

P00C
Business Regulation
 Department of Labor, Licensing, and Regulation

Operating Budget Data

(\$ in Thousands)

	<u>FY 16</u> <u>Actual</u>	<u>FY 17</u> <u>Working</u>	<u>FY 18</u> <u>Allowance</u>	<u>FY 17-18</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$8,673	\$8,698	\$8,824	\$126	1.4%
Adjustments	0	0	-2,525	-2,525	
Adjusted General Fund	\$8,673	\$8,698	\$6,298	-\$2,400	-27.6%
Special Fund	96,769	158,850	202,569	43,719	27.5%
Adjustments	0	0	-1,070	-1,070	
Adjusted Special Fund	\$96,769	\$158,850	\$201,499	\$42,649	26.8%
Federal Fund	4,712	5,231	5,316	85	1.6%
Adjustments	0	0	-18	-18	
Adjusted Federal Fund	\$4,712	\$5,231	\$5,298	\$67	1.3%
Reimbursable Fund	1,453	1,305	1,259	-46	-3.5%
Adjusted Reimbursable Fund	\$1,453	\$1,305	\$1,259	-\$46	-3.5%
Adjusted Grand Total	\$111,608	\$174,084	\$214,355	\$40,270	23.1%

Note: Includes targeted reversions, deficiencies, and contingent reductions.

- The adjusted fiscal 2018 allowance increases by \$40.3 million from the adjusted fiscal 2017 working appropriation. General funds decrease \$2.4 million largely because of contingent reductions in the Budget Reconciliation and Financing Act of 2017.
- Special funds increased by \$42.6 million primarily due to available video lottery terminal (VLT) funds for local impact aid (\$31.1 million) and the racing industry (\$9.0 million).

Note: Numbers may not sum to total due to rounding.

For further information contact: Sierra S. Boney

Phone: (410) 946-5530

Personnel Data

	<u>FY 16 Actual</u>	<u>FY 17 Working</u>	<u>FY 18 Allowance</u>	<u>FY 17-18 Change</u>
Regular Positions	355.10	349.10	349.10	0.00
Contractual FTEs	<u>44.87</u>	<u>63.74</u>	<u>51.90</u>	<u>-11.84</u>
Total Personnel	399.97	412.84	401.00	-11.84

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	10.09	2.89%
Positions and Percentage Vacant as of 12/31/16	41.00	11.74%

- There are 11.84 abolished contractual positions for fiscal 2018.
- As of December 31, 2016, the Department of Labor, Licensing, and Regulation had 41.0 vacancies in Business Regulation, which is a vacancy rate of 11.74%.

Analysis in Brief

Major Trends

Maryland Occupational Safety and Health: The Maryland Occupational Safety and Health Administration experienced a decline in the number of investigations opened and formal complaints investigated. Recently, several vacant positions were filled. These vacancies affected the number of investigations.

Maryland Home Improvement Commission: The Maryland Home Improvement Commission (MHIC) regulates and issues licenses for the home improvement industry. While MHIC complaints make up almost half of the total complaints received by the Division of Occupational and Professional Licensing, complaints have declined at a steady annual pace. This is despite the significant increase in the number of licensed home improvement contractors.

Issues

Horse Racing: Part of the VLT revenue goes to support the horse racing industry in Maryland. However, there is no strong evidence to suggest that the industry’s health has dramatically improved. **The Department of Legislative Services recommends that the Purse Dedication Account and the Racetrack Facility Renewal Account be flat funded in accordance with fiscal 2017 levels and that the additional revenue for fiscal 2018 be transferred to the Education Trust Fund.**

Recommended Actions

	<u>Funds</u>
1. Reduce special funds from the Purse Dedication Account to the fiscal 2017 funding level.	\$ 10,583,000
2. Reduce special funds for Racetrack Facility Redevelopment to the fiscal 2017 funding level.	2,144,047
Total Reductions	\$ 12,727,047

Updates

Wage Misclassification: The 2016 *Joint Chairmen’s Report* included committee narrative that requested information about worker misclassification, minimum and prevailing wage outreach, and complaint processing.

P00C
Business Regulation
Department of Labor, Licensing, and Regulation

Operating Budget Analysis

Program Description

The Department of Labor, Licensing, and Regulation (DLLR) includes many of the State's agencies and boards responsