludes any State law.

(Pub. L. 93–637, title I, §101, Jan. 4, 1975, 88 Stat. 2183.)

## REFERENCES IN TEXT

For definition of Canal Zone, referred to in par. (15), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

## SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–51, §1, Sept. 24, 2015, 129 Stat. 494, provided that: "This Act [amending section 2302 of this title and enacting provisions set out as notes under section 2302 of this title] may be cited as the 'E-Warranty Act of 2015'."

## SHORT TITLE

Pub. L. 93–637, §1, Jan. 4, 1975, 88 Stat. 2183, provided: "That this act [enacting this chapter and sections 57a to 57c of this title, amending sections 45, 46, 49, 50, 52, 56, and 58 of this title, and enacting provisions set out as notes under sections 45, 56, 57a, and 57b of this title] may be cited as the 'Magnuson-Moss Warranty—Federal Trade Commission Improvement Act'."

## §2302. Rules governing contents of warranties

### (a) Full and conspicuous disclosure of terms and conditions; additional requirements for contents

In order to improve the adequacy of information available to consumers, prevent deception, and improve



competition in the marketing of consumer products, any warrantor warranting a consumer product to a consumer by means of a written warranty shall, to the extent required by rules of the Commission, fully and conspicuously disclose in simple and readily understood language the terms and conditions of such warranty. Such rules may require inclusion in the written warranty of any of the following items among others:

- (1) The clear identification of the names and addresses of the warrantors.
- (2) The identity of the party or parties to whom the warranty is extended.
- (3) The products or parts covered.
- (4) A statement of what the warrantor will do in the event of a defect, malfunction, or failure to conform with such written warranty—at whose expense—and for what period of time.
- (5) A statement of what the consumer must do and expenses he must bear.
- (6) Exceptions and exclusions from the terms of the warranty.
- (7) The step-by-step procedure which the consumer should take in order to obtain performance of any obligation under the warranty, including the identification of any person or class of persons authorized to perform the obligations set forth in the warranty.
- (8) Information respecting the availability of any informal dispute settlement procedure offered by the warrantor and a recital, where the warranty so provides, that the purchaser may be required to resort to such procedure before pursuing any legal remedies in the courts.
- (9) A brief, general description of the legal remedies available to the consumer.
- (10) The time at which the warrantor will perform any obligations under the warranty.
- (11) The period of time within which, after notice of a defect, malfunction, or failure to conform with the warranty, the warrantor will perform any obligations under the warranty.
- (12) The characteristics or properties of the products, or parts thereof, that are not covered by the warranty.
- (13) The elements of the warranty in words or phrases which would not mislead a reasonable, average consumer as to the nature or scope of the warranty.

**(b) Availability of terms to consumer; manner and form for presentation and display of information; duration; extension of period for written warranty or service contract; electronic display of terms of warranty**

(1)(A) The Commission shall prescribe rules requiring that the terms of any written warranty on a consumer product be made available to the consumer (or prospective consumer) prior to the sale of the product to him.

(B) The Commission may prescribe rules for determining the manner and form in which information with respect to any written warranty of a consumer product shall be clearly and conspicuously presented or displayed so as not to mislead the reasonable, average consumer, when such information is contained in advertising, labeling, point-of-sale material, or other representations in writing.

(2) Nothing in this chapter (other than paragraph (3) of this subsection) shall be deemed to authorize the Commission to prescribe the duration of written warranties given or to require that a consumer product or any of its components be warranted.

(3) The Commission may prescribe rules for extending the period of time a written warranty or service contract is in effect to correspond with any period of time in excess of a reasonable period (not less than 10 days) during which the consumer is deprived of the use of such consumer product by reason of failure of the product to conform with the written warranty or by reason of the failure of the warrantor (or service contractor) to carry out such warranty (or service contract) within the period specified in the warranty (or service contract).

(4)(A) Except as provided in subparagraph (B), the rules prescribed under this subsection shall allow for the satisfaction of all requirements concerning the availability of terms of a written warranty on a consumer product under this subsection by—

- (i) making available such terms in an accessible digital format on the Internet website of the manufacturer of the consumer product in a clear and conspicuous manner; and
- (ii) providing to the consumer (or prospective consumer) information with respect to how to obtain and review such terms by indicating on the product or product packaging or in the product manual—
  - (I) the Internet website of the manufacturer where such terms can be obtained and reviewed; and
  - (II) the phone number of the manufacturer, the postal mailing address of the manufacturer, or another reasonable non-Internet based means of contacting the manufacturer to obtain and review such terms.

(B) With respect to any requirement that the terms of any written warranty for a consumer product be made available to the consumer (or prospective consumer) prior to sale of the product, in a case in which a consumer product is offered for sale in a retail location, by catalog, or through door-to-door sales, subparagraph (A) shall only apply if the seller makes available, through electronic or other means, at the

location of the sale to the consumer purchasing the consumer product the terms of the warranty for the consumer product before the purchase.

**(c) Prohibition on conditions for written or implied warranty; waiver by Commission**

No warrantor of a consumer product may condition his written or implied warranty of such product on the consumer's using, in connection with such product, any article or service (other than article or service provided without charge under the terms of the warranty) which is identified by brand, trade, or corporate name; except that the prohibition of this subsection may be waived by the Commission if—

- (1) the warrantor satisfies the Commission that the warranted product will function properly only if the article or service so identified is used in connection with the warranted product, and
- (2) the Commission finds that such a waiver is in the public interest.

The Commission shall identify in the Federal Register, and permit public comment on, all applications for waiver of the prohibition of this subsection, and shall publish in the Federal Register its disposition of any such application, including the reasons therefor.

**(d) Incorporation by reference of detailed substantive warranty provisions**

The Commission may by rule devise detailed substantive warranty provisions which warrantors may incorporate by reference in their warranties.

**(e) Applicability to consumer products costing more than \$5**

The provisions of this section apply only to warranties which pertain to consumer products actually costing the consumer more than \$5.

(Pub. L. 93–637, title I, §102, Jan. 4, 1975, 88 Stat. 2185; Pub. L. 114–51, §3(a), Sept. 24, 2015, 129 Stat. 494.)

## AMENDMENTS

2015—Subsec. (b)(4). Pub. L. 114–51 added par. (4).

## FINDINGS

Pub. L. 114–51, §2, Sept. 24, 2015, 129 Stat. 494, provided that: "Congress makes the following findings:

"(1) Many manufacturers and consumers prefer to have the option to provide or receive warranty information online.

"(2) Modernizing warranty notification rules is necessary to allow the United States to continue to compete globally in manufacturing, trade, and the development of consumer products connected to the Internet.

"(3) Allowing an electronic warranty option would expand consumer access to relevant consumer information in an environmentally friendly way, and would provide additional flexibility to manufacturers to meet their labeling and warranty requirements."

## REVISION OF RULES

Pub. L. 114–51, §3(b), Sept. 24, 2015, 129 Stat. 495, provided that:

"(1) In general.—Not later than 1 year after the date of the enactment of this Act [Sept. 24, 2015], the Federal Trade Commission shall revise the rules prescribed under such section [meaning section 102(b) of Pub. L. 93–637, which is classified to subsec. (b) of this section] to comply with the requirements of paragraph (4) of such section, as added by subsection (a) of this section [amending this section].

"(2) Authority to waive requirement for oral presentation.—In revising rules under paragraph (1), the Federal Trade Commission may waive the requirement of section 109(a) of such Act (15 U.S.C. 2309(a)) to give interested persons an opportunity for oral presentation if the Commission determines that giving interested persons such opportunity would interfere with the ability of the Commission to revise rules under paragraph (1) in a timely manner."

## §2303. Designation of written warranties

### (a) Full (statement of duration) or limited warranty

Any warrantor warranting a consumer product by means of a written warranty shall clearly and conspicuously designate such warranty in the following manner, unless exempted from doing so by the Commission pursuant to subsection (c) of this section:

(1) If the written warranty meets the Federal minimum standards for warranty set forth in section 2304 of this title, then it shall be conspicuously designated a "full (statement of duration) warranty".

(2) If the written warranty does not meet the Federal minimum standards for warranty set forth in section 2304 of this title, then it shall be conspicuously designated a "limited warranty".

**(b) Applicability of requirements, standards, etc., to representations or statements of customer satisfaction**

This section and sections 2302 and 2304 of this title shall not apply to statements or representations which are similar to expressions of general policy concerning customer satisfaction and which are not subject to any specific limitations.

**(c) Exemptions by Commission**

In addition to exercising the authority pertaining to disclosure granted in section 2302 of this title, the Commission may by rule determine when a written warranty does not have to be designated either "full (statement of duration)" or "limited" in accordance with this section.

**(d) Applicability to consumer products costing more than \$10 and not designated as full warranties**

The provisions of subsections (a) and (c) of this section apply only to warranties which pertain to consumer products actually costing the consumer more than \$10 and which are not designated "full (statement of duration) warranties".

(Pub. L. 93-637, title I, §103, Jan. 4, 1975, 88 Stat. 2187.)

## **§2304. Federal minimum standards for warranties**

**(a) Remedies under written warranty; duration of implied warranty; exclusion or limitation on consequential damages for breach of written or implied warranty; election of refund or replacement**

In order for a warrantor warranting a consumer product by means of a written warranty to meet the Federal minimum standards for warranty—

(1) such warrantor must as a minimum remedy such consumer product within a reasonable time and without charge, in the case of a defect, malfunction, or failure to conform with such written warranty;

(2) notwithstanding section 2308(b) of this title, such warrantor may not impose any limitation on the duration of any implied warranty on the product;

(3) such warrantor may not exclude or limit consequential damages for breach of any written or implied warranty on such product, unless such exclusion or limitation conspicuously appears on the face of the warranty; and

(4) if the product (or a component part thereof) contains a defect or malfunction after a reasonable number of attempts by the warrantor to remedy defects or malfunctions in such product, such warrantor must permit the consumer to elect either a refund for, or replacement without charge of, such product or part (as the case may be). The Commission may by rule specify for purposes of this paragraph, what constitutes a reasonable number of attempts to remedy particular kinds of defects or malfunctions under different circumstances. If the warrantor replaces a component part of a consumer product, such replacement shall include installing the part in the product without charge.

**(b) Duties and conditions imposed on consumer by warrantor**

(1) In fulfilling the duties under subsection (a) respecting a written warranty, the warrantor shall not impose any duty other than notification upon any consumer as a condition of securing remedy of any consumer product which malfunctions, is defective, or does not conform to the written warranty, unless the warrantor has demonstrated in a rulemaking proceeding, or can demonstrate in an administrative or judicial enforcement proceeding (including private enforcement), or in an informal dispute settlement proceeding, that such a duty is reasonable.

(2) Notwithstanding paragraph (1), a warrantor may require, as a condition to replacement of, or refund for, any consumer product under subsection (a), that such consumer product shall be made available to the warrantor free and clear of liens and other encumbrances, except as otherwise provided by rule or order of the Commission in cases in which such a requirement would not be practicable.

(3) The Commission may, by rule define in detail the duties set forth in subsection (a) of this section and the applicability of such duties to warrantors of different categories of consumer products with "full

(statement of duration)" warranties.

(4) The duties under subsection (a) extend from the warrantor to each person who is a consumer with respect to the consumer product.

**(c) Waiver of standards**

The performance of the duties under subsection (a) shall not be required of the warrantor if he can show that the defect, malfunction, or failure of any warranted consumer product to conform with a written warranty, was caused by damage (not resulting from defect or malfunction) while in the possession of the consumer, or unreasonable use (including failure to provide reasonable and necessary maintenance).

**(d) Remedy without charge**

For purposes of this section and of section 2302(c) of this title, the term "without charge" means that the warrantor may not assess the consumer for any costs the warrantor or his representatives incur in connection with the required remedy of a warranted consumer product. An obligation under subsection (a) (1)(A) to remedy without charge does not necessarily require the warrantor to compensate the consumer for incidental expenses; however, if any incidental expenses are incurred because the remedy is not made within a reasonable time or because the warrantor imposed an unreasonable duty upon the consumer as a condition of securing remedy, then the consumer shall be entitled to recover reasonable incidental expenses which are so incurred in any action against the warrantor.

**(e) Incorporation of standards to products designated with full warranty for purposes of judicial actions**

If a supplier designates a warranty applicable to a consumer product as a "full (statement of duration)" warranty, then the warranty on such product shall, for purposes of any action under section 2310(d) of this title or under any State law, be deemed to incorporate at least the minimum requirements of this section and rules prescribed under this section.

(Pub. L. 93-637, title I, §104, Jan. 4, 1975, 88 Stat. 2187.)

**§2305. Full and limited warranting of a consumer product**

Nothing in this chapter shall prohibit the selling of a consumer product which has both full and limited warranties if such warranties are clearly and conspicuously differentiated.

(Pub. L. 93-637, title I, §105, Jan. 4, 1975, 88 Stat. 2188.)

**§2306. Service contracts; rules for full, clear and conspicuous disclosure of terms and conditions; addition to or in lieu of written warranty**

(a) The Commission may prescribe by rule the manner and form in which the terms and conditions of service contracts shall be fully, clearly, and conspicuously disclosed.

(b) Nothing in this chapter shall be construed to prevent a supplier or warrantor from entering into a service contract with the consumer in addition to or in lieu of a written warranty if such contract fully, clearly, and conspicuously discloses its terms and conditions in simple and readily understood language.

(Pub. L. 93-637, title I, §106, Jan. 4, 1975, 88 Stat. 2188.)

**§2307. Designation of representatives by warrantor to perform duties under written or implied warranty**

Nothing in this chapter shall be construed to prevent any warrantor from designating representatives to perform duties under the written or implied warranty: *Provided*, That such warrantor shall make reasonable arrangements for compensation of such designated representatives, but no such designation shall relieve the warrantor of his direct responsibilities to the consumer or make the representative a cowarrantor.

(Pub. L. 93-637, title I, §107, Jan. 4, 1975, 88 Stat. 2189.)

**§2308. Implied warranties**

**(a) Restrictions on disclaimers or modifications**

No supplier may disclaim or modify (except as provided in subsection (b)) any implied warranty to a consumer with respect to such consumer product if (1) such supplier makes any written warranty to the consumer with respect to such consumer Product, or (2) at the time of sale, or within 90 days thereafter, such supplier enters into a service contract with the consumer which applies to such consumer product.

**(b) Limitation on duration**

For purposes of this chapter (other than section 2304(a)(2) of this title), implied warranties may be limited in duration to the duration of a written warranty of reasonable duration, if such limitation is conscionable and is set forth in clear and unmistakable language and prominently displayed on the face of the warranty.

**(c) Effectiveness of disclaimers, modifications, or limitations**

A disclaimer, modification, or limitation made in violation of this section shall be ineffective for purposes of this chapter and State law.

(Pub. L. 93-637, title I, §108, Jan. 4, 1975, 88 Stat. 2189.)

## **§2309. Procedures applicable to promulgation of rules by Commission**

**(a) Oral presentation**

Any rule prescribed under this chapter shall be prescribed in accordance with section 553 of title 5; except that the Commission shall give interested persons an opportunity for oral presentations of data, views, and arguments, in addition to written submissions. A transcript shall be kept of any oral presentation. Any such rule shall be subject to judicial review under section 57a(e) of this title in the same manner as rules prescribed under section 57a(a)(1)(B) of this title, except that section 57a(e)(3)(B) of this title shall not apply.

**(b) Warranties and warranty practices involved in sale of used motor vehicles**

The Commission shall initiate within one year after January 4, 1975, a rulemaking proceeding dealing with warranties and warranty practices in connection with the sale of used motor vehicles; and, to the extent necessary to supplement the protections offered the consumer by this chapter, shall prescribe rules dealing with such warranties and practices. In prescribing rules under this subsection, the Commission may exercise any authority it may have under this chapter, or other law, and in addition it may require disclosure that a used motor vehicle is sold without any warranty and specify the form and content of such disclosure.

(Pub. L. 93-637, title I, §109, Jan. 4, 1975, 88 Stat. 2189.)

## **§2310. Remedies in consumer disputes**

**(a) Informal dispute settlement procedures; establishment; rules setting forth minimum requirements; effect of compliance by warrantor; review of informal procedures or implementation by Commission; application to existing informal procedures**

(1) Congress hereby declares it to be its policy to encourage warrantors to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms.

(2) The Commission shall prescribe rules setting forth minimum requirements for any informal dispute settlement procedure which is incorporated into the terms of a written warranty to which any provision of this chapter applies. Such rules shall provide for participation in such procedure by independent or governmental entities.

(3) One or more warrantors may establish an informal dispute settlement procedure which meets the requirements of the Commission's rules under paragraph (2). If—

(A) a warrantor establishes such a procedure,

(B) such procedure, and its implementation, meets the requirements of such rules, and

(C) he incorporates in a written warranty a requirement that the consumer resort to such procedure before pursuing any legal remedy under this section respecting such warranty,

then (i) the consumer may not commence a civil action (other than a class action) under subsection (d) of this section unless he initially resorts to such procedure; and (ii) a class of consumers may not proceed in a class action under subsection (d) except to the extent the court determines necessary to establish the representative capacity of the named plaintiffs, unless the named plaintiffs (upon notifying the defendant that they are named plaintiffs in a class action with respect to a warranty obligation) initially resort to such

procedure. In the case of such a class action which is brought in a district court of the United States, the representative capacity of the named plaintiffs shall be established in the application of rule 23 of the Federal Rules of Civil Procedure. In any civil action arising out of a warranty obligation and relating to a matter considered in such a procedure, any decision in such procedure shall be admissible in evidence.

(4) The Commission on its own initiative may, or upon written complaint filed by any interested person shall, review the bona fide operation of any dispute settlement procedure resort to which is stated in a written warranty to be a prerequisite to pursuing a legal remedy under this section. If the Commission finds that such procedure or its implementation fails to comply with the requirements of the rules under paragraph (2), the Commission may take appropriate remedial action under any authority it may have under this chapter or any other provision of law.

(5) Until rules under paragraph (2) take effect, this subsection shall not affect the validity of any informal dispute settlement procedure respecting consumer warranties, but in any action under subsection (d), the court may invalidate any such procedure if it finds that such procedure is unfair.

**(b) Prohibited acts**

It shall be a violation of section 45(a)(1) of this title for any person to fail to comply with any requirement imposed on such person by this chapter (or a rule thereunder) or to violate any prohibition contained in this chapter (or a rule thereunder).

**(c) Injunction proceedings by Attorney General or Commission for deceptive warranty, noncompliance with requirements, or violating prohibitions; procedures; definitions**

(1) The district courts of the United States shall have jurisdiction of any action brought by the Attorney General (in his capacity as such), or by the Commission by any of its attorneys designated by it for such purpose, to restrain (A) any warrantor from making a deceptive warranty with respect to a consumer product, or (B) any person from failing to comply with any requirement imposed on such person by or pursuant to this chapter or from violating any prohibition contained in this chapter. Upon proper showing that, weighing the equities and considering the Commission's or Attorney General's likelihood of ultimate success, such action would be in the public interest and after notice to the defendant, a temporary restraining order or preliminary injunction may be granted without bond. In the case of an action brought by the Commission, if a complaint under section 45 of this title is not filed within such period (not exceeding 10 days) as may be specified by the court after the issuance of the temporary restraining order or preliminary injunction, the order or injunction shall be dissolved by the court and be of no further force and effect. Any suit shall be brought in the district in which such person resides or transacts business. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

(2) For the purposes of this subsection, the term "deceptive warranty" means (A) a written warranty which (i) contains an affirmation, promise, description, or representation which is either false or fraudulent, or which, in light of all of the circumstances, would mislead a reasonable individual exercising due care; or (ii) fails to contain information which is necessary in light of all of the circumstances, to make the warranty not misleading to a reasonable individual exercising due care; or (B) a written warranty created by the use of such terms as "guaranty" or "warranty", if the terms and conditions of such warranty so limit its scope and application as to deceive a reasonable individual.

**(d) Civil action by consumer for damages, etc.; jurisdiction; recovery of costs and expenses; cognizable claims**

(1) Subject to subsections (a)(3) and (e), a consumer who is damaged by the failure of a supplier, warrantor, or service contractor to comply with any obligation under this chapter, or under a written warranty, implied warranty, or service contract, may bring suit for damages and other legal and equitable relief—

(A) in any court of competent jurisdiction in any State or the District of Columbia; or

(B) in an appropriate district court of the United States, subject to paragraph (3) of this subsection.

(2) If a consumer finally prevails in any action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including attorneys' fees based on actual time expended) determined by the court to have been reasonably incurred by the plaintiff for or in connection with the commencement and prosecution of such action, unless the court in its discretion shall determine that such an award of attorneys' fees would be inappropriate.

(3) No claim shall be cognizable in a suit brought under paragraph (1)(B) of this subsection—

(A) if the amount in controversy of any individual claim is less than the sum or value of \$25;

(B) if the amount in controversy is less than the sum or value of \$50,000 (exclusive of interests and costs) computed on the basis of all claims to be determined in this suit; or

(C) if the action is brought as a class action, and the number of named plaintiffs is less than one hundred.

**(e) Class actions; conditions; procedures applicable**

No action (other than a class action or an action respecting a warranty to which subsection (a)(3) applies) may be brought under subsection (d) for failure to comply with any obligation under any written or implied warranty or service contract, and a class of consumers may not proceed in a class action under such subsection with respect to such a failure except to the extent the court determines necessary to establish the representative capacity of the named plaintiffs, unless the person obligated under the warranty or service contract is afforded a reasonable opportunity to cure such failure to comply. In the case of such a class action (other than a class action respecting a warranty to which subsection (a)(3) applies) brought under subsection (d) for breach of any written or implied warranty or service contract, such reasonable opportunity will be afforded by the named plaintiffs and they shall at that time notify the defendant that they are acting on behalf of the class. In the case of such a class action which is brought in a district court of the United States, the representative capacity of the named plaintiffs shall be established in the application of rule 23 of the Federal Rules of Civil Procedure.

**(f) Warrantors subject to enforcement of remedies**

For purposes of this section, only the warrantor actually making a written affirmation of fact, promise, or undertaking shall be deemed to have created a written warranty, and any rights arising thereunder may be enforced under this section only against such warrantor and no other person.

(Pub. L. 93-637, title I, §110, Jan. 4, 1975, 88 Stat. 2189.)

## REFERENCES IN TEXT

Rule 23 of the Federal Rules of Civil Procedure, referred to in subsecs. (a)(3) and (e), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

## §2311. Applicability to other laws

**(a) Federal Trade Commission Act and Federal Seed Act**

(1) Nothing contained in this chapter shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act [15 U.S.C. 41 et seq.] or any statute defined therein as an Antitrust Act.

(2) Nothing in this chapter shall be construed to repeal, invalidate, or supersede the Federal Seed Act [7 U.S.C. 1551 et seq.] and nothing in this chapter shall apply to seed for planting.

**(b) Rights, remedies, and liabilities**

(1) Nothing in this chapter shall invalidate or restrict any right or remedy of any consumer under State law or any other Federal law.

(2) Nothing in this chapter (other than sections 2308 and 2304(a)(2) and (4) of this title) shall (A) affect the liability of, or impose liability on, any person for personal injury, or (B) supersede any provision of State law regarding consequential damages for injury to the person or other injury.

**(c) State warranty laws**

(1) Except as provided in subsection (b) and in paragraph (2) of this subsection, a State requirement—

(A) which relates to labeling or disclosure with respect to written warranties or performance thereunder;

(B) which is within the scope of an applicable requirement of sections 2302, 2303, and 2304 of this title (and rules implementing such sections), and

(C) which is not identical to a requirement of section 2302, 2303, or 2304 of this title (or a rule thereunder),

shall not be applicable to written warranties complying with such sections (or rules thereunder).

(2) If, upon application of an appropriate State agency, the Commission determines (pursuant to rules issued in accordance with section 2309 of this title) that any requirement of such State covering any transaction to which this chapter applies (A) affords protection to consumers greater than the requirements of this chapter and (B) does not unduly burden interstate commerce, then such State requirement shall be applicable (notwithstanding the provisions of paragraph (1) of this subsection) to the extent specified in such determination for so long as the State administers and enforces effectively any such greater requirement.

**(d) Other Federal warranty laws**

This chapter (other than section 2302(c) of this title) shall be inapplicable to any written warranty the

making or content of which is otherwise governed by Federal law. If only a portion of a written warranty is so governed by Federal law, the remaining portion shall be subject to this chapter.

(Pub. L. 93-637, title I, §111, Jan. 4, 1975, 88 Stat. 2192.)

## REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (a)(1), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

The Antitrust Acts, referred to in subsec. (a)(1), are defined in section 44 of this title.

The Federal Seed Act, referred to in subsec. (a)(2), is act Aug. 9, 1939, ch. 615, 53 Stat. 1275, as amended, which is classified generally to chapter 37 (§1551 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1551 of Title 7 and Tables.

## §2312. Effective dates

### (a) Effective date of chapter

Except as provided in subsection (b) of this section, this chapter shall take effect 6 months after January 4, 1975, but shall not apply to consumer products manufactured prior to such date.

### (b) Effective date of section 2302(a)

Section 2302(a) of this title shall take effect 6 months after the final publication of rules respecting such section; except that the Commission, for good cause shown, may postpone the applicability of such sections until one year after such final publication in order to permit any designated classes of suppliers to bring their written warranties into compliance with rules promulgated pursuant to this chapter.

### (c) Promulgation of rules

The Commission shall promulgate rules for initial implementation of this chapter as soon as possible after January 4, 1975, but in no event later than one year after such date.

(Pub. L. 93-637, title I, §112, Jan. 4, 1975, 88 Stat. 2192.)



# Appendix B



## SERVICE CONTRACTS MODEL ACT

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### Section 1. Scope and Purposes

#### A. The purposes of this Act are to:

- (1) Create a legal framework within which service contracts may be sold in this state;
- (2) Encourage innovation in the marketing and development of more economical and effective means of providing services under service contracts, while placing the risk of innovation on the providers rather than on consumers; and
- (3) Permit and encourage fair and effective competition among different systems of providing and paying for these services.

**Drafting Note:** This model assumes that service contracts are exempt from the insurance code.

#### B. This Act shall not apply to:

- (1) Warranties;
- (2) Maintenance agreements;
- (3) Commercial transactions;
- (4) Warranties, service contracts or maintenance agreements offered by public utilities on their transmission devices to the extent they are regulated by [insert name of the state agency that regulates public utilities]; and
- (5) Service contracts sold or offered for sale to persons other than consumers.

#### C. Manufacturer's service contracts on the manufacturer's products need only comply with Sections 5A, 5D to 5N, 6 and 10, as applicable, of this Act.

**Drafting Note:** States should determine whether to totally exempt manufacturers' service contracts from this Act.

#### D. This Act shall not apply to service contracts:

- (1) Paid for with separate and additional consideration;

- (2) Issued at the point of sale, or within sixty (60) days of the original purchase date of the property; and
- (3) Where the tangible property has a purchase price of \$[insert monetary threshold] or less, exclusive of sales tax.

## Section 2. Definitions

As used in this Act:

- A. "Administrator" means the person who is responsible for the administration of the service contracts or the service contracts plan and who is responsible for any filings required by the Act.
- B. "Commissioner" means the commissioner of insurance of this state.

Drafting Note: Insert the title of the chief insurance regulatory official wherever the term "commissioner" appears.

- C. "Consumer" means a natural person who buys other than for purposes of resale any tangible personal property that is distributed in commerce and that is normally used for personal, family or household purposes and not for business or research purposes.
- D. "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only.
- E. "Manufacturer" means a person that:
  - (1) Manufactures or produces the property and sells the property under its own name or label;
  - (2) Is a wholly owned subsidiary of the person who manufactures or produces the property;
  - (3) Is a corporation which owns 100 percent of the person who manufactures or produces the property;
  - (4) Does not manufacture or produce the property, but the property is sold under its trade name label;
  - (5) Manufactures or produces the property and the property is sold under the trade name or label of another person; or
  - (6) Does not manufacture or produce the property but, pursuant to a written contract, licenses the use of its trade name or label to another person that sells the property under the licensor's trade name or label.
- F. "Mechanical breakdown insurance" means a policy, contract or agreement issued by an authorized insurer that provides for the repair, replacement or maintenance of property or indemnification for repair, replacement or service, for the operational or structural failure of the property due to a defect in materials or workmanship or to normal wear and tear.

- G. "Non-original manufacturer's parts" means replacement parts not made for or by the original manufacturer of the property, commonly referred to as "after market parts."
- H. "Person" means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate or any similar entity or combination of entities acting in concert.
- I. "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.
- J. "Provider" means a person who administers, issues, makes, provides, sells or offers to sell a service contract, or who is contractually obligated to provide service under a service contract such as sellers, administrators and other intermediaries.
- K. "Provider fee" means the consideration paid for a service contract in excess of the premium.
- L. "Reimbursement insurance policy" means a policy of insurance issued to a provider and pursuant to which the insurer agrees, for the benefit of the service contract holders, to discharge all of the obligations and liabilities of the provider under the terms of the service contracts in the event of non-performance by the provider. "All obligations and liabilities" include, but are not limited to, failure of the provider to perform under the service contract and the return of the unearned provider fee in the event of the provider's unwillingness or inability to reimburse the unearned provider fee in the event of termination of a service contract.
- M. "Service contract" means a contract or agreement for a separately stated consideration or for a specific duration to perform the repair, replacement or maintenance of property or indemnification for repair, replacement or maintenance, for the operational or structural failure due to a defect in materials, workmanship or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental and emergency road service, but does not include mechanical breakdown insurance or maintenance agreements.
- N. "Service contract holder" or "contract holder" means a person who is the purchaser or holder of a service contract.
- O. "Warranty" means a warranty made solely by the manufacturer, importer or seller of property or services without charge, that is not negotiated or separated from the sale of the product and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor or other remedial measures, such as repair or replacement of the property or repetition of services.

### Section 3. Requirements For Doing Business

- A. Service contracts shall not be issued, sold or offered for sale in this state unless the administrator or its designee has:
  - (1) Provided a receipt for the purchase of the service contract to the contract holder;

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- (2) Provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase; and,
  - (3) Complied with this Act.
- B. All administrators of service contracts sold in this state shall file a registration with the commissioner on a form, at a fee and at a frequency prescribed by the commissioner.
- C. In order to assure the faithful performance of a provider's obligations to its contract holders, each provider who is contractually obligated to provide service under a service contract shall:
- (1) Insure all service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state or issued pursuant to [insert code section permitting surplus lines business] or;
  - (2)
    - (a) Maintain a funded reserve account for its obligations under its contracts issued and outstanding in this state. The reserves shall not be less than forty percent (40%) of gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account shall be subject to examination and review by the commissioner; and
    - (b) Place in trust with the commissioner a financial security deposit, having a value of not less than five percent (5%) of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than \$25,000, consisting of one of the following:
      - (i) A surety bond issued by an authorized surety;
      - (ii) Securities of the type eligible for deposit by authorized insurers in this state;
      - (iii) Cash;
      - (iv) A letter of credit issued by a qualified financial institution; or
      - (v) Another form of security prescribed by regulations issued by the commissioner; or

Drafting Note: States allowing a letter of credit to serve as security should adopt a definition of "qualified financial institution." The definition in Section 3A of the Model Law on Credit for Reinsurance is the appropriate definition.

- (3)
  - (a) Maintain a net worth of \$100 million; and
  - (b) Upon request, provide the Commissioner with a copy of the provider's or, if the provider's financial statements are consolidated with those of its parent company, the provider's parent company's most recent Form 10-K filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which shows a net worth of the provider or its parent company of at least

\$100 million. If the provider's parent company's Form 10-K or audited financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the obligor relating to service contracts sold by the provider in this state.

- D. Premium Taxes:
- (1) Provider fees collected on service contracts shall not be subject to premium taxes.
  - (2) Premiums for reimbursement insurance policies shall be subject to applicable taxes.
- E. Except for the registration requirement in Section 3B, persons marketing, selling or offering to sell service contracts for providers that comply with this Act are exempt from this state's licensing requirements.
- F. Providers complying with this Act are not required to comply with other provisions of Chapter [cite rate regulation and other applicable state insurance statutes], except as specifically provided.

#### Section 4. Required Disclosures—Reimbursement Insurance Policy

Reimbursement insurance policies insuring service contracts issued, sold or offered for sale in this state shall conspicuously state that, upon failure of the provider to perform under the contract, such as failure to return the unearned provider fee, the insurer that issued the policy shall pay on behalf of the provider any sums the provider is legally obligated to pay or shall provide the service which the provider is legally obligated to perform according to the provider's contractual obligations under the service contracts issued or sold by the provider.

#### Section 5. Required Disclosures—Service Contracts

- A. Service contracts issued, sold or offered for sale in this state shall be written in clear, understandable language and the entire contract shall be printed or typed in easy to read ten point type or larger and conspicuously disclose the requirements in this section, as applicable.
- B. Service contracts insured under a reimbursement insurance policy pursuant to Section 3C(1) of this Act shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. If the provider fails to pay or provide service on a claim within sixty (60) days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the insurance company." A claim against the provider shall also include a claim for return of the unearned provider fee. The service contract shall also conspicuously state the name and address of the insurer.
- C. Service contracts not insured under a reimbursement insurance policy pursuant to Section 3C(1) of this Act shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed only by the full faith and credit of the provider (issuer) and are not guaranteed under a service contract reimbursement insurance policy." A claim against the provider shall also

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include a claim for return of the unearned provider fee. The service contract shall also conspicuously state the name and address of the provider.

- D. Service contracts shall identify any administrator, the provider obligated to perform the service under the contract, the service contract seller, and the service contract holder to the extent that the name and address of the service contract holder has been furnished by the service contract holder.
- E. Service contracts shall conspicuously state the total purchase price and the terms under which the service contract is sold. The purchase price is not required to be pre-printed on the service contract and may be negotiated at the time of sale with the service contract holder.
- F. If prior approval of repair work is required, the service contracts shall conspicuously state the procedure for obtaining prior approval and for making a claim, including a toll-free telephone number for claim service and a procedure for obtaining emergency repairs performed outside of normal business hours.
- G. Service contracts shall conspicuously state the existence of any deductible amount.
- H. Service contracts shall specify the merchandise and services to be provided and any limitations, exceptions or exclusions.
- I. Service contracts shall state the conditions upon which the use of non-original manufacturers' parts, or substitute service, may be allowed. Conditions stated shall comply with applicable state and federal laws.
- J. Service contracts shall state any terms, restrictions or conditions governing the transferability of the service contract.
- K. Service contracts shall state the terms, restrictions or conditions governing termination of the service contract by the service contract holder. The provider of the service contract shall mail a written notice to the contract holder within fifteen (15) days of the date of termination.
- L. Service contracts shall require every provider to permit the service contract holder to return the contract within at least twenty (20) days of the date of mailing of the service contract or within at least ten (10) days if the service contract is delivered at the time of sale or within a longer time period permitted under the contract. If no claim has been made under the contract, the contract is void and the provider shall refund to the contract holder the full purchase price of the contract. A ten percent (10%) penalty per month shall be added to a refund that is not paid within thirty (30) days of return of the contract to the provider. The applicable free-look time periods on service contracts shall only apply to the original service contract purchaser.
- M. Service contracts shall set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and the requirement for certain service and maintenance.
- N. Service contracts shall clearly state whether or not the service contract provides for or excludes consequential damages or preexisting conditions.



**Section 6. Prohibited Acts**

- A. A provider shall not use in its name the words insurance, casualty, guaranty, surety, mutual or any other words descriptive of the insurance, casualty, guaranty or surety business; or a name deceptively similar to the name or description of any insurance or surety corporation, or any other provider. This section shall not apply to a company that was using any of the prohibited language in its name prior to the effective date of this Act. However, a company using the prohibited language in its name shall conspicuously disclose in its service contracts a statement in substantially the following: "This agreement is not an insurance contract."
- B. A provider or its representative shall not in its service contracts or literature make, permit or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a service contract.
- C. A person, such as a bank, savings and loan association, lending institution, manufacturer or seller of any product, shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property.

**Section 7. Recordkeeping Requirements**

A. Books and Records:

- (1) An administrator shall keep accurate accounts, books and records concerning transactions regulated under this Act.
- (2) An administrator's accounts, books, and records shall include:
  - (a) Copies of each type of service contract issued;
  - (b) The name and address of each service contract holder to the extent that the name and address have been furnished by the service contract holder;
  - (c) A list of the provider locations where service contracts are marketed, sold or offered for sale; and
  - (d) Claims files which shall contain at least the dates, amounts and description of all receipts, claims and expenditures related to the service contracts.
- (3) Except as provided in Section 7B, an administrator shall retain all records pertaining to each service contract holder for at least three (3) years after the specified period of coverage has expired.
- (4) An administrator may keep all records required under this Act on a computer disk or other similar technology. If an administrator maintains records in other than hard copy, records shall be accessible from a computer terminal available to the commissioner and be capable of duplication to legible hard copy.

- B. An administrator discontinuing business in this state shall maintain its records until it furnishes the commissioner satisfactory proof that it has discharged all obligations to contract holders in this state.
- C. An administrator shall make all accounts, books and records concerning transactions regulated under this Act or other pertinent laws available to the commissioner upon request.

**Section 8. Termination of Reimbursement Insurance Policy**

As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy until a notice of termination in accordance with [insert citation to the law that governs the termination of insurance contracts] has been mailed or delivered to the commissioner. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts issued by providers prior to the date of the termination.

**Section 9. Obligation of Reimbursement Insurance Policy Insurers**

- A. Providers are considered to be the agent of the insurer which issued the reimbursement insurance policy for purposes of [insert citation to the law that obligates an insurer for the acts of its agents, including the collection of moneys not forwarded]. In cases where a provider is acting as an administrator and enlists other providers, the provider acting as the administrator shall notify the insurer of the existence and identities of the other providers.
- B. This Act shall not prevent or limit the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the issuer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay pursuant to the provisions of the service contract or under a contractual agreement.

**Section 10. Enforcement Provisions**

- A. The commissioner may conduct investigations or examinations of providers, administrators, insurers or other persons to enforce the provisions of this Act and protect service contract holders in this state.
- B. The commissioner may take action which is necessary or appropriate to enforce the provisions of this Act and the commissioner's regulations and orders, and to protect service contract holders in this state.
  - (1) The commissioner may order a service contract provider to cease and desist from committing violations of this Act or the commissioner's regulations or orders, may issue an order prohibiting a service contract provider from selling or offering for sale service contracts, or may issue an order imposing a civil penalty, or any combination of these, if the provider has violated this Act or the commissioner's regulations or orders.
    - (a) A person aggrieved by an order issued under this paragraph may request a hearing before the commissioner. The hearing request shall be filed with the commissioner within [20] days of the date the commissioner's order is effective;

- (b) Pending the hearing and the decision by the commissioner, the commissioner shall suspend the effective date of the order; and
  - (c) At the hearing, the burden shall be on the commissioner to show why the order issued pursuant to this paragraph is justified. The provisions of [insert citation to statutes concerning hearings before the commissioner] shall apply to a hearing requested under this paragraph.
- (2) The commissioner may bring an action in [insert court] Court for an injunction or other appropriate relief to enjoin threatened or existing violations of this Act or of the commissioner's orders or regulations. An action filed under this paragraph may also seek restitution on behalf of persons aggrieved by a violation of this Act or orders or regulations of the commissioner.
  - (3) A person in violation of this Act or orders or regulation of the commissioner may be assessed a civil penalty not to exceed \$[insert amount] per violation.
- C. The authority of the commissioner under this section is in addition to other authority of the commissioner.

**Drafting Note:** It is recommended that states review the enforcement procedures in their insurance laws and administrative procedure laws to ensure that adequate enforcement provisions are in place.

#### **Section 11. Authority to Develop Regulations**

The commissioner may promulgate regulations necessary to effectuate this Act.

#### **Section 12. Separability Provision**

If any provision of this Act, or the application of the provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of the provision to person or circumstances other than those as to which it is held invalid, shall not be affected.

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*Chronological Summary of Actions (all references are to the Proceedings of the NAIC).*

*1995 Proc. 4th Quarter 11, 33, 998, 1027-1033 (adopted).*

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## SERVICE CONTRACTS MODEL ACT

These charts are intended to provide the readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings which are related to the NAIC model. Such guidance provides the reader with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state's activity in this area and has made an interpretation of adoption or related state activity based on the definitions listed below. The NAIC's interpretation may or may not be shared by the individual states or by interested readers.

This state page does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Every effort has been made to provide correct and accurate summaries to assist the reader in targeting useful information. For further details, the laws cited should be consulted. The NAIC attempts to provide current information; however, due to the timing of our publication production, the information provided may not reflect the most up to date status. Therefore, readers should consult state law for additional adoptions and subsequent bill status.

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**SERVICE CONTRACTS MODEL ACT**

**KEY:**

**MODEL ADOPTION:** States that have citations identified in this column adopted the most recent version of the NAIC model in a substantially similar manner. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

**RELATED STATE ACTIVITY:** States that have citations identified in this column have not adopted the most recent version of the NAIC model in a substantially similar manner. Examples of Related State Activity include but are not limited to: An older version of the NAIC model, legislation or regulation derived from other sources such as Bulletins and Administrative Rulings.

**NO CURRENT ACTIVITY:** No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama	ALA. CODE §§ 8-32-1 to 8-32-12 (1997).	
Alaska		ALASKA STAT. § 21.03.021 (1968/2014) (Service contract is not insurance).
American Samoa	NO CURRENT ACTIVITY	
Arizona		ARIZ. REV. STAT. ANN. §§ 20-1095 to 20-1095.10 (1982); ARIZ. ADMIN. CODE §§ 20-6-407 to R20-6-408 (1987).
Arkansas	ARK. CODE ANN. § 4-114-104 (2007/2009).	ARK. CODE ANN. §§ 4-90-501 to 4-90-512 (1993) (Motor vehicle service contracts).
California		CAL. INS. CODE §§ 12140 to 12311 (1935/2004) (Motor clubs); §§ 12800 to 12865 (2004/2010) (Motor vehicle service contracts); CAL. BUS. & PROF. CODE §§ 9855 to 9855.9 (1993/1998); CAL. CIV. CODE §§ 1791 to 1794.41 (1970/2004).

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Colorado		COLO. REV. STAT. §§ 12-61-602 TO 12-61-614 (1979/2007) (Home warranty service contracts); COLO. REV. STAT. §§ 42-11-101 to 42-11-108 (1989/2003) (Motor vehicle service contracts); COLO. REV. STAT. §§ 42-10-101 to 42-10-107 (1994) (Motor vehicle warranties); 3 COLO. CODE REGS. § 702-5:5-1-12 (2013) (Warranties and service contracts).
Connecticut	NO CURRENT ACTIVITY	
Delaware	NO CURRENT ACTIVITY	
District of Columbia	NO CURRENT ACTIVITY	
Florida		FLA. STAT. §§ 634.011 to 634.281 (1959/2005) (Motor vehicle service contracts); §§ 634.301 to 634.348 (1977/1999) (Home warranty); §§ 634.401 to 634.444 (1978/2005) (Service warranty); Memorandum 2011-04M (2011).
Georgia		GA. CODE ANN. § 33-7-6 (1960/2013); GA. COMP. R. & REGS. 120-2-47-.01 to 120-2-47-.14 (1989/2013) (Motor vehicle service contracts).
Guam	NO CURRENT ACTIVITY	
Hawaii		HAW. REV. STAT. §§ 481X-1 to 481X-12 (2000).
Idaho		IDAHO CODE ANN. §§ 41-4501 to 41-4529 (1988) (Motor clubs); §§ 49-2801 to 49-2810 (1993/2010) (Motor vehicle service contracts).
Illinois		215 ILL. COMP. STAT. 152/1 to 152/99 (1998/2013).



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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Indiana	NO CURRENT ACTIVITY	
Iowa		IOWA CODE §§ 516E.1 to 516E.15 (1985/2005); IOWA ADMIN. CODE r. 191-23.1 to 191-23.34 (1988/2001).
Kansas	NO CURRENT ACTIVITY	
Kentucky		806 KY. ADMIN. REGS. 5:050 to 5:060 (1997).
Louisiana		LA. REV. STAT. ANN. §§ 22:1751 to 22:1770 (1972/1983); §§ 22:1806.1 to 22:1806.9 (2009).
Maine		ME. REV. STAT. ANN. tit. 24-A, §§ 7101 to 7112 (2012); ME. REV. STAT. ANN. tit. 32, §§ 13221 to 13238 (1987/1989) (Home service contracts) BULLETIN 393 (2014).
Maryland		MD. CODE ANN., COM. LAW §§ 14-401 to 14-410 (1975/2002).
Massachusetts	NO CURRENT ACTIVITY	
Michigan	NO CURRENT ACTIVITY	
Minnesota	MINN. STAT. §§ 59B.01 to 59B.11 (2005).	
Missouri	MO. REV. STAT. §§ 385.200 to 385.220 (2007/2011) (auto); §§ 385.300 to 385.320 (2007).	MO. CODE REGS. ANN. tit. 20, § 200-18.030 (2012).
Mississippi		MISS. CODE ANN. §§ 83-61-101 to 83-65-125 (1995).
Montana		MONT. CODE ANN. §§ 61-12-301 to 61-12-315 (1931/1947) (Motor vehicle service clubs).

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Nebraska		NEB. REV. STAT. §§ 44-3520 to 44-3526 (1990); §§ 44-3701 to 44-3721 (1981); 210 NEB. ADMIN. CODE § 58 (1994/2012) (Motor vehicle service contracts); BULLETIN CB-106 (2008).
Nevada		NEV. REV. STAT. §§ 690C.010 to 690C.330 (2000); §§ 696A.010 to 696A.360 (1971/2006) (Motor vehicle service clubs); NEV. ADMIN. CODE §§ 690C.010 to 690C.120 (2000).
New Hampshire		N.H. REV. STAT. ANN. §§ 415-C:1 to 415-C:12 (2005/2009).
New Jersey	NO CURRENT ACTIVITY	
New Mexico		N.M. STAT. ANN. §§ 59A-58-1 to 59A-58-18 (2002/2013).
New York	N.Y. INS. LAW §§ 7901 to 7913 (1997/2012).	N.Y. COMP. CODES R. & REGS. tit. 11, §§ 390.1 to 390.13 (2001/2003) (Reg. 155); Circular Letter 2006-19 (2006); Circular Letter 2009-19 (2009).
North Carolina		N.C. GEN. STAT. §§ 58-1-25 to 58-1-35 (1992/1995) (Motor vehicle service contracts and home service contracts).
North Dakota		N.D. CENT. CODE § 9-01-21 (2001) (Property service contract is not insurance).
Northern Marianas	NO CURENT ACTIVITY	
Ohio		OHIO REV. CODE ANN. §§ 3957.01 to 3957.99 (1987) (Home warranty companies); § 3905.422 (2004) (A home service contract is not insurance).
Oklahoma		OKLA. STAT. tit. 36, §§ 3101 to 3112 (1973) (Motor vehicle service clubs); §§ 6601 to 6639 (1993/2014) (Service warranty); OKLA. STAT. tit. 15, §§ 141.1 to 141.32 (2012/2014) (service warranty).

**SERVICE CONTRACTS MODEL ACT**

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Oregon		OR. REV. STAT. §§ 646.263 to 646.273 (1995/2005); §§ 742.390 to 742.392 (1995); OR. ADMIN. R. 836-200-0000 to 836-200-0060 (1996/2006).
Pennsylvania		40 PA. STAT. ANN. § 358 (2010).
Puerto Rico		P.R. LAWS ANN. tit. 26, §§ 2101 to 2122 (1961/1979) (Motor vehicle service contracts).
Rhode Island	NO CURRENT ACTIVITY	
South Carolina	S.C. CODE ANN. §§ 38-78-10 to 38-78-120 (2000).	S.C. CODE ANN. §§ 39-61-10 to 39-61-200 (1987); S.C. CODE ANN. REG. 69-61 (2001).
South Dakota		S.D. CODIFIED LAWS § 58-1-3 (1966/2001) (Exempts service contracts).
Tennessee	NO CURRENT ACTIVITY	
Texas	NO CURRENT ACTIVITY	
Utah		UTAH CODE ANN. §§ 31A-6a-101 to 31A-6a-110 (1992/2003); UTAH ADMIN. CODE r. 590-166-1 to 590-166-6 (2009/2014).
Vermont		VT. STAT. ANN. tit. 8, §§ 4247 to 4256 (1998).
Virgin Islands	NO CURRENT ACTIVITY	
Virginia		VA. CODE ANN. §§ 59.1-435 to 59.1-441 (1991/1997).
Washington	WASH. REV. CODE ANN. §§ 48.110.010 to 48.110.901 (1999/2014).	BULLETIN 2006-01.

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
West Virginia		W. VA. CODE § 33-4-2 (2000) (Exempts service contracts from insurance code).
Wisconsin		WIS. STAT. §§ 616.71 to 616.82 (1933/1979) (Motor vehicle service clubs).
Wyoming	WYO. STAT. ANN. §§ 26-49-101 to 26-49-111 (1999).	WYO. STAT. ANN. §§ 31-14-101 to 31-14-131 (1969/1984) (Motor vehicle service clubs).

# Appendix C



## California Service Contract Program Legislative History

Subject of Legislation	Author Bill Number, Chapter Number Year
Added regulation of Service Contracts – consumer electronics and appliances only	Rosenthal SB 798, Chapter 1265 Statutes of 1993
Extension of Service Contract Program to 2003	Kelley SB 780, Chapter 406 Statutes of 1997
Expanded authority to offerings by companies regulated by the California Public Utilities Commission if certain criteria was met. This provision was subsequently repealed, as the industry decided not to pursue these offerings.	Polanco SB 2075, Chapter 1075 Statutes of 1998
Amended the definition of service contract seller to include obligors, allowed for the replacement of products under a service contract and added “other kind of appliance product” to definition of “home appliance” in Song-Beverly.	Alquist AB 2704, Chapter 196 Statutes of 1998
Extension of Service Contract Program to 2008	Committee on Business, Professions and Economic Development AB 2973, Chapter 405 Statutes of 2002
Addition of regulated products under the Service Contract Program – alternative of audited statement showing \$100,000,000 in net worth allowed for financial backing.	Wesson AB 1553, Chapter 775 Statutes of 2003
Maintenance of the codes – minor grammatical changes	Committee on Judiciary SB 1852, Chapter 538 Statutes of 2006
Extension of Service Contract Program to 2013	Committee on Business, Professions and Economic Development SB 1047, Chapter 354 Statutes of 2007
Extension of Service Contract Program to 2018, adds “accessories” of electronic sets and appliances, deletes the \$250 limit on incidental payment of indemnity, allows administrators to be the seller/obligor of service contracts	Smyth AB 2111, Chapter 543 Statutes of 2010
Extension of Service Contract Program to 2015 for sections not included in AB 2111, Chapter 543, Statutes of 2010	Price SB 1236, Chapter 322 Statutes of 2012
Addition of optical products to Service Contract Program	Calderon AB 480, Chapter 421 Statutes of 2013
Post Sunset Review legislation – Sets sunset date for January 1, 2019, with reporting recommendations including market condition assessments.	Bonilla AB 2740, Chapter 428 Statutes of 2014
Provided for a fee cap increase for all registration types	Ridley-Thomas AB 1175, Chapter 187 Statutes of 2015

## California Service Contract Program Regulation History

<b>Subject of Regulatory Change</b>	<b>Year</b>
Addition of Article 5.5 to establish service contract registration and financial submissions, definitions, fees, contract filings, and record keeping requirements	1995
Updated Application Form – Revision Date	2004
Established definition of “home health care product”	2005
Allows of \$100,000,000 net worth filing for financial backing alternative	2005
Removal of application reference by incorporating all elements of application into regulation	Pending



# Appendix D



## Anatomy of a Service Contract – Example

**Highlighted information reflects the corresponding sections of the California Civil Code.**

1. **DEFINITIONS:** Throughout this Service Contract ("Plan") the words (1) "you" and "your" refer to the purchaser of this Plan as shown on the invoice and/or cash register receipt including the Lessee, if the product was acquired under a rental or lease-purchase transaction (collectively, RTO Transaction) (2) "We", "us", "our" refer to the company obligated under this Plan as referenced in the Provider section of this Plan (3) "product" refers to furniture sold and used for residential purposes personal, family or household use) that is constructed of upholstered fabric, microfiber, leather, vinyl, wood, glass, laminates, metal, stone and other hard surfaces that are purchased concurrently with this Plan (4) "retailer" indicates the store or outlet where you purchased the product(s) and this Plan

2. **PROVIDER:** The Provider of this Plan depends on the state in which you purchased the Plan. If you purchased this Plan in the following states, AL, AK, CA, CO, CT, DE, DC, GA, IA, ID, IL, IN, KS, KY, LA, MD, MA, ME, MI, MN, MO, MS, MT, NE, ND, NH, NJ, NV, NY, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, WI, WV, **the Provider of this Plan and the entity responsible for fulfilling the terms of this Plan**<sup>1</sup> is Pink Fuzzy Elephants Inc., 111 Dot Ave, Sacramento, CA. We reserve the right to transfer our obligations to another entity.

**<sup>1</sup> 1794.4(c)(5)(D), While the specific title is not used, this section describes the Company as performing the functions of both the Obligor and the Administrator.**

If you purchased this Plan in Florida, the Provider of this Plan and the entity responsible for fulfilling the terms of this Plan is Someone Else Corp., receiving mail at 420 High Street, Columbus, OH 4321 5

If you purchased this Plan in AZ, NC, NM, OK, VA, or WA, the Provider of this Plan and the entity responsible for fulfilling the terms of this Plan is Yet Another, LLC, 8484 Third Street, Columbus, OH 43215.

**If you want to make a claim or have questions about this Plan please call us at 1 800 867 5309**<sup>2,3</sup>

**<sup>2</sup> 1794.4(c)(5), Instructions on how to make a claim must be stated.**

**<sup>3</sup> 1794.4(c)(5)(G), Service address or phone number must be stated. If a phone number is used, it must be toll-free.**

3. **AGREEMENT:** in return for your purchase of this Plan. We agree to provide the benefits stated herein during the term as described below. THIS PLAN IS INCLUSIVE OF THE MANUFACTURER'S WARRANTY; IT DOES NOT REPLACE THE

MANUFACTURER'S WARRANTY, BUT PROVIDES CERTAIN ADDITIONAL BENEFITS DURING THE TERM OF THE MANUFACTURER'S WARRANTY LOSSES COVERED BY THE MANUFACTURER DURING THE MANUFACTURER'S WARRANTY PERIOD ARE NOT COVERED UNDER THIS PLAN AND ARE THE RESPONSIBILITY OF THE MANUFACTURER.

4. **FURNITURE COVERED BY THIS PLAN:** New Upholstered Fabric, Microfiber, A & P Leather, Vinyl, Wood, Glass, Laminates, Metal, Stone and other hard surface residential furniture ONLY. This Plan, together with your sales receipt or other proof of purchase of the product(s), shall collectively constitute the entire Plan relating to your coverage. Your sales receipt describes the covered Product(s) and the duration of this plan.<sup>4</sup>

**<sup>4</sup> 1794.4(c)(1), The product can be identified in the body of the contract itself or (as it is in this case) in referenced documents.**

5. **REPAIR OR REPLACEMENT COVERAGE:** Five (5) years from the date you take delivery of your new furniture<sup>5</sup>; this Plan provides you coverage for stains and/or damage on Fabric, Microfiber, A & P, Leather, Vinyl, Wood, Glass, Laminates, Metal, Stone and other hard surfaces resulting from:

- A structural or component failure due to a defect in materials and workmanship during normal residential use. Includes, but not limited to. breakage of frames, glass, mirrors mechanisms, welds, swivel bases, recliner handles and assembled joints and includes component mechanical and electrical failures such as defective motors, massagers, vibrating units and heaters;
- peeling or checking of the coating of finish on wood or veneer surfaces;
- scratches penetrating through the top coat of wood, metal or laminated surfaces;
- gouge, chip, dent, puncture of wood or laminated surfaces;
- Seam and stitching separations zippers, buttons and tufted buttons;
- Loss of reflectivity on coated glass and mirrors (loss of silvering).

**<sup>5</sup> 1794.4(c)(2), Period of coverage must be delineated. The contract must be clear when the coverage under the contract starts and stops.**

This Plan will provide for the repair or replacement of your covered product. We will make every attempt to repair your product(s). Upon receiving a claim covered by this Plan we will provide repair advice and/or repair products to aid in stain removal or repair of the damage. If the stain or damage persists, you may receive a no charge in home<sup>6</sup> visit by a professional technician<sup>7</sup>. If the technician determines that repairs must be made off site, the damaged product will be removed and returned at no cost to you<sup>8</sup>. If we are unable to repair your product, or where the cost for repair may exceed the current retail replacement value of your covered product, or replacement is required and either, parts, matching fabric or matching leathers needed for repair should become unavailable for your covered product, we may elect to pay you a cash settlement<sup>9</sup>.

**<sup>6</sup> 1794.4(c)(5)(F), Whether or not in-home service is available.**

**<sup>7</sup> 1794.4(c)(5)(C), If the repairs are able to be performed only by a certain person or class of people, then the contract must state so.**

**<sup>8</sup> 1794.4(c)(5)(F). Transportation fees, if any, must be stated.**

**<sup>9</sup> 1794.4(c), General statement of services that the Administrator provides.**

Where your product was acquired under a RTO Transaction, any cash settlement will be made to the owner, which will be the lessor if you have not purchased the product. The amount of the cash settlement shall not exceed the lesser of: the current retail cost of a replacement product of like kind and quality, or the retail purchase price you paid for the original covered product. If a replacement selection is higher in value than the original it is your responsibility to pay for the difference in value. If a replacement selection is of lesser value there will be no refund or credit given for the difference in value. Payment of a cash settlement will fulfill this Plan in its entirety and will cancel and discharge all further obligations under this Plan, where allowed by law.<sup>10</sup> However, if a cash settlement is provided for a product(s) that is a part of a matching set, coverage will still be in effect for the other matching pieces for the remainder of the coverage period. The amount of the cash settlement is determined by us, which is based on the current replacement cost of the covered product and the age of the covered product. In the event your Plan covers more than one product that was sold as a set, coverage under the cash settlement option shall be limited to the individual damaged item within the set. This Plan only covers the product(s) listed on sales receipt. We will NOT replace matching pieces of product(s) that is/are not damaged or otherwise not eligible for coverage under this Plan (except for sectionals, dining table and chairs, when necessary). If we replace your covered product, the original product will become our property. Products that are replaced under this Plan are no longer covered by this Plan (this does not include other pieces covered under this plan that were not damaged). You may purchase another Plan for such replaced product(s) to cover those product(s) if the replaced product(s) is/are not a part of a matching set.

**<sup>10</sup> 1794.4(c)(4)(B), If limits to the terms of applicability exist then they must be spelled out. A common way is to replace the item and consider the remainder of the plan as terminated.**

RTO TRANSACTIONS: Where the product was initially acquired under a RTO Transaction, any cash settlement or refund will be paid to the owner of the product at the time the settlement is made. This will be the lessor if you have not yet acquired ownership of the property. In all other respects, the Lessee will retain a beneficial interest in this Plan and all non-cash benefits described herein shall be rendered to the Lessee. Any owner obligations related to maintenance of the product shall be the responsibility of the Lessee during the term of any RTO Transaction except as provided

by law. Any reference to purchased, so/d, or similar terms shall include /eased and its derivatives.

Any reference to purchaser shall mean the Lessee under the RTO Transaction and not the lessor.

**6. YOUR OBLIGATIONS PRIOR TO RECEIVING SERVICE UNDER THIS PLAN:**

**Proof of Purchase:** Each time that you request service as provided by this Plan, you must make available for inspection by the Provider a copy of this Plan, along with the original dated invoice and/or cash register receipt that clearly indicates your purchase of this Plan, and the product to be covered by this Plan. These documents will confirm your eligibility to receive service under this Plan. This Plan, together with your sales receipt or other proof of purchase of the product(s), shall collectively constitute the entire Plan relating to your coverage. Your sales receipt describes the covered Product(s) and the duration of the Plan. **This Plan is not a maintenance or cleaning contract. In order to receive coverage under this Plan, you must have maintained your product as recommended by the manufacturer or using our approved recommended product(s).** <sup>11</sup> Any variation from the manufacturer's or our recommended maintenance plan may cause your claim to be denied.

**<sup>11</sup> 1794.4(c)(4)(D), Whether or not preventive maintenance is included must be specifically addressed. (Note: This is sometimes included as part of the exclusions.)**

**7. IF YOU NEED SERVICE:** Call the Service Center at 1-800-867-5309. Monday - Friday, 8:00 am - 9:00 pm and Saturday from 9:00 am - 5:00 pm - EST or to file a claim online, 24 hours a day, please visit our website at [www.fileaclaim.com](http://www.fileaclaim.com) within thirty (30) days from the date you discovered the damage. Claims submitted after the expiration date or outside of the reporting time period of your Plan will not be accepted. In-home service will be provided on your product. Repairs will be performed at your residence. An adult (of legal age) must be present at your home when the on-site service is performed. Some products may need to be removed from your home to be serviced. If removal is required, the product will be removed and returned at no cost to you.

**8. DELAYS:** We will exercise reasonable efforts in providing service under this Plan, but neither we nor the retailer shall be liable for any damage arising out of delays, and in no event shall we or the retailer be liable for consequential damage. In the event your repair requires more than thirty (30) days to complete, the expiration date of your Plan will be extended by the total number of days, in excess of thirty (30) days, that were required to complete the repair.

**9. PARTS:** Materials furnished as replacements for parts will be drawn from the original manufacturer, the retailer or the service contractor's inventory of new or rebuilt parts and components. These materials will be furnished under provisions of the manufacturer's warranty while still in effect and then by our Plan during the remainder of the term of coverage.

10. **MANUFACTURER'S WARRANTY:** During the manufacturer's warranty period, the manufacturer is responsible for product(s) and service covered under its warranty. If you should call for service on a product covered under the manufacturer's warranty, we will refer your call to the manufacturer.

11. **WHAT IS NOT COVERED:** Anything not specifically listed in the "COVERAGE" section of this Service Plan is excluded. Service or replacement is limited to the damaged product(s) only. The total value of such replacement is limited to \$25,000. This Plan coverage does not cover: <sup>12</sup>

- damage caused by improper cleaning methods or improper cleaning materials;
- damage caused by the application of topical treatments that damages the product(s);
- damage resulting from cleaning methods or products other than those recommended by us and/or the product manufactured;
- secondary and/or collateral damaged;
- damage caused by failure to comply with the manufacturer's warranty;
- any costs or damage from repair and/or cleaning by anyone without written authorization from us;
- damage caused by service, maintenance personnel or contractors;
- loss of resiliency;
- damage caused by transit, delivery, redelivery, product(s) being moved between residences or into or out of storage or movement, including damage caused by packing or unpacking of the covered products;
- damage to product by incontinence, mold or mildew, fading, color loss, discoloration;
- any manufacturer recalls;
- windings, wrappings or bindings on rattan, bamboo, wicker furniture, nor coverage on rattan, bamboo, wicker or other furniture used outdoors;
- plastic ready to assemble product(s);
- inherent design defects including, but not limited to, natural inconsistencies in wood grains wood stains, dust corrosion, "X" coded fabrics, non-colorfast fabric, delamination of microfiber;
- mattresses, except for futon covers and /or cushions;
- accumulation of dirt and debris and/or damages due to the failure to care for or the improper care of your products;
- wear and tear to fabrics and leathers, such as accumulated soiling from everyday use including body oil, hair oil, perspiration, darkened bodily contact areas;
- leather scratches, cracking and/or peeling of leather, splitting of bicast, bycast or bonded leather;
- suede or nubuck;
- natural flaws, manufacturer's defects of leather or upholstery, odors, pet damage from teeth, beaks, or claws;
- products sold that are stained and/or damaged at the time of purchased;

- products used for commercial or institutional purposes, home day care, rental purposes (other than a RTO Transaction) or products sold "as-is" "pre-owned", rental (other than a RTO Transaction) or non-residential furniture;
- service, maintenance, repair, or replacement necessitated by any loss of use or stain or damage resulting from any cause other than normal usage, such as, but not limited to, loss of use or stains or damage due to misuse, abuse, unauthorized repair by others, collision with any other object, loss or stain or damage resulting from failure to provide manufacturer's recommended maintenance or inspection, add-on products or accessories, attachments, corrosion, appliance malfunction, insect infestation, damage or stains caused by war, terrorism, fire, flood, water damage, hurricanes, tornados, windstorm, hail, earthquake, smoke, or other heat source, exposure to the cold, theft, negligence, riot, or any other perils;
- Acts of God, special, indirect, incidental, or consequential damages whether in contract, tort, or negligence; preventive maintenance;
- claims arising from any breach of implied or expressed warranty of merchantability or fitness of the product(s) from the manufacturer; initial installation, assembly or hookup of your product(s);
- removal and reinstallation, except as determined by us; any circumstances for any indirect, consequential or incidental damages, including loss or damage to person or property, arising from the use of, or inability to use, or from the repair or replacement of the product(s);
- crushing, scratches of any type other than those expressly stated in the coverage section, unreasonably excessive loads leading to breakage of structural components; products no longer in your possession.

***<sup>12</sup> 1794.4(c)(4)(A), Typically one of the longest sections of the contract. All exclusion criteria must be stated.***

12. **WHAT YOU MUST DO:** You must perform maintenance, minor adjustments and periodic inspections as explained in the product manufacturer's owner's manual. Should your covered product become damaged, you must submit a claim for coverage within thirty (30) days from the date you discovered the damage. You are to take the necessary steps to protect your product against any further stain or damage. Non-technical cleaning to provide a normal operating environment as described in the manufacturer's instruction manual for the covered product(s) is your responsibility.

13. **RENEWALS:** This Plan is not renewable

14. **TRANSFER:** This Plan is not transferable. <sup>13</sup>

***<sup>13</sup> 1794.4(c)(3), The contract must state if the plan is transferable from one person to another. If there are limits to the transferability (fees, limited times that the product can be transferred, specific timeframes during which a transfer may be performed), the administrator must state explicitly what the limits are.***



15. **IMPORTANT INFORMATION:** if you do not cooperate with the reasonable requests of Plan

Provider, there will be no coverage under this Plan. A failure to exercise rights by us does not waive those rights. We do not assume responsibility for statements or damage by technicians, or any other person or entity not authorized by the Plan Provider. Any provision contained herein which is found to be contrary to applicable laws shall be deemed null and void and the remaining provisions shall continue in full force and effect. Any controversy or claim for damages arising out of, or relating to this Plan, shall be settled by arbitration but specifically excludes class action arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration rules, and judgment on the award rendered by the arbitration may be entered in any court having jurisdiction thereof.

16. **OUR OBLIGATIONS UNDER THIS PLAN ARE LIMITED TO REMOVING STAINS. REPAIRING OR REPLACING FURNITURE AND WE DO NOT MAKE ANY OTHER EXPRESSED OR IMPLIED WARRANTIES AND SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL OR INDIRECT DAMAGES WHATSOEVER. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INDIRECT OR CONSEQUENTIAL DAMAGES AND THIS LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.**

Fraud results in higher costs to the consumer and is illegal. It is our policy to deny service and/or prosecute individuals that submit fraudulent claims.

17. **CANCELLATION:** You may cancel this Plan at any time for any reason by mailing a written request for cancellation and the original copy of this Plan to the Provider at 111 Dot Ave, Sacramento, CA. If you cancel this Plan within the first 30 days after receipt of this Plan and have not made a claim, you will receive a full refund. If you cancel after the first 30 days from receipt of this Plan or at any time after we have paid a claim, You will receive a pro rata refund based on the time remaining on Your Plan, less an administrative fee, not to exceed 1 0% of the price of the Plan or twenty-five dollars (\$25.00), whichever is less, and less any claims paid, where allowed by law.

If we cancel, you shall be refunded the unearned pro rata purchase price of this Plan, less any claims paid We may not cancel this Plan except for a) fraud. b) material misrepresentation, c) non-payment by you, d) for violation of any of the terms and conditions of the Plan, and e) if required to do so by any regulatory authority. If this Plan was inadvertently sold to you on a product, which was not intended to be covered by this Plan, we will cancel this Plan and return the full purchase price of the Plan to you.

18. **DEDUCTIBLE:** There is no deductible payment required for the coverage described in this Plan

Except in the states of Arizona, and New Mexico, the obligations of the provider are guaranteed under a service contract reimbursement policy.

This Plan is not a contract of insurance.

The following state specific requirements are added to and become part of your Service Plan and supersede any other provision to the contrary:

**Alabama Residents:** Any refund due to you will be credited to any outstanding balance of your account, and the excess, if any, shall be refunded to you. A ten (10) percent penalty per month shall be added to a refund that is not paid or credited within forty-five (45) days after you cancel the Plan.

**Arizona Residents:** if you or we cancel this plan, no claims will be deducted from the refund you are entitled to receive under the Cancellation provisions of this contract.

**Arkansas Residents:** Any refund not provided within 45 days shall include a 10% penalty per month the refund remains unpaid.

**California Residents:** For all products other than home appliances and home electronic products, the Cancellation provision is amended as follows: if the Plan is cancelled: (a) within sixty (60) days of the receipt of this Plan, you shall receive a full refund of the price paid for the Plan provided no service has been performed, or (b) after sixty (60) days, you will receive a pro rata refund, less the cost of any service received and less a service fee of 10% of the cost of the contract or \$25.00 (whichever is less).<sup>14</sup> If you cancel and have not received a refund within 30 days from the date of cancellation, the amount of refund will include a penalty of 10% per month for the unpaid amount due and owing to you.

***<sup>14</sup> 1794.41(a)(4), terms of cancelation and refund must be defined. A contract can be cancelled for a full refund if within 30 days of receipt for electronics and appliances or 60 days of receipt for all other products. If the contract is designed to cover multiple types of products, then the cancelation comment may need to contain provisions for both scenarios. If after the applicable window, a prorated refund is given. The seller may also opt to charge an administrative fee. If the contract is designed to cover multiple types of products, then the cancelation comment may need to contain provisions for both scenarios.***

**Connecticut Residents:** The expiration date of this Plan shall automatically be extended by the duration that the product is in our custody while being repaired. If you purchased this contract in Connecticut, you may pursue arbitration to settle disputes between you and the provider of this contract. You may mail your complaint to: State of Connecticut, Insurance Department, P.O. Box 816, Hartford, CT 06142-0816, Attention: Consumer Affairs. The written complaint must describe the dispute, identify the price of the product cost of repair, and include a copy of this contract.

# Appendix E



## Consumer Survey Results

To provide additional feedback to the Bureau, a survey targeted to a sample audience of at least 650 California consumers (actual responses 682) was designed and implemented. The survey was conducted using a vetted panel of survey respondents who met the predetermined criteria of being:

- California residents
- 18+ years of age
- Established consumer activity pertinent to the Bureau's areas of product and services oversight

The survey panel was provided by an international marketing firm with established survey panels populated by qualified respondents. The survey was delivered as an on-line survey provided to the respondents via an email to a personal email account. The survey includes questions or statements requiring a scaled response from among predetermined responses; additionally, two open-ended questions asked for short written responses to broad questions. The two questions were:

1. *Do you have any questions on areas for improvement for this DCA Bureau's overall outreach and communications to consumers to promote awareness of protections and rights in California?*
2. *Do you have any other feedback to add that will contribute to this DCA Bureau's mission and consumer protection related to:*
  - a. *Electronic and appliance repair business registration and regulation and/or*
  - b. *Service contact registration and regulation on various consumer products and/or*
  - c. *The manufacture and sale of upholstered furniture, bedding and thermal insulation products and/or*
  - d. *The testing for sanitization of used and/or rebuilt bedding products offered by a retailer*

The reporting that follows will include the scaled response frequencies; all written responses to the two general questions are included in Attachment 4 completely unedited and un-redacted. A summary of key findings precedes the greater detail in the results tables.

### Summary of Survey Key Findings

The following summarizes selected key findings from the consumer survey.

<b>Consumer Product Category</b>	<b>Purchased product <u>with or without</u> warranty or service contract  (% of responders)</b>	<b>Why did <u>not</u> purchase service contract  (Top 2 reasons cited)</b>	<b>Satisfaction with product based on purchase price</b>	<b>Used the service contract  (purchased service contract)</b>	<b>Satisfaction with service contract process used</b>	<b>Satisfaction with product repair or replacement</b>
<b>Home Appliance</b>	75.0%	Contract cost and product quality & reliability did not warrant contract	77.1% somewhat or highly satisfied	68.8%	95.1%	92.7%
<b>Consumer Electronics</b>	86.2%	Contract cost and product quality & reliability did not warrant contract	93.4% somewhat or highly satisfied	58.5%	84.7%	85.4%
<b>Upholstered Home Furniture</b>	48.5%  (23.5% of above purchase was result of advertised sale)	Contract cost and product quality & reliability did not warrant contract	91.3% somewhat or highly satisfied	76.4%	91.5%	92.5%

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<b>Bedding, Mattresses, Futons</b>	62.3% (28.6% of above purchases were result of advertised sale)	N/A	66.6%	N/A	N/A	N/A
<b>Note: the product categories below were subject to more limited survey questions</b>						
<b>Jewelry</b>	17.7%	N/A	N/A	73.6%	89.9% somewhat or very satisfied	N/A
<b>Lawn &amp; Garden Equipment</b>	13.9%	N/A	N/A	75.8%	94.4% somewhat or very satisfied	N/A
<b>Power Tools</b>	18%	N/A	N/A	64.2%	88.5% somewhat or very satisfied	N/A
<b>Fitness Equipment</b>	14.8%	N/A	N/A	63.4%	93.7% somewhat or very satisfied	N/A
<b>Small Kitchen Appliances</b>	18.6%	N/A	N/A	52.8%	84.8% somewhat or very satisfied	N/A
<b>Eyeglasses</b>	17.2%	N/A	N/A	61.5%	94.4% somewhat or very satisfied	N/A

## **Consumer Awareness of DCA & Importance of Consumer Protection Provided**

Final survey items focused on survey responder awareness, **before this survey**, of DCA/Bureau roles and areas of oversight, in addition to how important the consumer protection is to the consumer.

<b>Survey Item (awareness <u>before</u> the survey)</b>	<b>% of YES responses</b>	<b>Importance of the consumer protection in this program (% of somewhat and very important responses)</b>
Awareness of DCA and its general mission	47.3%	N/A
Awareness of products and services in this survey under DCA jurisdiction	33.3%	N/A
Awareness of service contracts under DCA consumer protection	N/A	81.0%
Awareness of flammability standards for bedding & upholstered furniture under DCA consumer protection	40%	79.5%
Awareness of used and re-built bedding sanitization under DCA consumer protection	26.7%	81.7%
Awareness of appliance repair businesses under DCA consumer protection	32.7%	81.3%
Awareness of electronics repair businesses under DCA consumer protection	31.9%	81.3%



**HOME APPLIANCE PRODUCT:**

<b>Have you purchased a home appliance product (examples: clothes washer, dryer, dishwasher, stove/oven, trash compactor, refrigerator, or freezer) in the last 10 years?</b>												
<b>Yes – with Service Agreement/Warranty:</b> 240 - 34.9%					<b>Yes – without Service Agreement/ Warranty:</b> 261 – 37.9%		<b>Yes – Don't know if had Service Agreement</b> 15 – 2.2%		<b>No:</b> 171 - 24.9%	<b>Don't Know:</b> 1 - 0.01%		
<b>What was your level of satisfaction with the product considering its purchase price?</b>												
Very Dissatisfied (1)		Somewhat Dissatisfied		Neither Satisfied or Dissatisfied		Somewhat Satisfied		Very Satisfied (5)		Average (SD)	<b>N/A</b>	
6 (1.2%)		16 (3.1%)		19 (3.7%)		185 (35.9%)		290 (41.2%)		4.43 (.80)		
<b>Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?</b>						<b>Why did you not purchase the service contract? (Select all that apply). N=171</b>		<b>N/A</b>				
<b>Yes:</b> 165 (68.8%)						<b>No:</b> 75 (31.3%)	Product value was relatively low not needing a service contract				48 28.1%	
<b>Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed</b>	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)	<b>N/A</b>				Cost of the service contract	144 84.2%
	1 (0.6%)	4 (2.4%)	3 (1.8%)	74 (44.8%)	83 (50.3%)	4.42 (.71)					Terms and conditions of the service contract	30 17.5%
											Was not aware of the option for a service contract	15 8.8%
<b>When you received the repaired or</b>	1 (0.6%)	3 (1.8%)	8 (4.8%)	57 (34.5%)	96 (58.2%)	4.48 (.73)		The quality or expected reliability of the	146 85.4%			

replaced product, what was your satisfaction with the quality of the repair or replacement?								product did not indicate to me a need for a service contract		
								Don't know	8 4.7%	

**CONSUMER ELECTRONICS PRODUCT:**

**Have you purchased a consumer electronics product (examples: television, radio, stereo/home theater components, CD/DVD/Blu-ray player, desktop computer, laptop computer, tablet computer, personal media player, cell phone, printer, fax machine, video camera, etc.) in the last 5 years?**

<b>Yes – with Service Agreement/Warranty:</b> 258 – 37.7%	<b>Yes – without Service Agreement/ Warranty:</b> 323 – 47.2%	<b>Yes – Don't know if had Service Agreement</b> 9 – 1.3%	<b>No:</b> 87 - 12.7%	<b>Don't Know:</b> 8 - 1.2%
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What was your level of satisfaction with the product considering its purchase price?						N/A
Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Average (SD)	
3 (0.5%)	10 (1.7%)	26 (4.4%)	196 (33.2%)	355 (60.2%)	4.51 (.71)	

Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?							Why did you <u>not</u> purchase the service contract? (Select all that apply). N=323		N/A	
<b>Yes:</b> 151 (58.5%)							<b>No:</b> 107 (41.5%)	Product value was relatively low not needing a service contract		76 23.5%
Satisfaction rating with the <u>service</u>	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)	N/A	Cost of the service contract		163 50.5%
	3 (2.0%)	9 (6.0%)	11 (7.3%)	47 (31.1%)	81 (53.6%)	4.28 (.98)		Terms and conditions of the service contract	36 11.1%	

<b>process you were directed to follow to get the repair, maintenance or replacement completed?</b>								Was not aware of the option for a service contract	16 5.0%
<b>When you receive the repaired or replaced product, what was your satisfaction with the quality of the repair or replacement?</b>	2 (1.3%)	9 (6.0%)	11 (7.3%)	44 (29.1%)	85 (56.3%)	4.33 (.94)		The quality or expected reliability of the product did not indicate to me a need for a service contract	171 52.9%
								Don't know	20 6.2%

**HOME FURNITURE PRODUCT:**

<b>Have you purchased an upholstered home furniture product in the last 10 years?</b>										
<b>Yes – with Service Agreement/Warranty:</b> 123 – 18.0%					<b>Yes – without Service Agreement/ Warranty:</b> 206 – 30.1%		<b>Yes – Don't know if had Svc. Agree.</b> 3 – 0.4%	<b>No:</b> 345 - 50.4%	<b>Don't Know:</b> 8 - 1.2%	
<b>Yes – Purchase was a result of an advertised sale:</b> 161 – 23.5%			<b>Yes – purchase was NOT result of an advertised sale:</b> 163 – 23.8%			<b>Yes – Don't know if purchase was result of an advertised sale:</b> 8 – 1.2%				
<b>What was your level of satisfaction with the product considering its purchase price?</b>										
Very Dissatisfied (1)		Somewhat Dissatisfied		Neither Satisfied or		Somewhat Satisfied		Very Satisfied (5)		Average (SD)
3 (0.9%)		7 (2.1%)		19 (5.7%)		129 (38.9%)		174 (52.4%)		4.40 (.77)
<b>Did you have to use the extended warranty, maintenance agreement, or service contract for</b>								<b>Why did you not purchase the service contract? (Select all that apply). N=206</b>		<b>N/A</b>
<b>Yes:</b> 94					<b>No:</b> 29	Product value was relatively low		44 21.4%		

(76.4%)							(4.1%)	not needing a service contract	
<b>Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?</b>	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)	N/A	Cost of the service contract	68 33.0%
	3 (3.2%)	1 (1.1%)	4 (4.3%)	37 (39.4%)	49 (52.1%)	4.36 (.88)		Terms and conditions of the service contract	11 5.3%
<b>When you received the repaired or replaced product, what was your satisfaction with the <u>quality of the repair or replacement</u>?</b>	3 (3.1%)	1 (1.1%)	3 (3.2%)	43 (45.7%)	44 (46.8%)	4.32 (.86)		Was not aware of the option for a service contract	52 25.2%
								The quality or expected reliability of the product did not indicate to me a need for a service contract	98 47.6%
								Don't know	14 6.8%

### BEDDING/MATTRESSES

<b>Have you purchased any bedding sets including mattresses or futons in the last 10 years?</b>					
<b>Yes – purchased was a result of an advertised sale:</b>		<b>Yes – purchase was NOT the result of an advertised sale:</b>		<b>Yes – Don't know if purchase was result of an advertised sale</b>	
196 28.6%		206 30.1%		25 3.6%	
<b>No:</b>		<b>Don't Know:</b>			
247 36.1%		11 1.6%			
<b>What was your level of satisfaction with the product considering its purchase price?</b>					
Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Average (SD)
2 (0.5%)	17 (4.0%)	30 (7.0%)	140 (32.8%)	238 (33.8%)	4.39 (.82)
N/A					

**JEWELRY:**

Have you purchased a service contract (extended warranty) for a JEWELRY product during the last five years?								
<p><b>Yes:</b> 121 17.7%</p>							<p><b>No:</b> 554 81.2%</p>	<p><b>Don't Know:</b> 7 1.0%</p>
Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?								
<p><b>Yes:</b> 89 (73.6%)</p>							<p><b>No:</b> 32 (26.4%)</p>	<b>N/A</b>
<p><b>Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?</b></p>		<p>Very Dissatisfied (1)</p>	<p>Somewhat Dissatisfied</p>	<p>Neither Satisfied or Dissatisfied</p>	<p>Somewhat Satisfied</p>	<p>Very Satisfied (5)</p>	<p>Avg. (SD)</p>	
		<p>0 (0.0%)</p>	<p>0 (0.0%)</p>	<p>9 (10.1%)</p>	<p>34 (38.2%)</p>	<p>46 (51.7%)</p>	<p>4.42 (.67)</p>	

**LAWN/GARDEN EQUIPMENT:**

Have you purchased a service contract (extended warranty) for a LAWN/GARDEN EQUIPMENT product during the last five years?								
<p><b>Yes:</b> 95 13.9%</p>							<p><b>No:</b> 580 85.0%</p>	<p><b>Don't Know:</b> 7 1.0%</p>
Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?								
<p><b>Yes:</b> 72 (75.8%)</p>							<p><b>No:</b> 23 (24.2%)</p>	<b>N/A</b>
		<p>Very Dissatisfied (1)</p>	<p>Somew er d or ied</p>	<p>Somewhat Satisfied</p>	<p>Very Satisfied (5)</p>	<p>Avg. (SD)</p>	<b>N/A</b>	

Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?	1 (1.4%)	2 (2.8%)	1 (1.4%)	35 (49.3%)	32 (45.1%)	4.34 (.77)		
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**POWER TOOLS:**

<b>Have you purchased a service contract (extended warranty) for a POWER TOOLS product during the last five years?</b>							
<b>Yes:</b> 123 18.0%						<b>No:</b> 551 80.8%	<b>Don't Know:</b> 8 1.1%
<b>Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?</b>							
<b>Yes:</b> 79 (64.2%)						<b>No:</b> 44 (35.8%)	<b>N/A</b>
<b>Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?</b>		Very Dissatisfied (1)	Somewhat Dissatisfied 3 (3.8%)	Neither Satisfied or Dissatisfied 5 (6.4%)	Somewhat Satisfied 33 (42.3%)	Very Satisfied 36 (46.2%)	

**FITNESS EQUIPMENT:**

<b>Have you purchased a service contract (extended warranty) for a FITNESS EQUIPMENT product during the last five years?</b>							
<b>Yes:</b> 101 14.8%						<b>No:</b> 576 84.5%	<b>Don't Know:</b> 5 0.7%
<b>Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?</b>							
<b>Yes:</b> 64 (63.4%)						<b>No:</b> 37 (36.6%)	<b>N/A</b>

	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)		
Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?	0 (0.0%)	0 (0.0%)	4 (6.3%)	18 (28.1%)	42 (65.6%)	4.59 (.61)	N/A	

**SMALL KITCHEN APPLIANCE:**

Have you purchased a service contract (extended warranty) for a SMALL KITCHEN APPLIANCE product during the last five years?								
Yes:						No:	Don't Know:	
127 18.6%						546 80.1%	9 1.3%	
Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?								
Yes:						No:		
67 (52.8%)						60 (47.2%)	N/A	
	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)		
Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?	1 (1.5%)	2 (3.0%)	7 (10.6%)	22 (33.3%)	34 (51.5%)	4.30 (.89)	N/A	

**EYEGLASSES:**

Have you purchased a service contract (extended warranty) for an EYEGLASSES product during the last five years?								
Yes:						No:	Don't Know:	
117 17.2%						554 81.2%	11 1.6%	
Did you have to use the extended warranty, maintenance agreement, or service contract for the product to obtain repairs or a replacement?								
Yes:						No:		
							N/A	

72 (61.5%)							45 (38.5%)	
Satisfaction rating with the <u>service process</u> you were directed to follow to get the repair, maintenance or replacement completed?	Very Dissatisfied (1)	Somewhat Dissatisfied	Neither Satisfied or Dissatisfied	Somewhat Satisfied	Very Satisfied (5)	Avg. (SD)	N/A	
	0 (0.0%)	1 (1.4%)	3 (4.2%)	34 (47.2%)	34 (47.2%)	4.40 (.64)		

**GENERAL DCA AWARENESS:**

Question	Yes	No	Don't Know	Follow Up Question	Rating	Mean (SD)	
Before this survey I was aware of the California State Department of Consumer Affairs (DCA) and its general mission.	321 (47.3%)	312 (46.0%)	45 (6.6%)		(none)		
Before this survey I was aware that the consumer products and services in California covered in this survey are included in the safety and consumer protection jurisdiction of the DCA.	226 (33.3%)	388 (57.2%)	64 (9.4%)	How important is it to you that service contracts on consumer products are under the consumer protection roles of the California DCA?	Very unimportant	12 (1.8%)	4.23 (.89)
					Somewhat unimportant	8 (1.2%)	
					Neither important or unimportant	109 (16.1%)	
					Somewhat important	229 (33.8%)	
					Very Important	320 (47.2%)	
Before this survey I was aware that bedding and upholstered	271 (40.0%)	354 (52.2%)	53 (7.8%)	How important is to you that bedding and upholstered furniture fire	Very unimportant	12 (1.8%)	4.23 (.90)
					Somewhat unimportant	9	



Question	Yes	No	Don't Know	Follow Up Question	Rating	Mean (SD)
furniture products in California are tested by DCA for resistance to fire (flammability) requirements.				resistance standards are under the consumer protection roles of the California DCA?		(1.3%)
					Neither important or unimportant	118 (17.4%)
					Somewhat important	213 (31.4%)
					Very Important	326 (48.1%)
Before this survey I was aware that used/rebuilt bedding products offered by retailers are tested by DCA for meeting sanitization requirements.	181 (26.7%)	438 (64.6%)	59 (8.7%)	How important is it to you that bedding sanitization standards are under the consumer protection role of the California DCA?	Very unimportant	14 (2.1%)
					Somewhat unimportant	8 (1.2%)
					Neither important or unimportant	102 (15.0%)
					Somewhat important	184 (27.1%)
					Very Important	370 (54.6%)
Before this survey I was aware that appliance repair businesses in California are registered under the consumer protection roles of the DCA.	222 (32.7%)	398 (58.7%)	58 (8.6%)	How important is it to you that electronic and appliance repair businesses are under the consumer protection role of the California DCA?	Very unimportant	9 (1.3%)
					Somewhat unimportant	6 (0.9%)
					Neither important or unimportant	112 (16.5%)
					Somewhat Important	216 (31.9%)
					Very Important	335 (49.4%)
Before this survey I was aware that electronics repair businesses in California are registered under the consumer protection roles of the DCA.	216 (31.9%)	414 (61.1%)	48 (7.1%)			

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Limited survey respondent demographics were captured at the end of the survey and are reported in the table below.

<b>Demographic</b>	<b>Sub-group choices</b>	<b>Percentage of total respondents</b>
<b>Age (years)</b>	18-29	11.9%
	30-39	21.3%
	40-49	17.9%
	50-59	18.2%
	60-69	19.0%
	70 or greater	11.6%
	Decline to state	0.1%
<b>Gender</b>	Female	53.3%
	Male	46.4%
	Decline to state	0.3%
<b>Housing Situation</b>	Own home	66.5%
	Renter	29.6%
	Other housing arrangement	3.4%
	Decline to state	0.4%
<b>Annual Household Income</b>	>\$100K	20.2%
	>\$75K--\$100K	19.2%
	>\$50K--\$75K	18.3%
	>25K--\$50K	19.3%
	<\$25K	18.3%
	Decline to state	4.6%

# Appendix F





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**NATIONAL WARRANTY SURVEY – NOVEMBER 2014**

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**HOW THE SURVEY WAS CONDUCTED**

This survey was conducted by Mason-Dixon Polling & Research, Inc. of Jacksonville, Florida from November 13 through November 19, 2014. A total of 1,000 adults were interviewed nationwide by telephone.

Those interviewed on cell phones were selected from a list of working cell phone numbers. Those interviewed on land-lines were selected by the random variation of the last four digits of telephone numbers. A cross-section of exchanges was utilized and regional quotas assigned based on population in order to ensure an accurate reflection of the country.

The margin for error, according to standards customarily used by statisticians, is no more than plus or minus 3.2 percentage points. This means that there is a 95 percent probability that the "true" figure would fall within that range if the entire population were sampled. The margin for error is higher for any subgroup, such as a regional or gender grouping.

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**SURVEY RESULTS**

**I am going to read a series of statements. After each one, please tell me if you agree or disagree with it.**

**STATEMENT: I would rather spend a little more money if it saves me time.**

AGREE	67%
DISAGREE	28%
NOT SURE	5%

**STATEMENT: It is worth it to pay a little more to know that I don't have to deal with the hassle of repairs.**

AGREE	71%
DISAGREE	22%
NOT SURE	7%

**QUESTION: What is the main reason you purchased an extended warranty? (LIST NOT READ)**

37% - AVOID BIG, UNEXPECTED EXPENSE  
31% - AVOID HASSLE OF REPAIRS  
16% - FEEL THE POLICY WILL PAY OUT MORE THAN IT COST TO PURCHASE  
12% - PEACE OF MIND/REDUCE STRESS OR WORRY  
3% - OTHER  
1% - NOT SURE

**QUESTION: How satisfied were you with your decision to purchase a warranty or service contract?**

VERY SATISFIED	49%
SOMEWHAT SATISFIED	35%
SOMEWHAT UNSATISFIED	6%
VERY UNSATISFIED	5%
NOT SURE (NOT READ)	5%

**QUESTION: Do you see any of the following as a major benefit of having an extended Warranty on your consumer electronics, appliances, home systems or car services contracts?**

	<u>YES</u>	<u>NO</u>
- Peace of mind?	48%	52%
- Convenience?	48%	52%
- Avoid unexpected expenses?	55%	45%

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**DEMOGRAPHICS**

**AGE:**

18-29	156 (16%)
30-39	194 (19%)

40-49	198 (20%)
50-59	182 (18%)
60+	255 (26%)
Refused	15 (1%)

**RACE/ETHNICITY:**

White/Caucasian	706 (70%)
Black/African-American	136 (14%)
Hispanic/Latino	106 (11%)
Asian or Other	43 (4%)
Refused	9 (1%)

**EDUCATION:**

High School (or less)	258 (26%)
Some College/Technical School	336 (34%)
College Degree	253 (25%)
Graduate Degree	140 (14%)
Refused	13 (1%)

**INCOME:**

<\$25,000	109 (11%)
\$25,000-\$34,999	102 (10%)
\$35,000-\$49,999	110 (11%)
\$50,000-\$74,999	106 (11%)
\$75,000-\$99,999	113 (11%)
\$100,000-\$124,999	99 (10%)
\$125,000+	137 (14%)
Refused	224 (22%)

**SEX:**

Male	488 (49%)
Female	512 (51%)

**REGION:**

Northeast	208 (21%)
Midwest	204 (20%)
South	311 (31%)
Western Interior	126 (13%)
Pacific Coast	151 (15%)

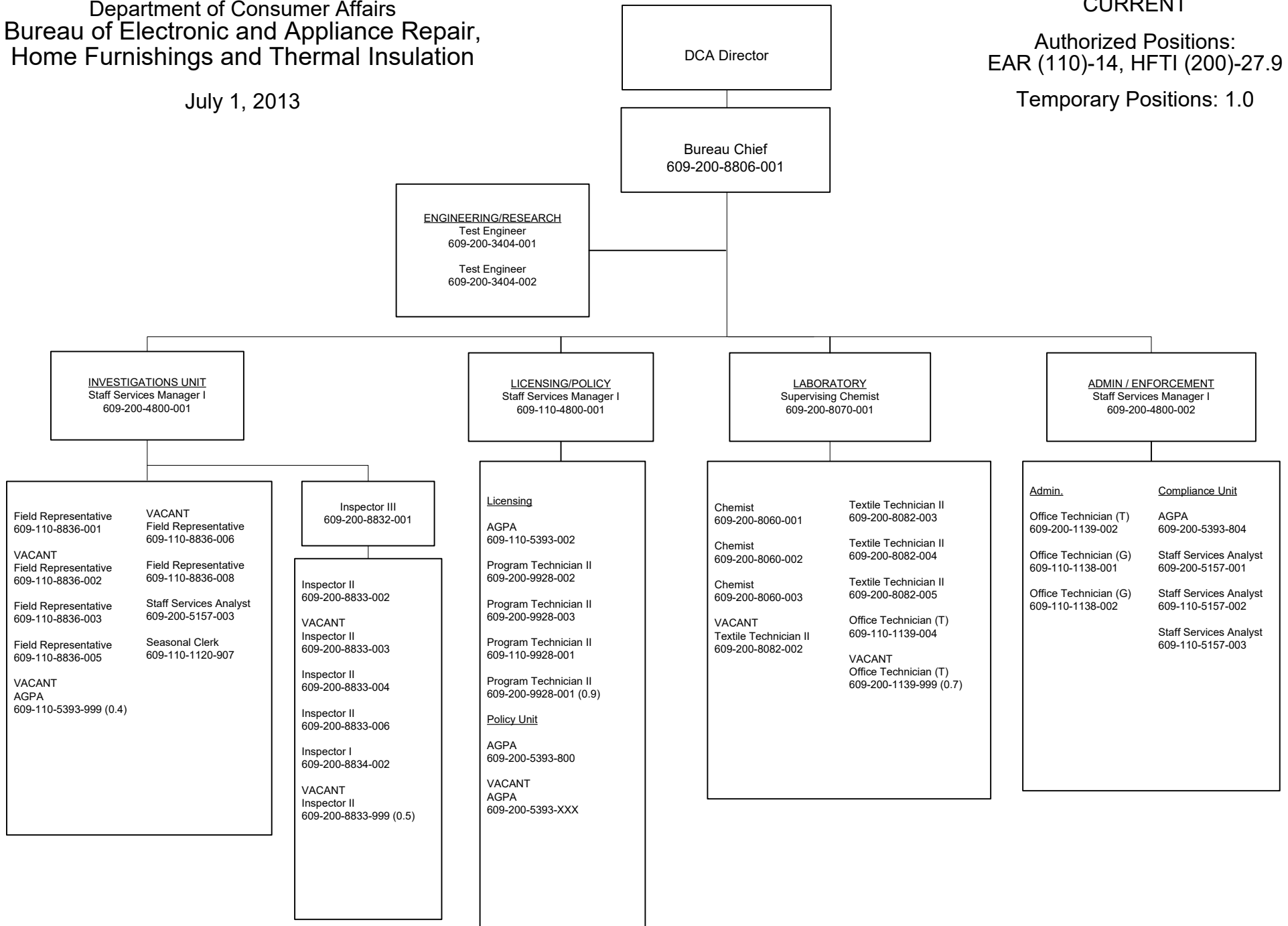
## Organizational Charts



Department of Consumer Affairs  
 Bureau of Electronic and Appliance Repair,  
 Home Furnishings and Thermal Insulation

July 1, 2013

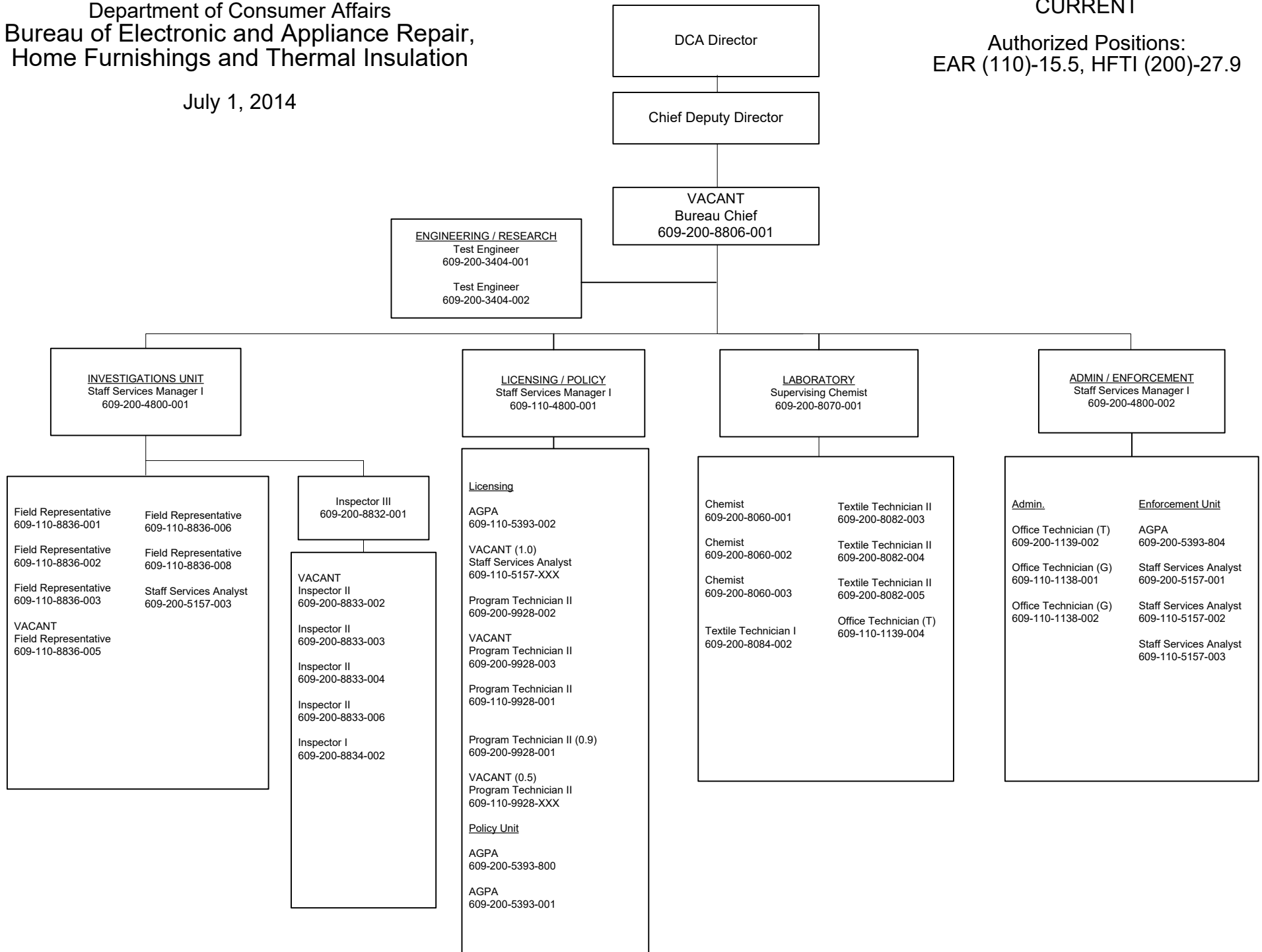
CURRENT  
 Authorized Positions:  
 EAR (110)-14, HFTI (200)-27.9  
 Temporary Positions: 1.0



Department of Consumer Affairs  
 Bureau of Electronic and Appliance Repair,  
 Home Furnishings and Thermal Insulation

July 1, 2014

CURRENT  
 Authorized Positions:  
 EAR (110)-15.5, HFTI (200)-27.9

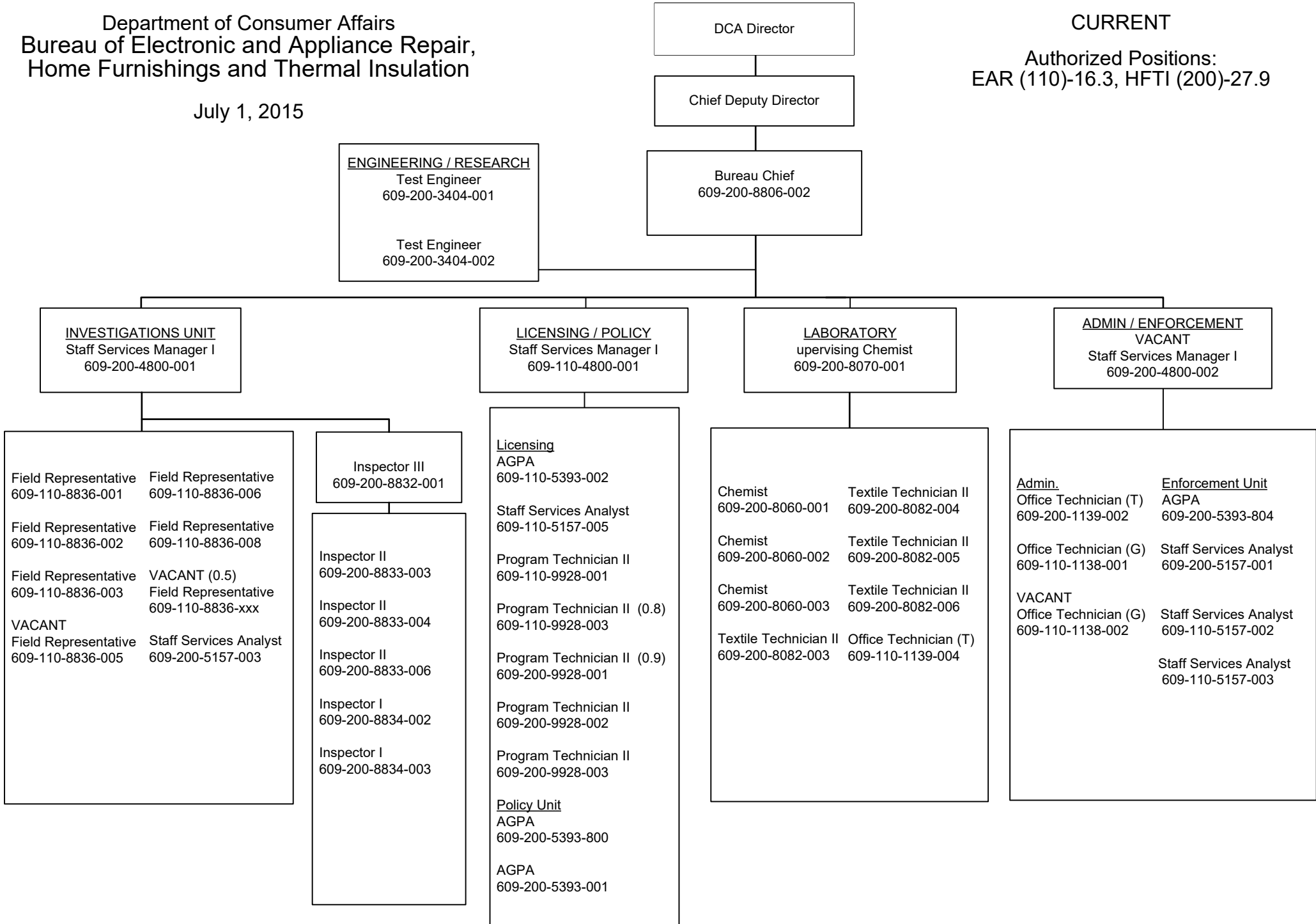


Department of Consumer Affairs  
 Bureau of Electronic and Appliance Repair,  
 Home Furnishings and Thermal Insulation

July 1, 2015

CURRENT

Authorized Positions:  
 EAR (110)-16.3, HFTI (200)-27.9



Department of Consumer Affairs  
 Bureau of Electronic and Appliance Repair,  
 Home Furnishings and Thermal Insulation

July 1, 2016

CURRENT

Authorized Positions:  
 EAR (110)-17.0 HFTI (200)-27.9

\*Former CRP (609-391)-3.0

DCA Director

Chief Deputy Director

Bureau Chief  
 609-200-8806-002

Staff Services Manager II  
 609-200-4801-001

ENGINEERING / RESEARCH  
 Test Engineer  
 609-200-3404-001  
  
 Test Engineer  
 609-200-3404-002

INVESTIGATIONS UNIT  
 Staff Services Manager I  
 609-200-4800-001

LICENSING / POLICY  
 Staff Services Manager I  
 609-110-4800-001

LABORATORY  
 Supervising Chemist  
 609-200-8070-001

VACANT Field Representative 609-110-8836-001	VACANT Field Representative 609-110-8836-006
Field Representative 609-110-8836-002	Field Representative 609-110-8836-008
Field Representative 609-110-8836-003	VACANT Field Representative 609-110-8836-010
VACANT Field Representative 609-110-8836-005	Staff Services Analyst 609-200-5157-003

Inspector III  
 609-200-8832-001

Inspector II  
 609-200-8833-003

Inspector II  
 609-200-8833-004

Inspector II  
 609-200-8833-006

Inspector I  
 609-200-8834-002

Inspector I  
 609-200-8834-003

Licensing

AGPA  
 609-110-5393-002

Staff Services Analyst  
 609-110-5157-005

Program Technician II  
 609-110-9928-001

VACANT  
 Program Technician II  
 609-110-9928-003

Program Technician II (0.9)  
 609-200-9928-001

Program Technician II  
 609-200-9928-002

Program Technician II  
 609-200-9928-003

Policy Unit

AGPA  
 609-200-5393-800

AGPA  
 609-200-5393-001

<u>Admin.</u>	<u>Enforcement Unit</u>
Office Technician (T) 609-200-1139-002	AGPA 609-200-5393-804
Office Technician (G) 609-110-1138-001	VACANT Staff Services Analyst 609-200-5157-001
Office Technician (T) 609-110-1139-006	Staff Services Analyst 609-110-5157-002
<u>Complaint Resolution*</u>	
Consumer Services Rep 604-391-8634-017	Staff Services Analyst 609-110-5157-003
Consumer Services Rep 604-391-8634-020	
Consumer Services Rep 604-391-8634-021	

Chemist 609-200-8060-001	VACANT Textile Technician II 609-200-8082-004
Chemist 609-200-8060-002	Textile Technician II 609-200-8082-005
Chemist 609-200-8060-003	Textile Technician II 609-200-8082-006
Textile Technician II 609-200-8082-003	Office Technician (T) 609-110-1139-004

**Bureau's Annual and Quarterly Performance  
Measure Reports**

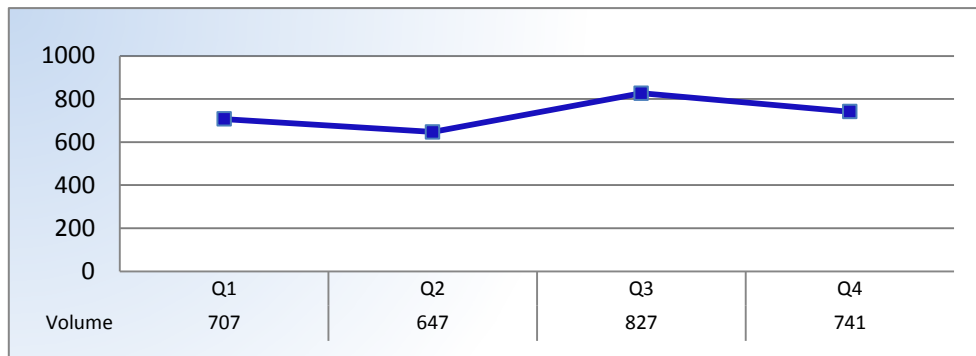
# Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation Performance Measures

## Annual Report (2013 – 2014 Fiscal Year)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

### PM1 | Volume

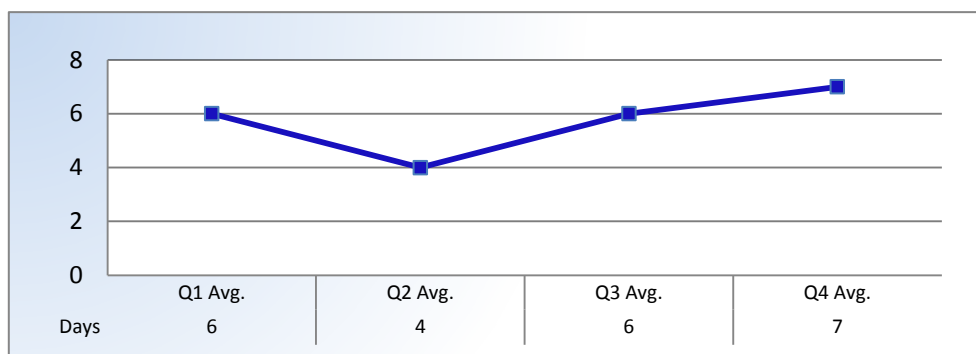
Number of complaints and convictions received.



**Fiscal Year Total: 2,922**

### PM2 | Intake

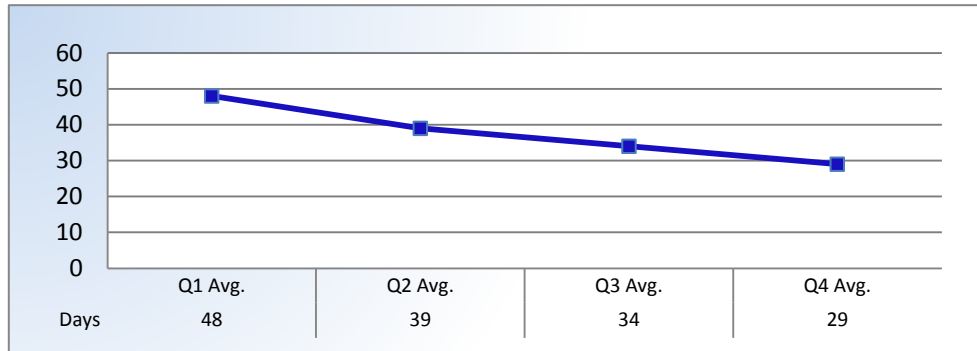
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days**

### PM3 | Intake & Investigation

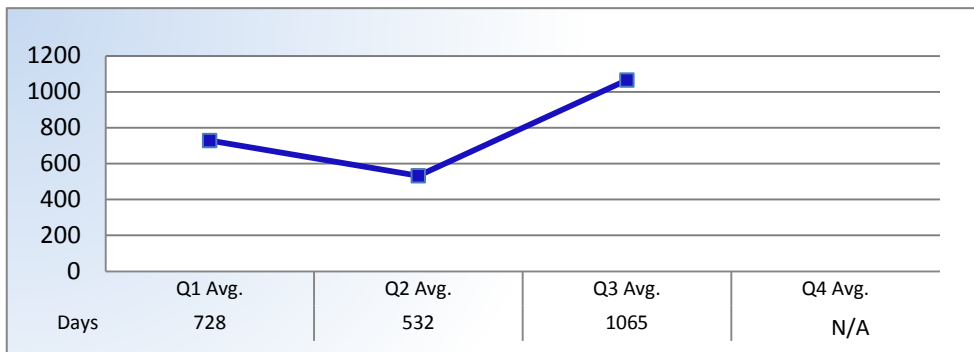
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



**Target Average: 180 Days**

### PM4 | Formal Discipline

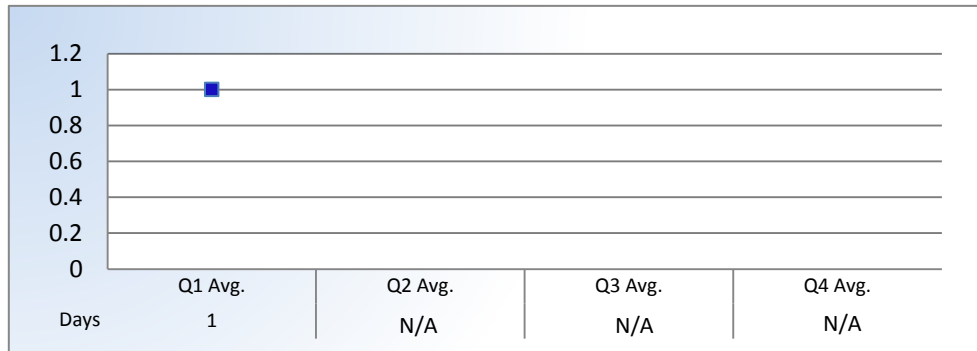
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau and prosecution by the AG).



**Target Average: 540 Days**

### PM7 | Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



**Target Average: 10 Days**

### PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

*The Bureau did not have any probation violations reported this year.*

**Target Average: 10 Days**



# Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation

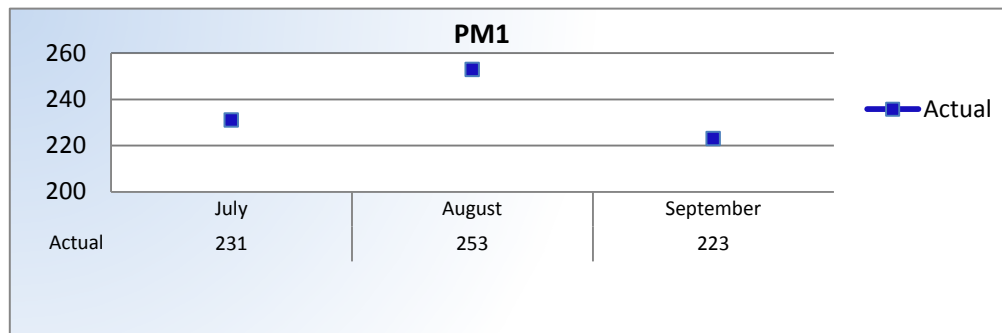
## Performance Measures

### Q1 Report (July - September 2013)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.

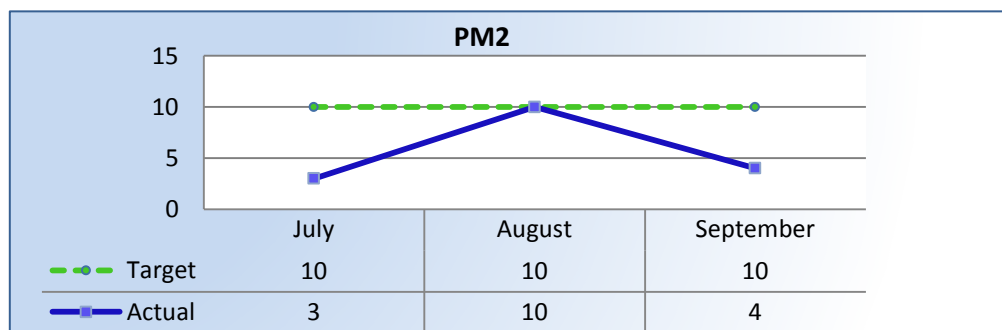


Total Received: 707 Monthly Average: 236

**Complaints: 707 | Convictions: 0**

#### PM2 | Intake

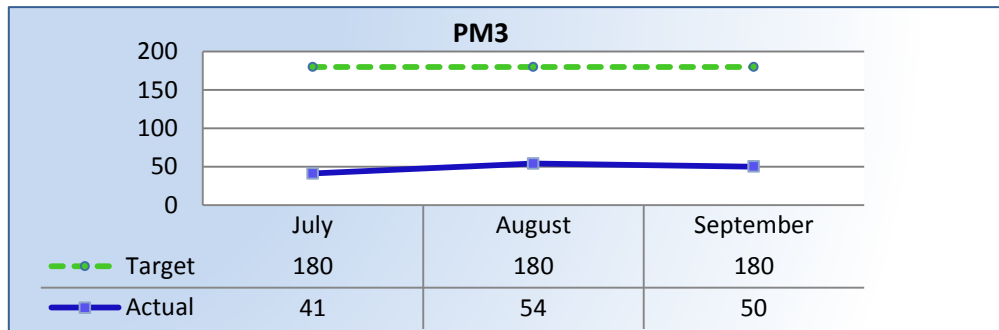
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days | Actual Average: 6 Days**

### PM3 | Intake & Investigation

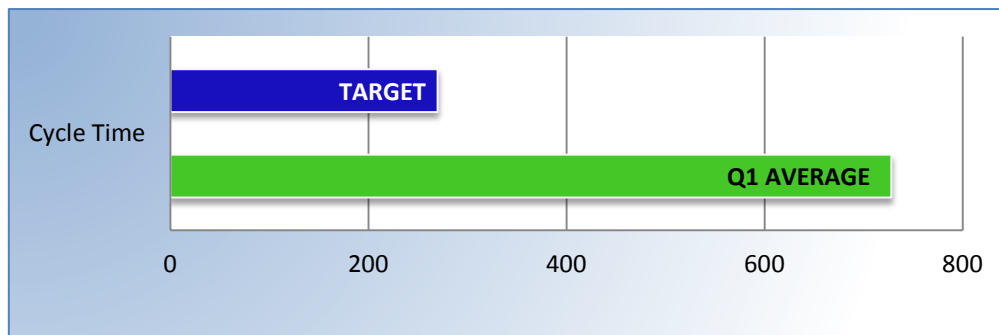
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



**Target Average: 180 Days | Actual Average: 48 Days**

### PM4 | Formal Discipline

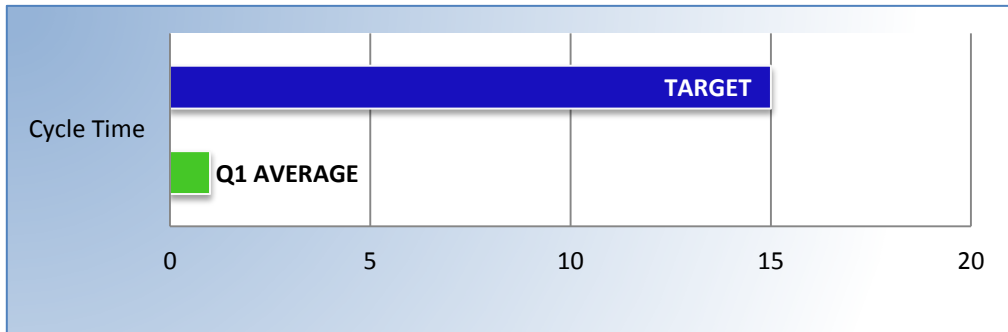
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau and prosecution by the AG).



**Target Average: 540 Days | Actual Average: 728 Days**

### PM7 | Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



**Target Average: 15 Days | Actual Average: 1 Day**

### PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

*The Bureau did not report any new probation violations this quarter.*

**Target Average: 30 Days | Actual Average: N/A**

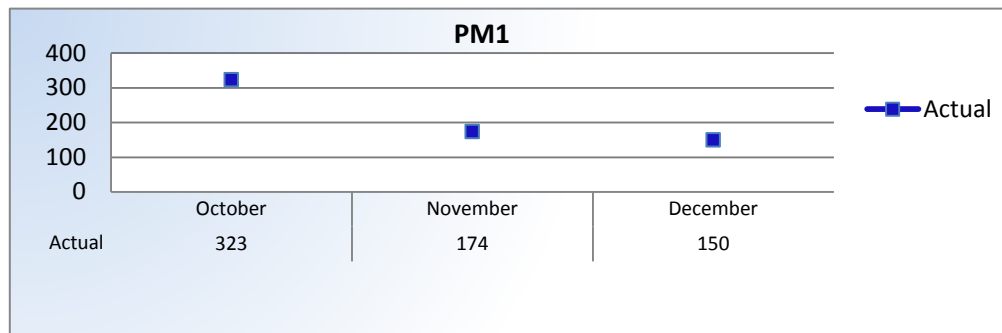
# Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation Performance Measures

## Q2 Report (October - December 2013)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

### PM1 | Volume

Number of complaints and convictions received.

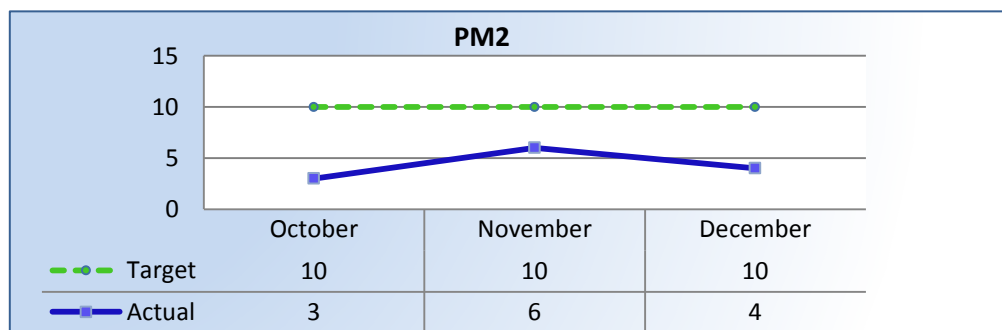


Total Received: 647 Monthly Average: 216

**Complaints: 647 | Convictions: 0**

### PM2 | Intake

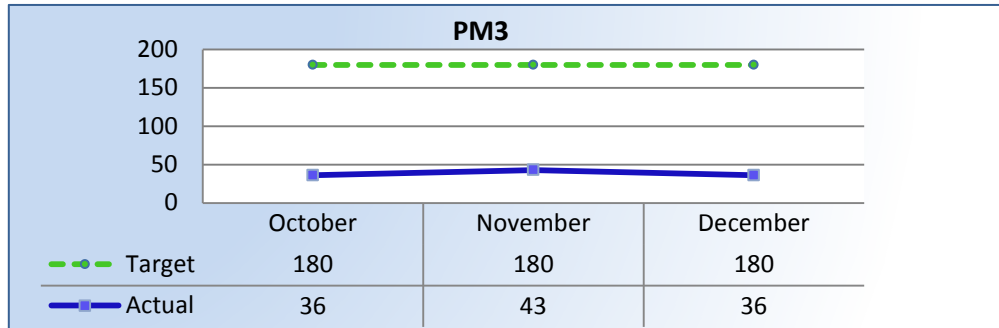
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days | Actual Average: 4 Days**

### PM3 | Intake & Investigation

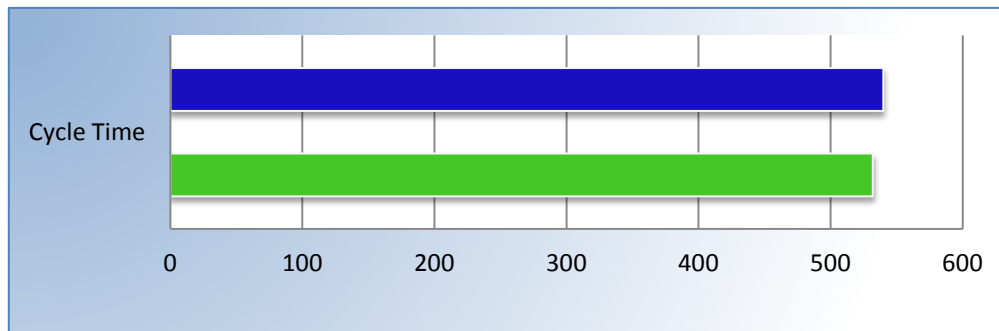
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



**Target Average: 180 Days | Actual Average: 39 Days**

### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau and prosecution by the AG).



**Target Average: 540 Days | Actual Average: 532 Days**

### **PM7 | Probation Intake**

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

*The Bureau did not contact any new probationers this quarter.*

**Target Average: 15 Days | Actual Average: N/A**

### **PM8 | Probation Violation Response**

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

*The Bureau did not report any new probation violations this quarter.*

**Target Average: 30 Days | Actual Average: N/A**

# Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation

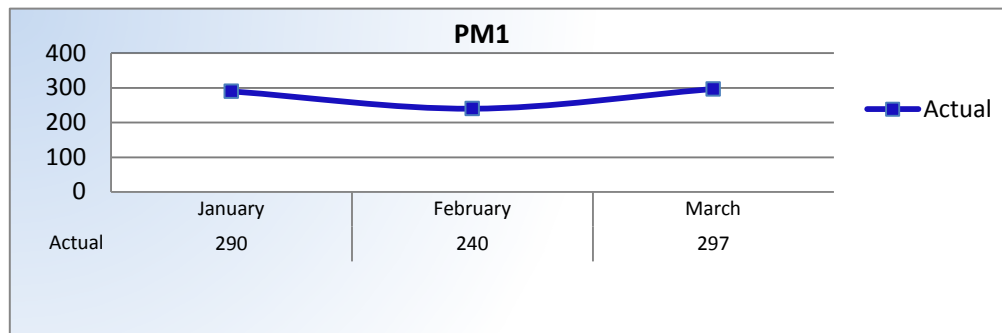
## Performance Measures

### Q3 Report (January - March 2014)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.

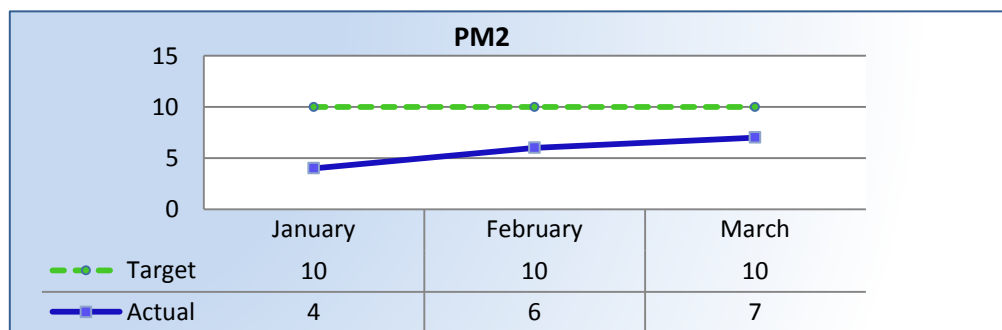


Total Received: 827 Monthly Average: 276

**Complaints: 825 | Convictions: 2**

#### PM2 | Intake

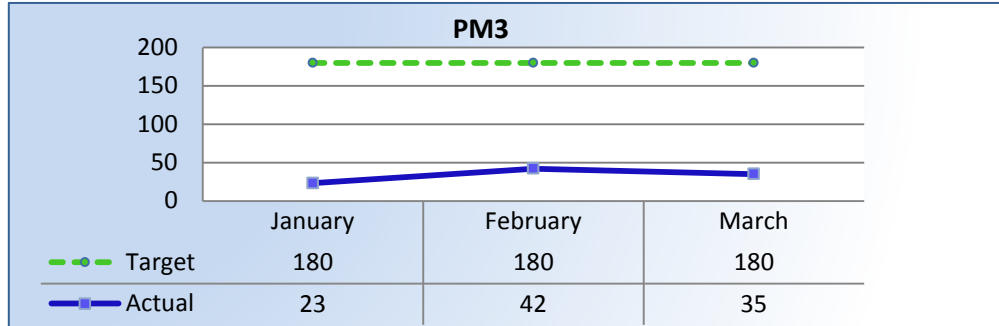
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days | Actual Average: 6 Days**

### PM3 | Intake & Investigation

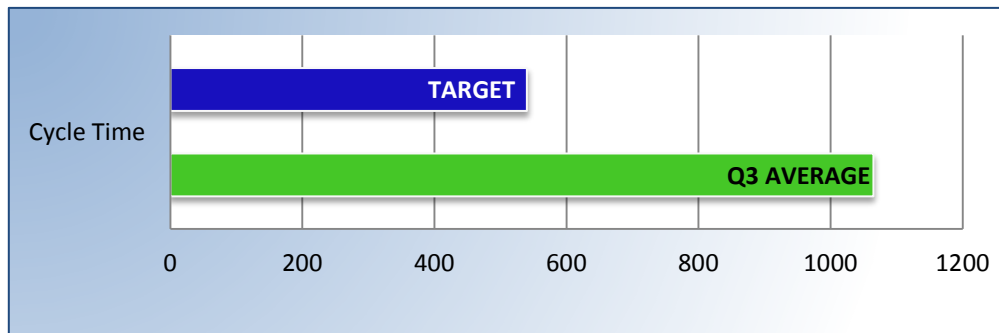
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



**Target Average: 180 Days | Actual Average: 34 Days**

### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau and prosecution by the AG).



**Target Average: 540 Days | Actual Average: 1065 Days**



### **PM7 | Probation Intake**

**Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.**

*The Bureau did not contact any new probationers this quarter.*

**Target Average: 15 Days | Actual Average: N/A**

### **PM8 | Probation Violation Response**

**Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.**

*The Bureau did not report any new probation violations this quarter.*

**Target Average: 30 Days | Actual Average: N/A**

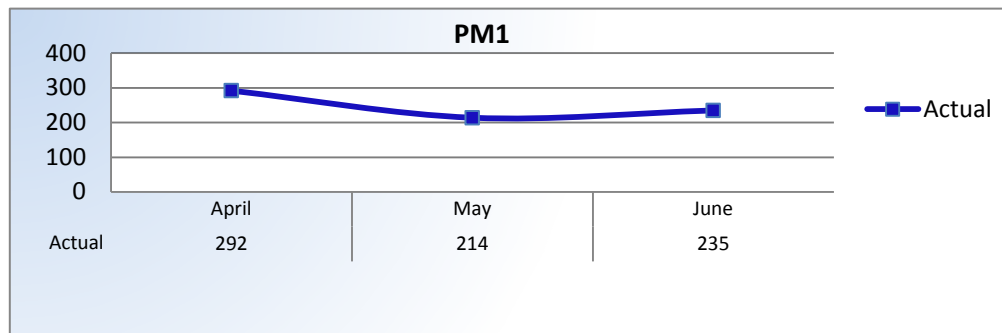
# Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation Performance Measures

## Q4 Report (April - June 2014)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

### PM1 | Volume

Number of complaints and convictions received.

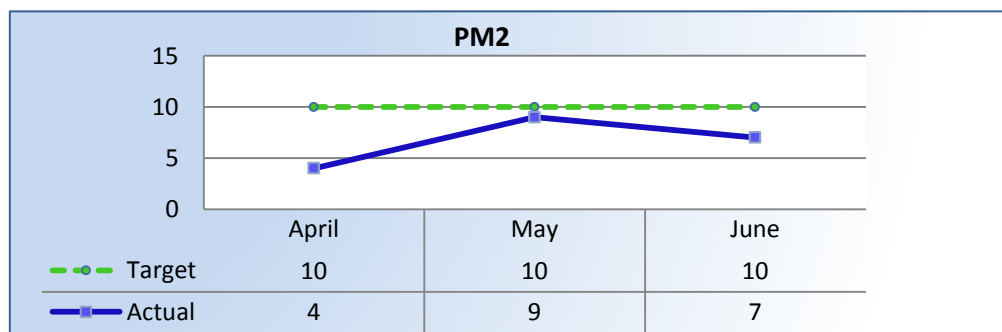


Total Received: 741 Monthly Average: 247

**Complaints: 741 | Convictions: 0**

### PM2 | Intake

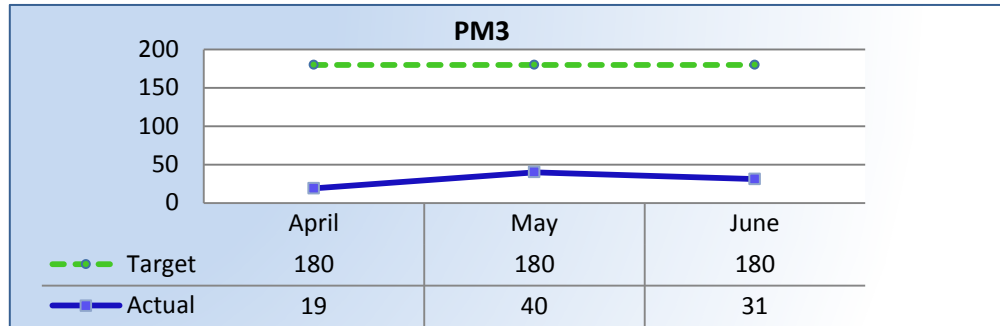
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days | Actual Average: 7 Days**

### PM3 | Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



**Target Average: 180 Days | Actual Average: 29 Days**

### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau and prosecution by the AG).

*The Bureau did not report any formal disciplinary data this quarter.*

**Target Average: 540 Days | Actual Average: N/A**

### **PM7 | Probation Intake**

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

*The Bureau did not contact any new probationers this quarter.*

**Target Average:** 15 Days | **Actual Average:** N/A

### **PM8 | Probation Violation Response**

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

*The Bureau did not report any new probation violations this quarter.*

**Target Average:** 30 Days | **Actual Average:** N/A

# Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation

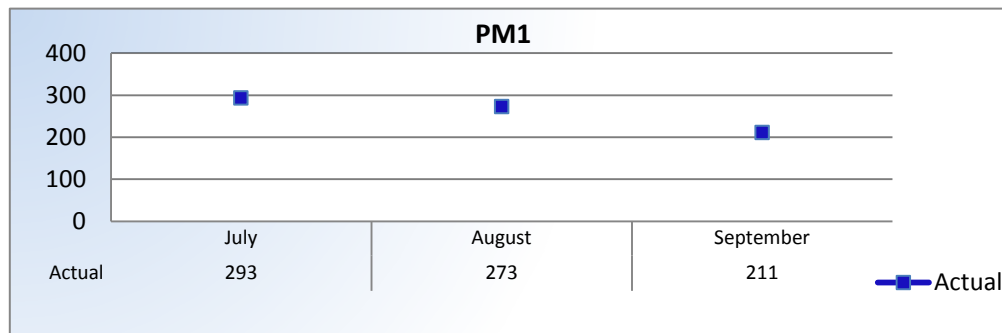
## Performance Measures

### Q1 Report (July - September 2014)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.

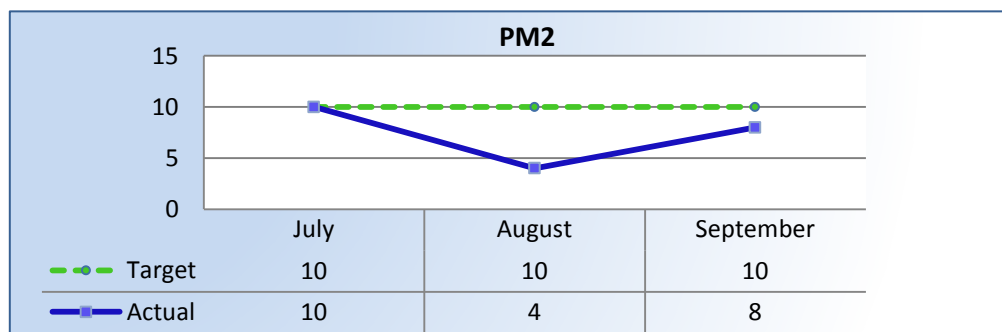


Total Received: 777 Monthly Average: 259

**Complaints: 777 | Convictions: 0**

#### PM2 | Intake

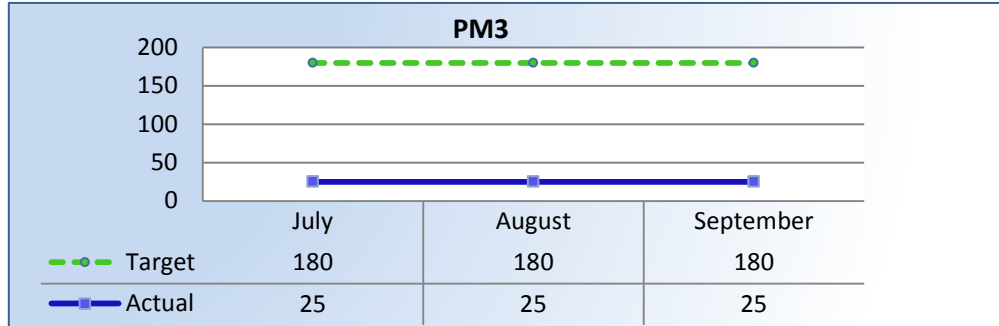
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days | Actual Average: 7 Days**

### PM3 | Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



**Target Average: 180 Days | Actual Average: 25 Days**

### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau and prosecution by the AG).

*The Bureau did not have any cases go through formal discipline this quarter.*

**Target Average: 540 Days | Actual Average: N/A**

### **PM7 | Probation Intake**

**Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.**

*The Bureau did not contact any new probationers this quarter.*

**Target Average: 15 Days | Actual Average: N/A**

### **PM8 | Probation Violation Response**

**Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.**

*The Bureau did not report any new probation violations this quarter.*

**Target Average: 30 Days | Actual Average: N/A**

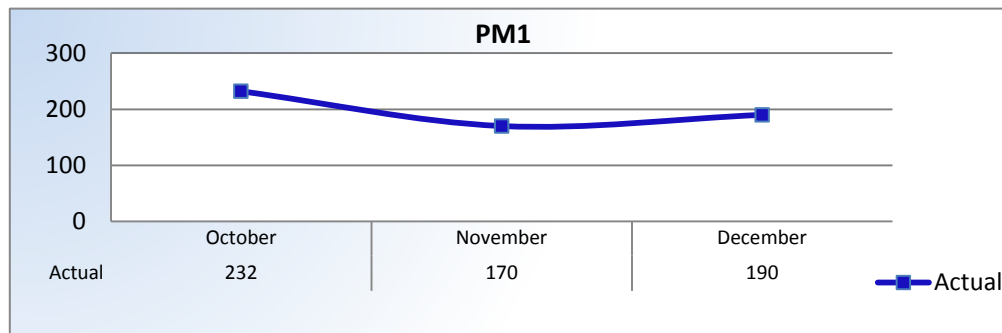
# Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation Performance Measures

## Q2 Report (October - December 2014)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

### PM1 | Volume

Number of complaints and convictions received.

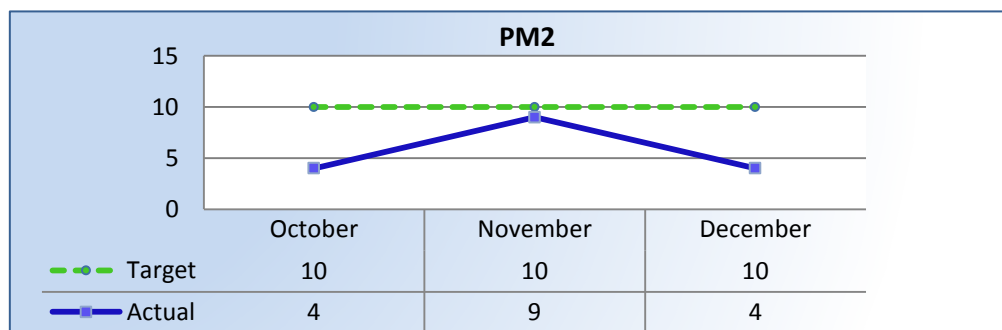


Total Received: 592 Monthly Average: 197

**Complaints: 591 | Convictions: 1**

### PM2 | Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

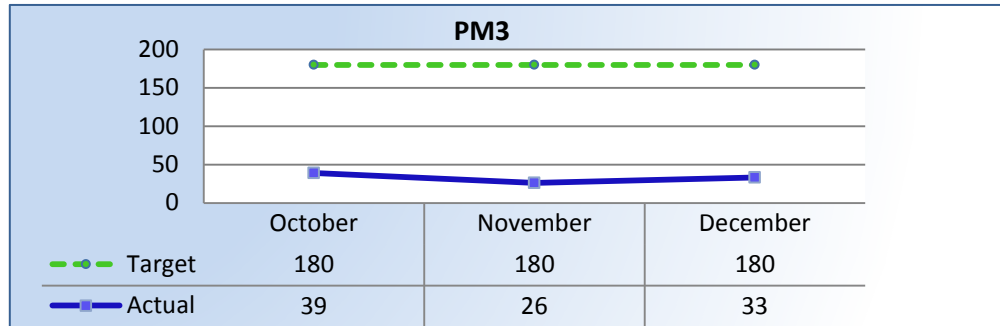


**Target Average: 10 Days | Actual Average: 5 Days**



### PM3 | Intake & Investigation

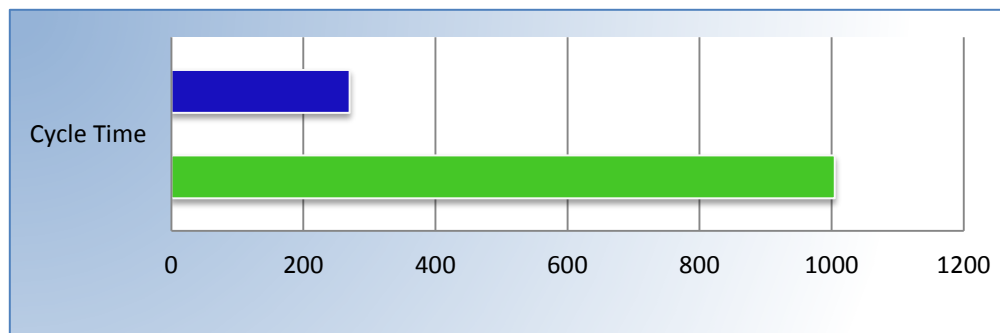
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



**Target Average: 180 Days | Actual Average: 33 Days**

### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau and prosecution by the AG).



**Target Average: 540 Days | Actual Average: 1,005 Days**

### **PM7 | Probation Intake**

**Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.**

*The Bureau did not contact any new probationers this quarter.*

**Target Average: 15 Days | Actual Average: N/A**

### **PM8 | Probation Violation Response**

**Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.**

*The Bureau did not have any probation violations this quarter.*

**Target Average: 30 Days | Actual Average: N/A**

# Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation

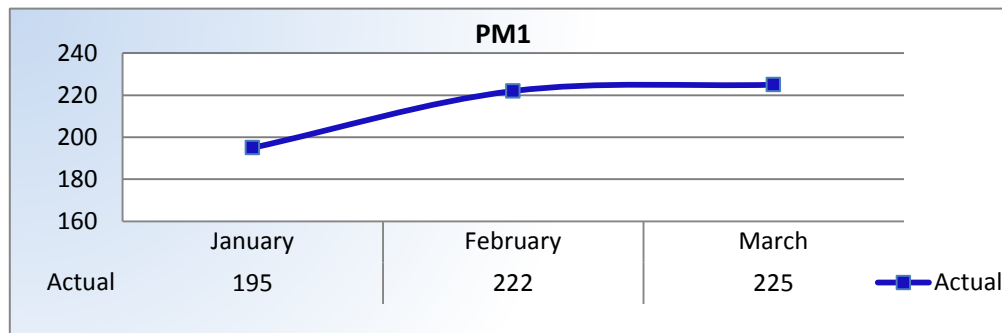
## Performance Measures

### Q3 Report (January – March 2015)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.

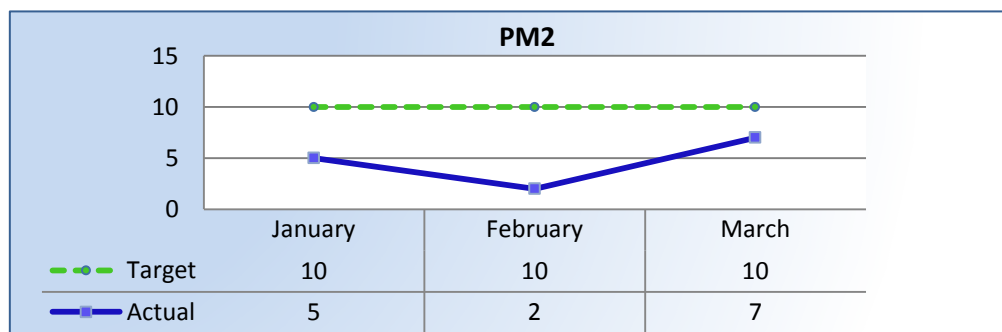


Total Received: 642 Monthly Average: 214

**Complaints: 641 | Convictions: 1**

#### PM2 | Intake

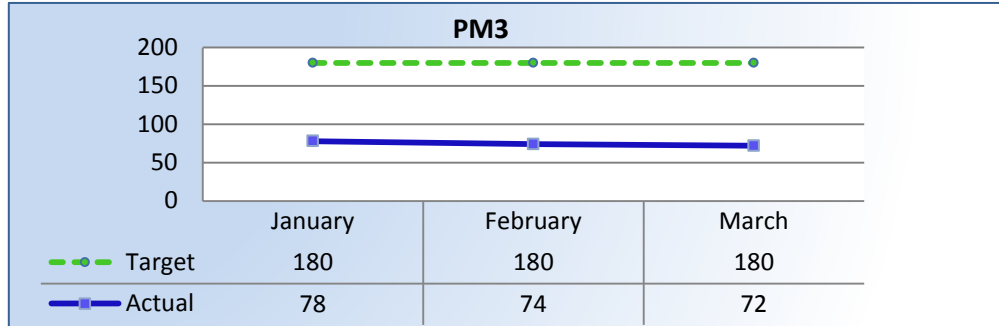
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days | Actual Average: 5 Days**

### PM3 | Intake & Investigation

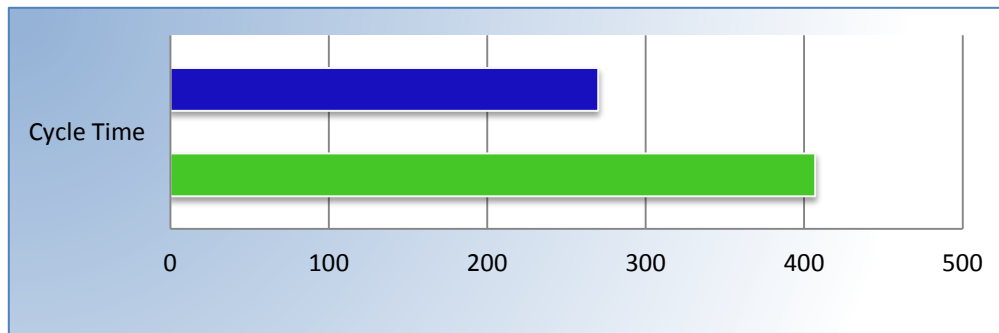
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



**Target Average: 180 Days | Actual Average: 75 Days**

### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau and prosecution by the AG).



**Target Average: 540 Days | Actual Average: 407 Days**

### PM7 | Probation Intake

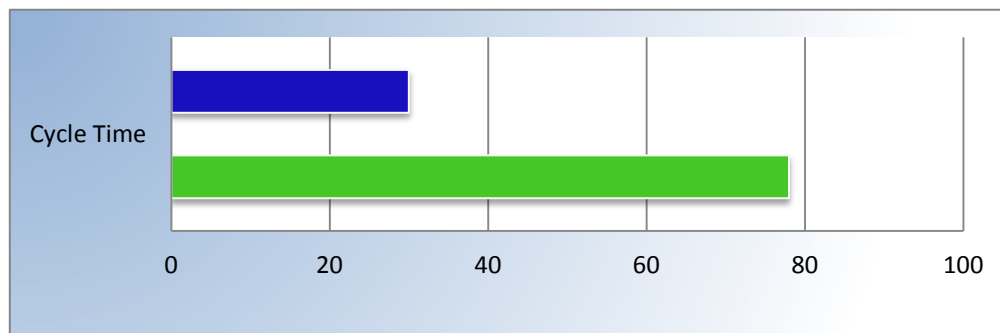
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

*The Bureau did not contact any new probationers this quarter.*

**Target Average: 15 Days | Actual Average: N/A**

### PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



**Target Average: 30 Days | Actual Average: 78**

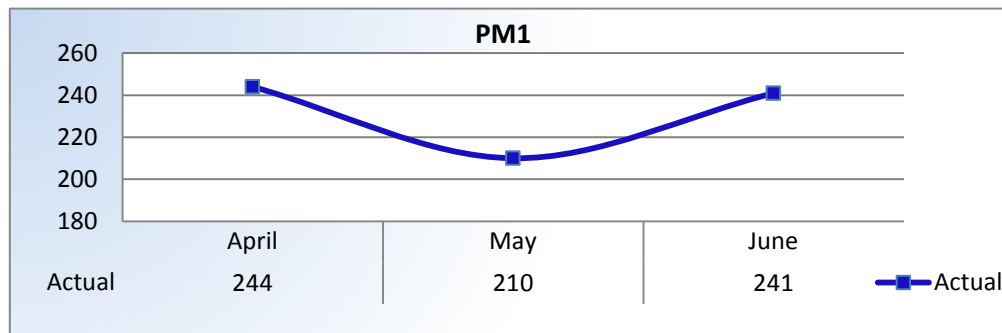
# Bureau of Electronic Appliance Repair, Home Furnishings and Thermal Insulation Performance Measures

## Q4 Report (April – June 2015)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

### PM1 | Volume

Number of complaints and convictions received.

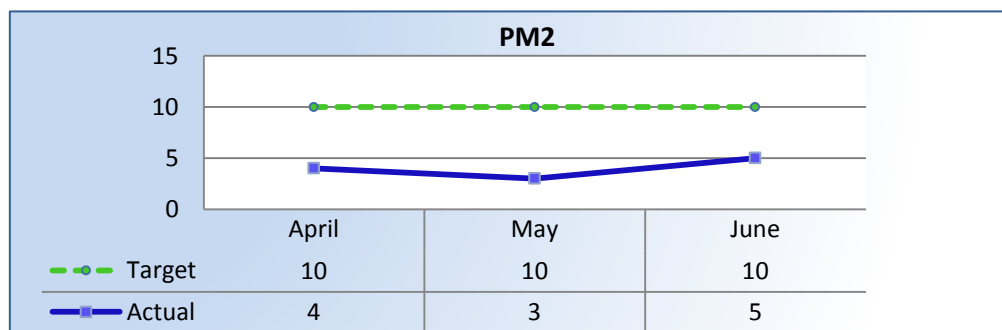


Total Received: 695 Monthly Average: 232

**Complaints: 695 | Convictions: 0**

### PM2 | Intake

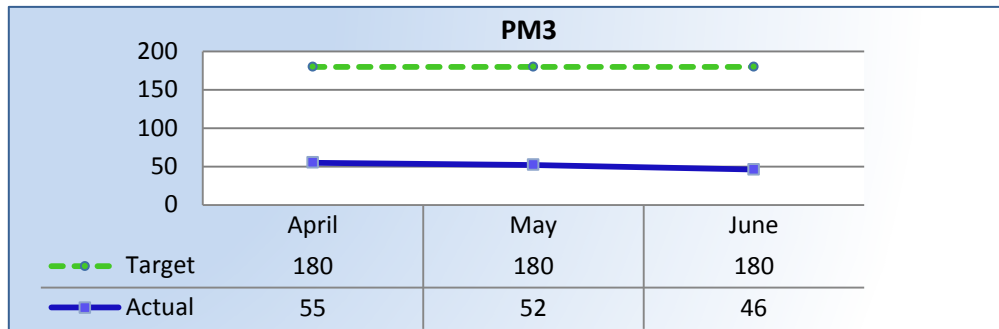
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days | Actual Average: 4 Days**

### PM3 | Intake & Investigation

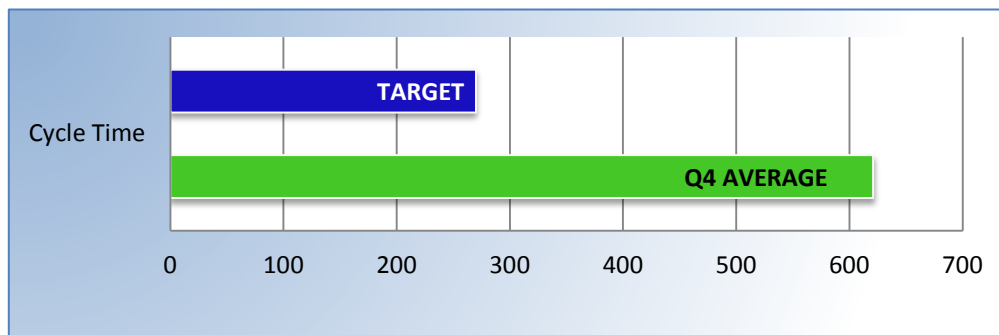
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



**Target Average: 180 Days | Actual Average: 51 Days**

### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



**Target Average: 540 Days | Actual Average: 621 Days**

### **PM7 | Probation Intake**

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

*The Bureau did not contact any new probationers this quarter.*

**Target Average:** 15 Days | **Actual Average:** N/A

### **PM8 | Probation Violation Response**

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

*The Bureau did not have any new probation violations this quarter.*

**Target Average:** 30 Days | **Actual Average:** N/A



# Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation

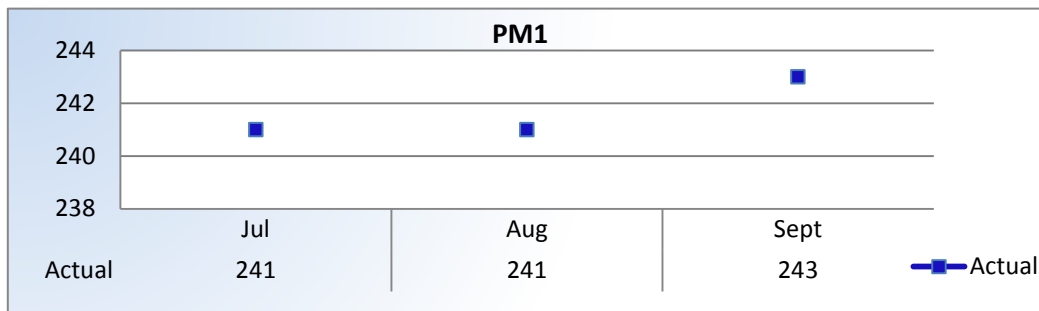
## Performance Measures

### Q1 Report (July - September 2015)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.

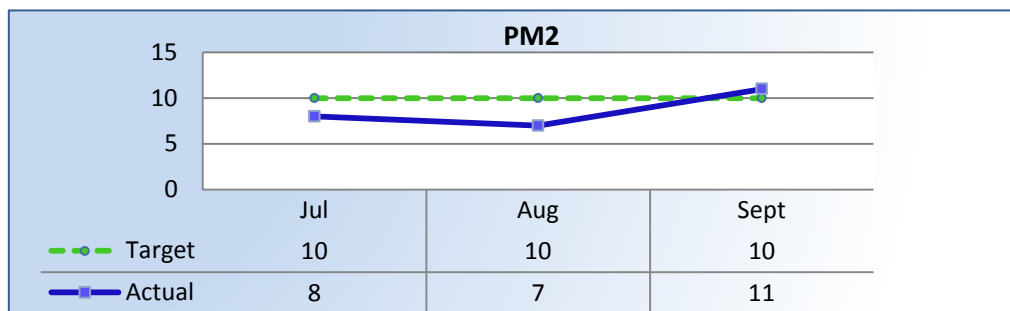


**Total Received: 725 Monthly Average: 242**

**Complaints: 725 | Convictions: 0**

#### PM2 | Intake

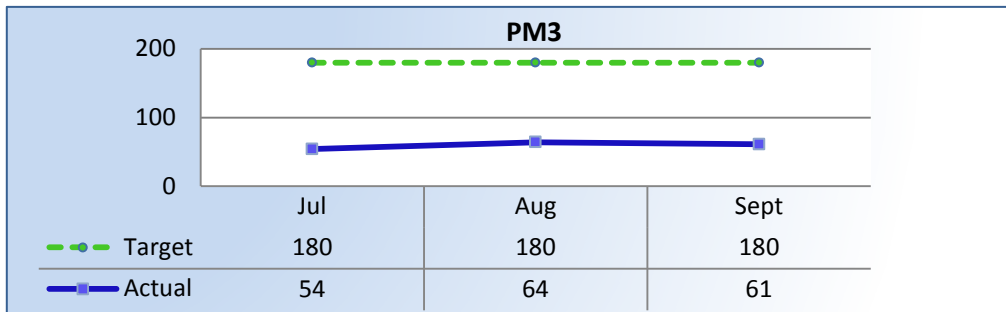
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days | Actual Average: 9 Days**

### PM3 | Intake & Investigation

Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



**Target Average: 180 Days | Actual Average: 59 Days**

### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)

*The Bureau did not have any cases closed in formal discipline this quarter.*

**Target Average: 540 Days | Actual Average: N/A**

### **PM7 | Probation Intake**

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

*The Bureau did not contact any new probationers this quarter.*

**Target Average:** 15 Days | **Actual Average:** N/A

### **PM8 | Probation Violation Response**

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

*The Bureau did not have any new probation violations this quarter.*

**Target Average:** 30 Days | **Actual Average:** N/A

# Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation

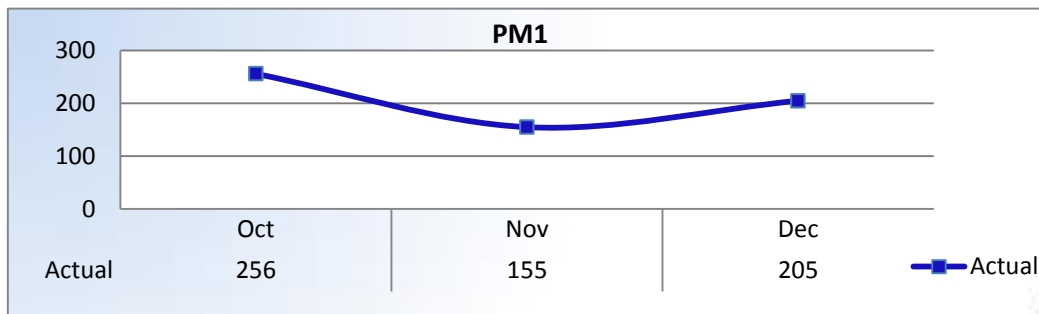
## Performance Measures

### Q2 Report (October - December 2015)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.

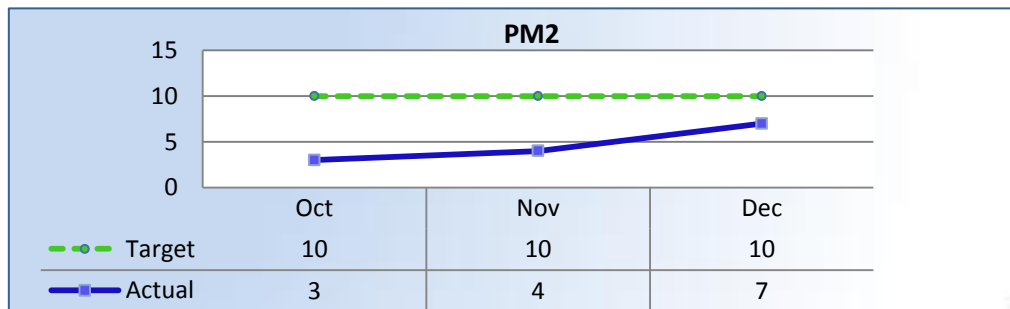


**Total Received: 616 Monthly Average: 205**

**Complaints: 616 | Convictions: 0**

#### PM2 | Intake

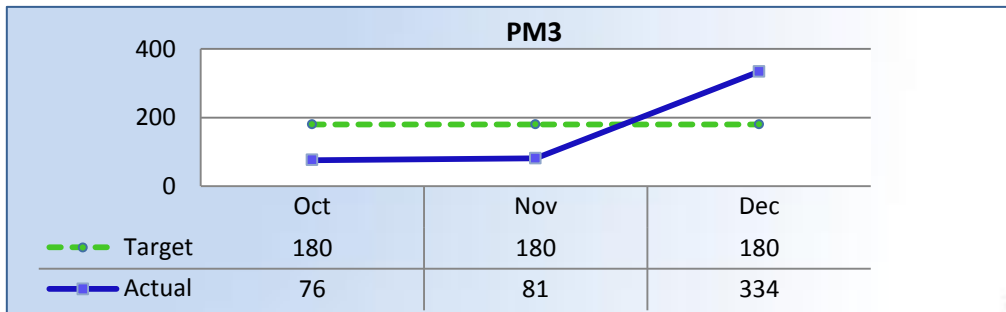
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days | Actual Average: 5 Days**

### PM3 | Intake & Investigation

Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



**Target Average: 180 Days | Actual Average: 201 Days**

### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)

*The Bureau did not have any cases closed in formal discipline this quarter.*

**Target Average: 540 Days | Actual Average: N/A**

### **PM7 | Probation Intake**

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

*The Bureau did not contact any new probationers this quarter.*

**Target Average:** 15 Days | **Actual Average:** N/A

### **PM8 | Probation Violation Response**

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

*The Bureau did not have any new probation violations this quarter.*

**Target Average:** 30 Days | **Actual Average:** N/A

# Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation

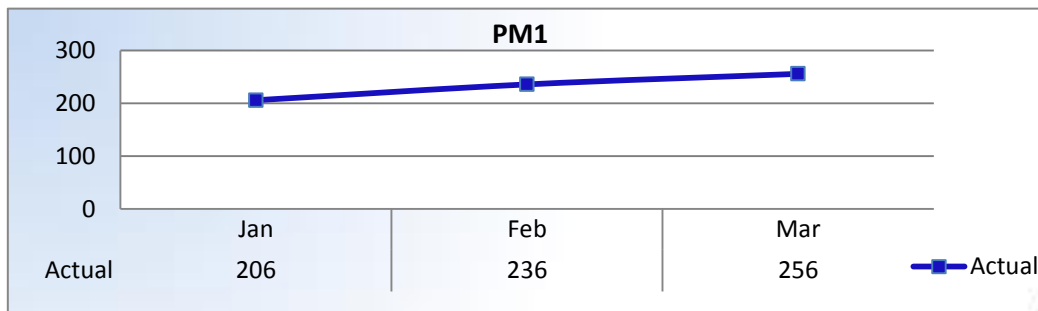
## Performance Measures

### Q3 Report (January – March 2016)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.

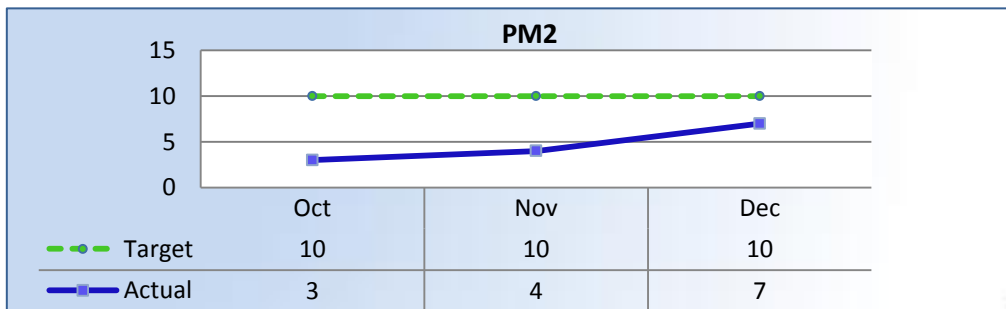


**Total Received: 698 Monthly Average: 233**

**Complaints: 698 | Convictions: 0**

#### PM2 | Intake

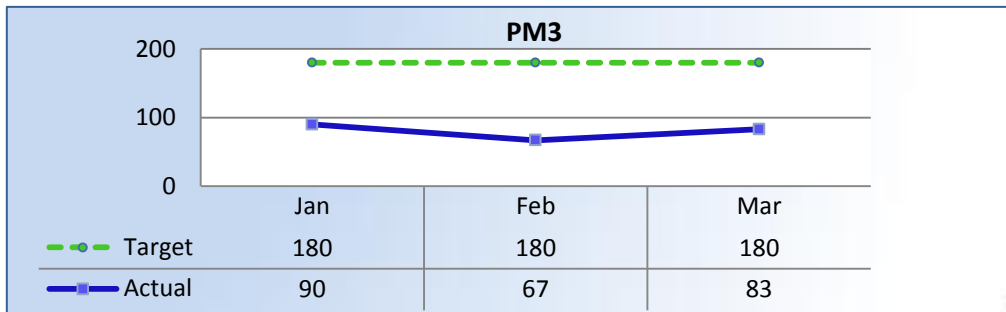
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days | Actual Average: 4 Days**

### PM3 | Intake & Investigation

Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



**Target Average: 180 Days | Actual Average: 80 Days**

### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)

*The Bureau did not have any cases closed in formal discipline this quarter.*

**Target Average: 540 Days | Actual Average: N/A**



### **PM7 | Probation Intake**

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

*The Bureau did not contact any new probationers this quarter.*

**Target Average:** 15 Days | **Actual Average:** N/A

### **PM8 | Probation Violation Response**

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

*The Bureau did not have any new probation violations this quarter.*

**Target Average:** 30 Days | **Actual Average:** N/A

# Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation

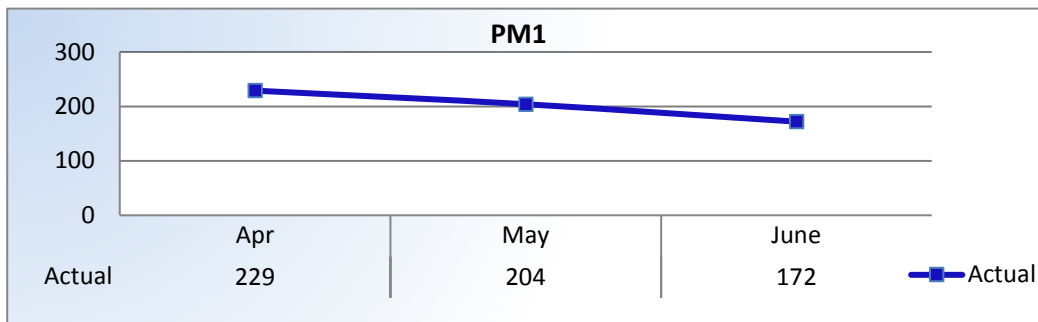
## Performance Measures

### Q4 Report (April - June 2016)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.

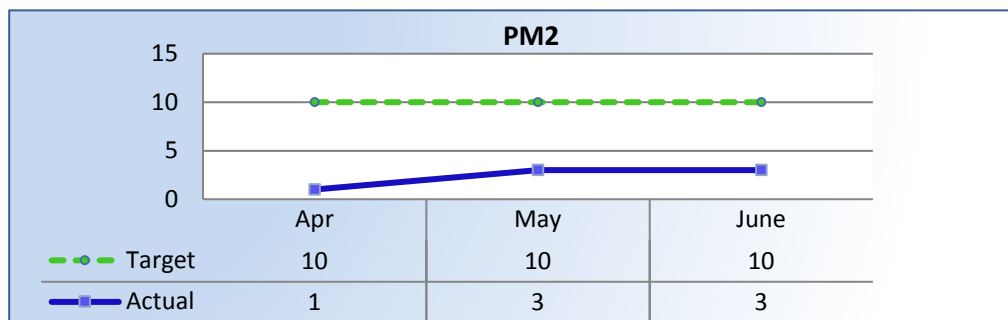


**Total Received: 605 Monthly Average: 202**

**Complaints: 605 | Convictions: 0**

#### PM2 | Intake

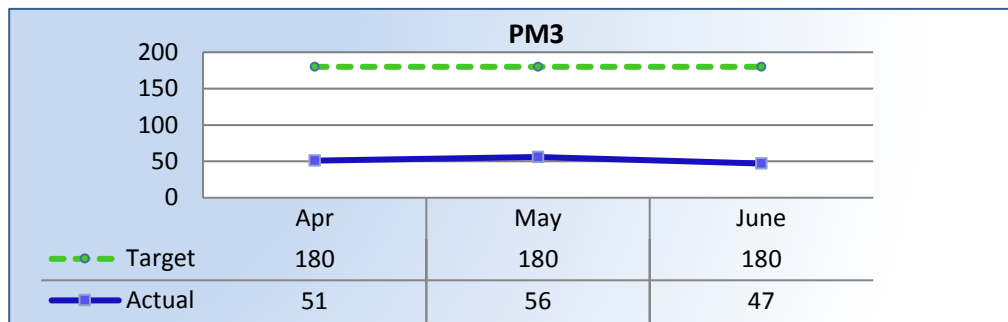
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 10 Days | Actual Average: 3 Days**

### PM3 | Intake & Investigation

Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



**Target Average: 180 Days | Actual Average: 51 Days**

### PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)

*The Bureau did not have any cases closed in formal discipline this quarter.*

**Target Average: 540 Days | Actual Average: n/a**

### **PM7 | Probation Intake**

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

*The Bureau did not contact any new probationers this quarter.*

**Target Average:** 15 Days | **Actual Average:** n/a

### **PM8 | Probation Violation Response**

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

*The Bureau did not have any new probation violations this quarter.*

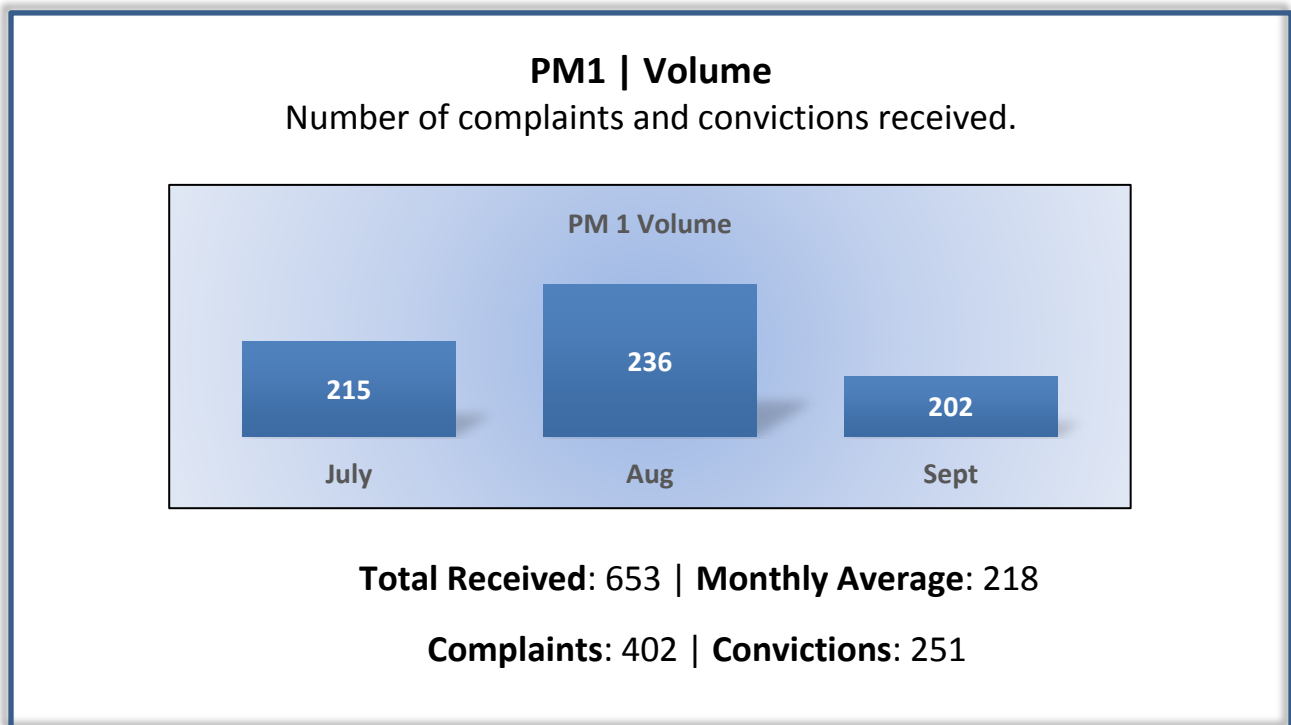
**Target Average:** 30 Days | **Actual Average:** n/a

# Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation

## Enforcement Performance Measures

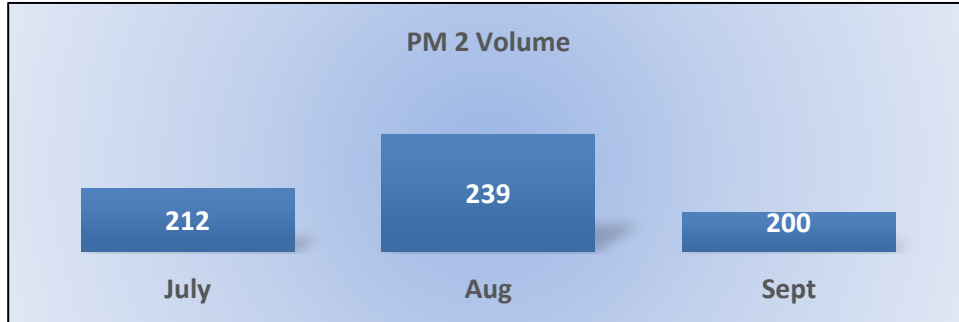
### Q1 Report (July - September 2016)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



### PM2 | Intake – Volume

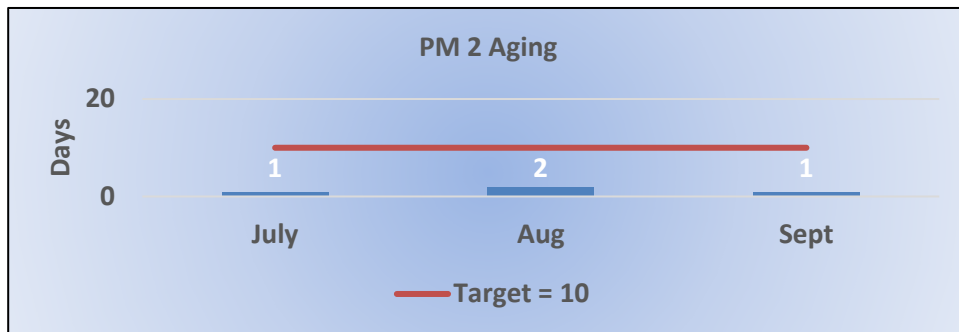
Number of complaints closed or assigned to an investigator.



**Total: 651 | Monthly Average: 217**

### PM2 | Intake – Cycle Time

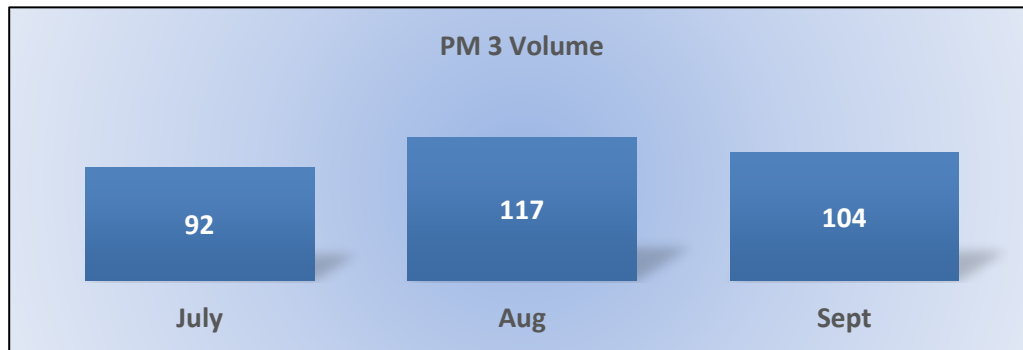
Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator.



**Target Average: 10 Days | Actual Average: 1 Day**

### PM3 | Investigations – Volume

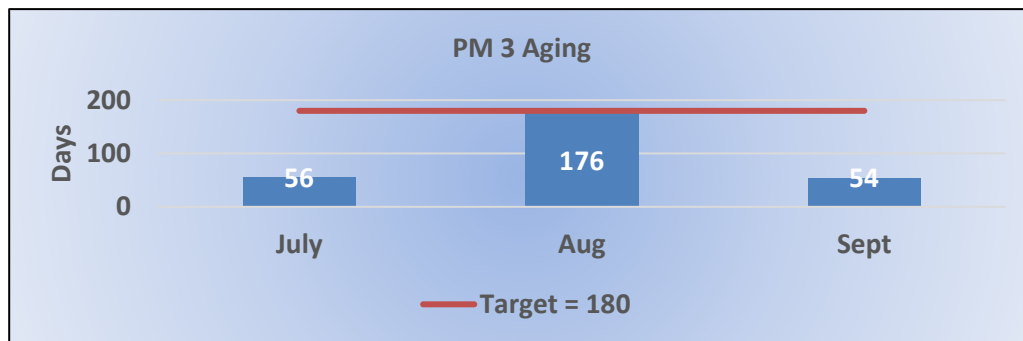
Number of investigations closed (not including cases transmitted to the Attorney General).



**Total: 313 | Monthly Average: 104**

### PM3 | Investigations – Cycle Time

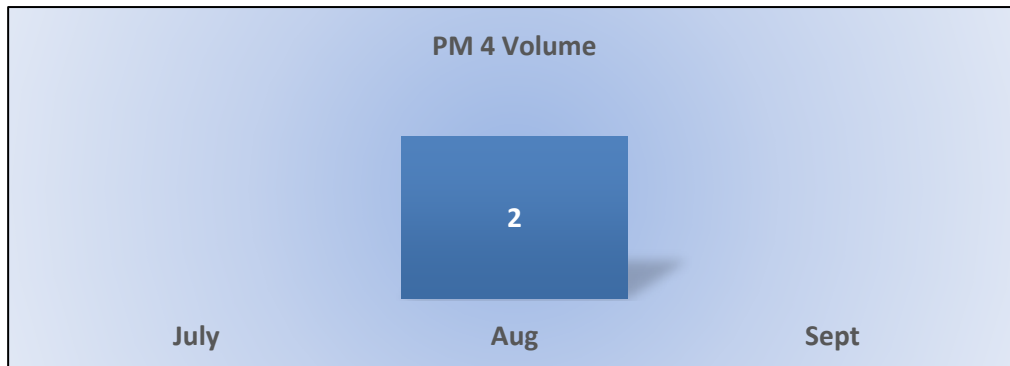
Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General.  
(Includes intake and investigation)



**Target Average: 180 Days | Actual Average: 100 Days**

### PM4 | Formal Discipline – Volume

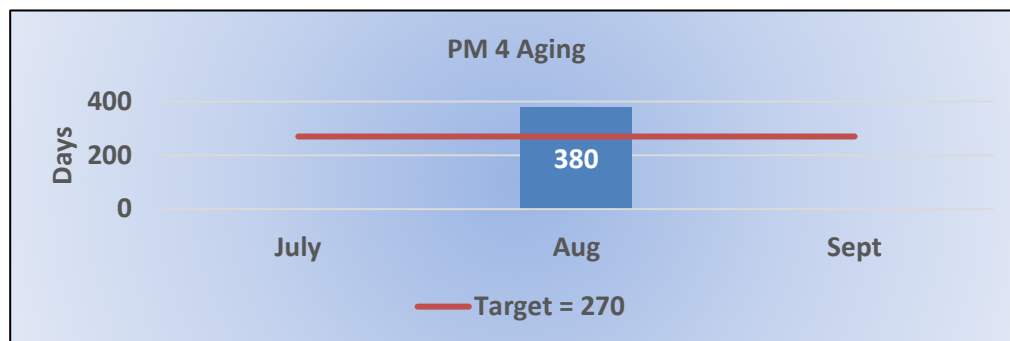
Cases closed, of those transmitted to the Attorney General.



**Total: 2**

### PM4 | Formal Discipline – Cycle Time

Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General.  
(Includes intake, investigation, and case outcome.)



**Target Average: 540 Days | Actual Average: 380 Days**



**PM7 | Probation Intake – Volume**

Number of new probation cases.

*No new probationers were assigned for monitoring this quarter.*

**PM7 | Probation Intake – Cycle Time**

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

*No new probationers were assigned for monitoring this quarter.*

**PM8 | Probation Violation Response – Volume**

Number of probation violation cases.

*The Bureau did not have any probation violations this quarter.*

**PM8 | Probation Violation Response – Cycle Time**

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

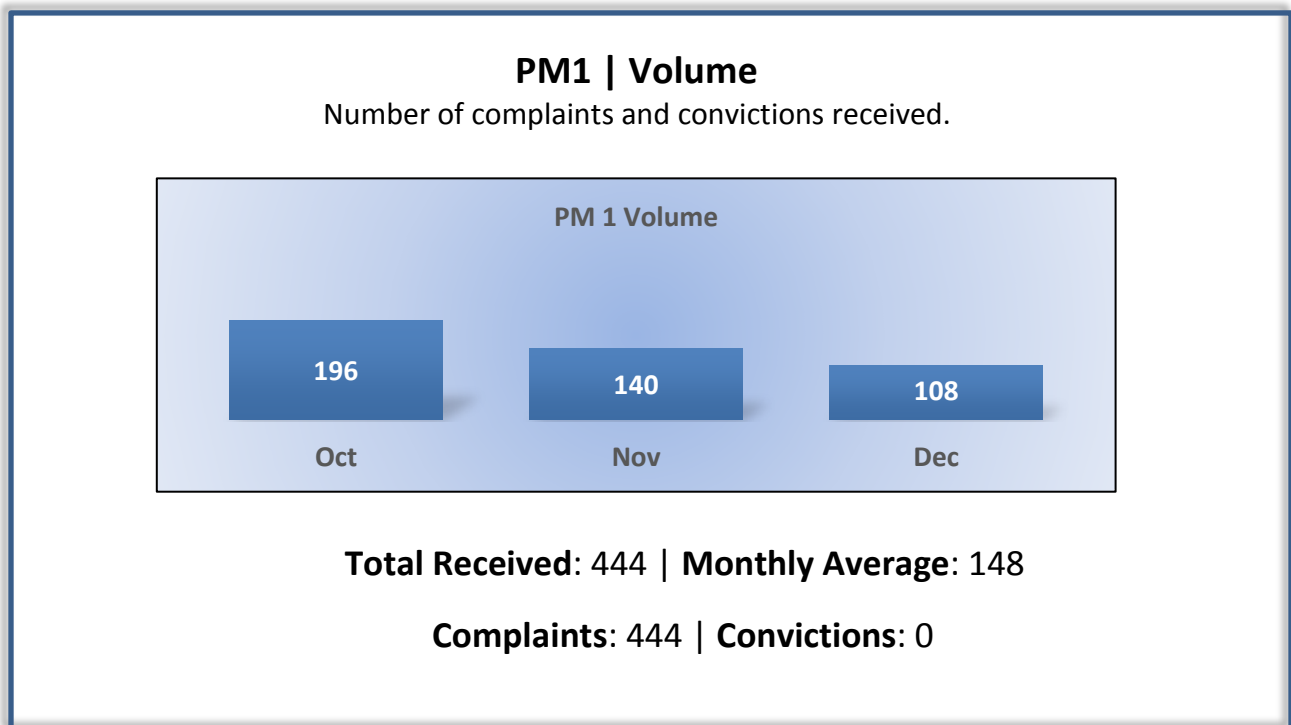
*The Bureau did not have any probation violations this quarter.*

# Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation

## Enforcement Performance Measures

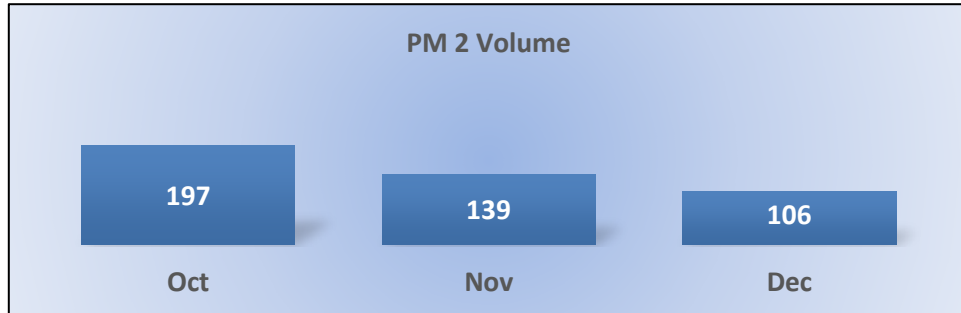
### Q2 Report (October - December 2016)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



## PM2 | Intake – Volume

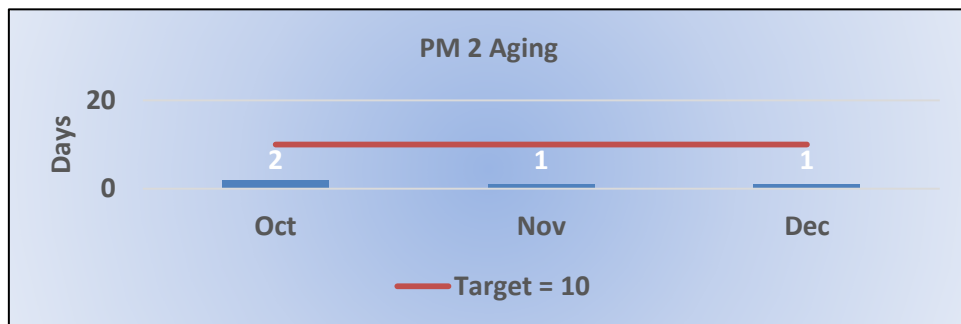
Number of complaints closed or assigned to an investigator.



**Total: 442 | Monthly Average: 147**

## PM2 | Intake – Cycle Time

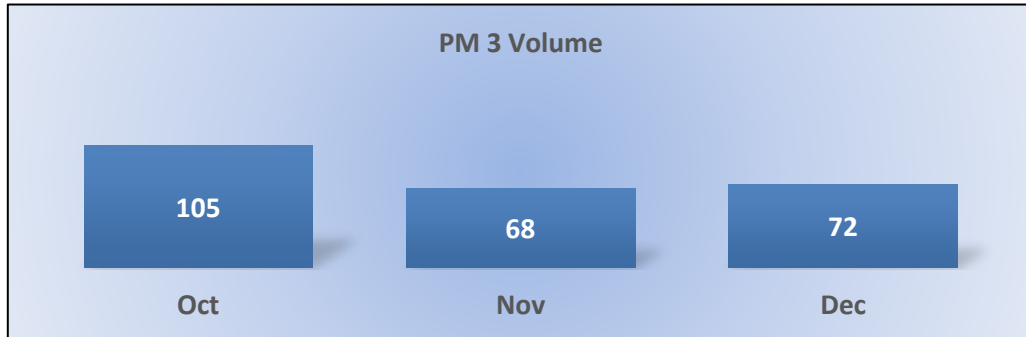
Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator.



**Target Average: 10 Days | Actual Average: 2 Days**

### PM3 | Investigations – Volume

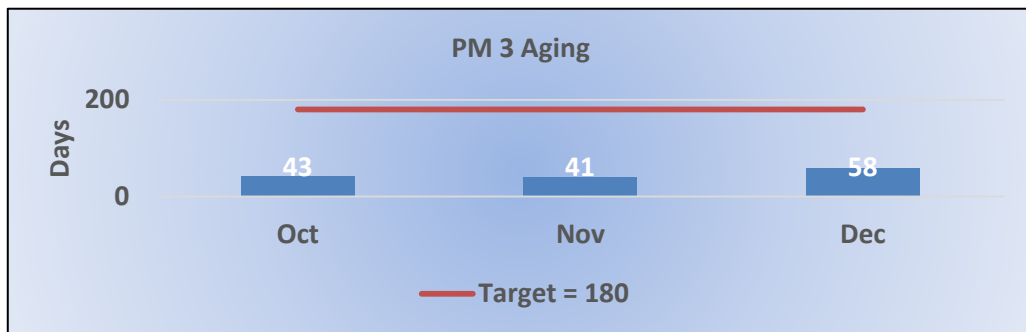
Number of investigations closed (not including cases transmitted to the Attorney General).



**Total: 245 | Monthly Average: 82**

### PM3 | Investigations – Cycle Time

Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General.  
(Includes intake and investigation.)



**Target Average: 180 Days | Actual Average: 47 Days**

### **PM4 | Formal Discipline – Volume**

Cases closed after transmission to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).

*The Bureau did not have any cases closed in formal discipline this quarter.*

### **PM4 | Formal Discipline – Cycle Time**

Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General. (Includes intake, investigation, and case outcome.)

*The Bureau did not have any cases closed in formal discipline this quarter.*

**PM7 | Probation Intake – Volume**

Number of new probation cases.

*No new probationers were assigned for monitoring this quarter.*

**PM7 | Probation Intake – Cycle Time**

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

*No new probationers were assigned for monitoring this quarter.*

**PM8 | Probation Violation Response – Volume**

Number of probation violation cases.

*The Bureau did not have any probation violations this quarter.*

**PM8 | Probation Violation Response – Cycle Time**

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

*The Bureau did not have any probation violations this quarter.*

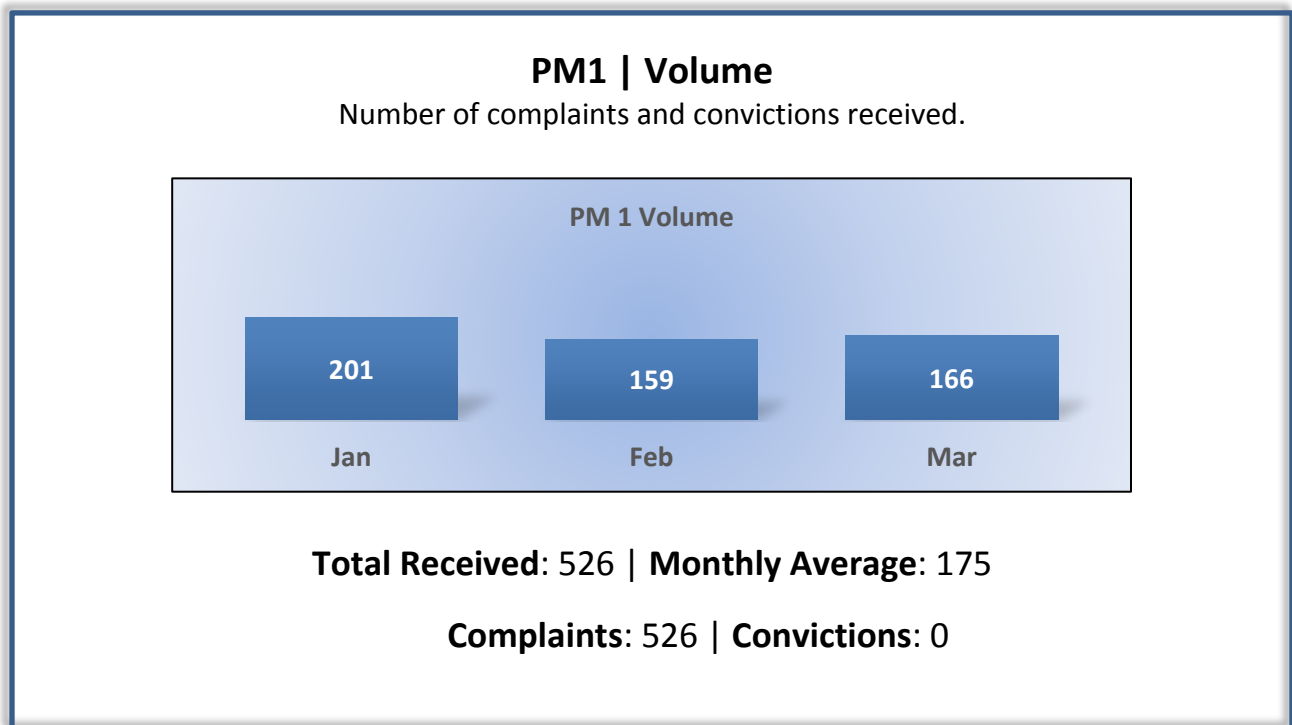


# Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation

## Enforcement Performance Measures

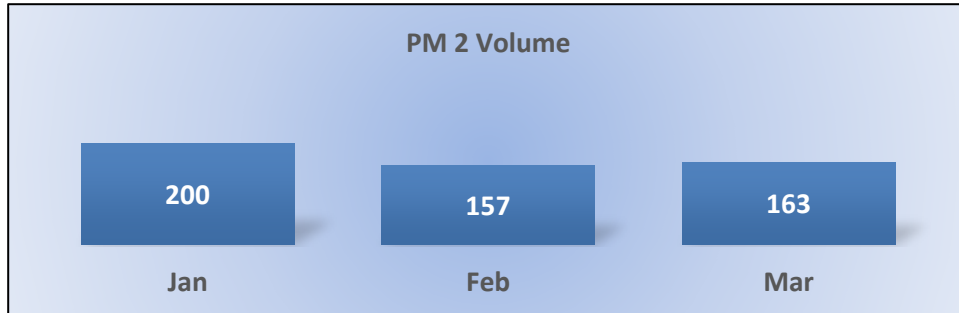
### Q3 Report (January – March 2017)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



## PM2 | Intake – Volume

Number of complaints closed or assigned to an investigator.



**Total: 520 | Monthly Average: 173**

## PM2 | Intake – Cycle Time

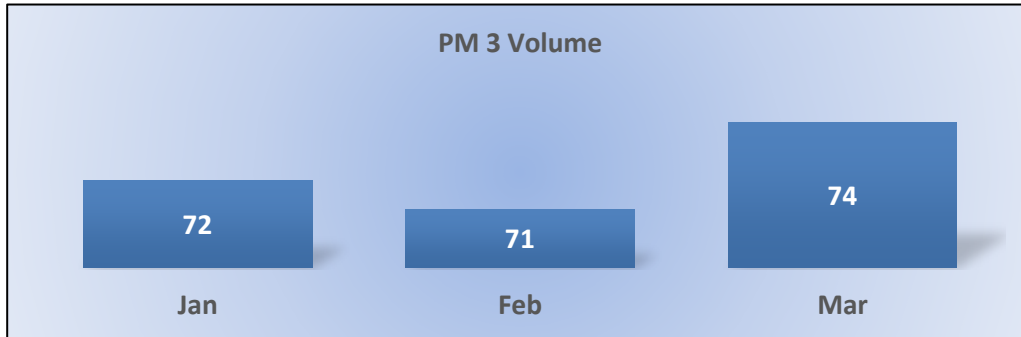
Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator.



**Target Average: 10 Days | Actual Average: 1 Day**

### PM3 | Investigations – Volume

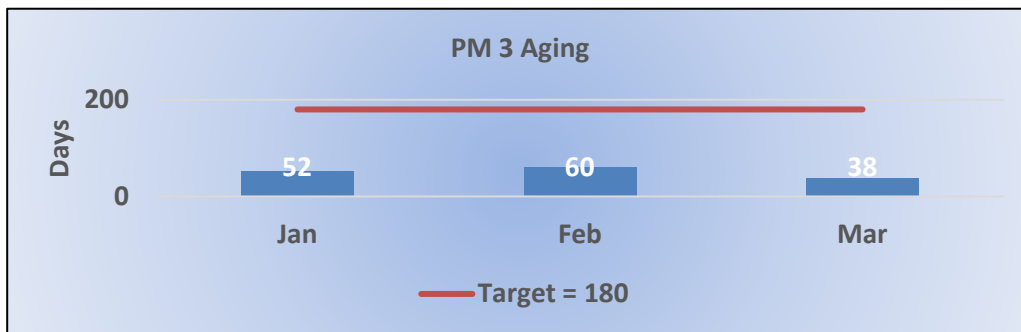
Number of investigations closed (not including cases transmitted to the Attorney General).



**Total: 217 | Monthly Average: 72**

### PM3 | Investigations – Cycle Time

Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General.  
(Includes intake and investigation.)



**Target Average: 180 Days | Actual Average: 50 Days**

### **PM4 | Formal Discipline – Volume**

Cases closed after transmission to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).

*The Bureau did not have any cases closed in formal discipline this quarter.*

### **PM4 | Formal Discipline – Cycle Time**

Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General. (Includes intake, investigation, and case outcome.)

*The Bureau did not have any cases closed in formal discipline this quarter.*

### **PM7 | Probation Intake – Volume**

Number of new probation cases.

*No new probationers were assigned for monitoring this quarter.*

### **PM7 | Probation Intake – Cycle Time**

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

*No new probationers were assigned for monitoring this quarter.*

**PM8 | Probation Violation Response – Volume**

Number of probation violation cases.

*The Bureau did not have any probation violations this quarter.*

**PM8 | Probation Violation Response – Cycle Time**

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

*The Bureau did not have any probation violations this quarter.*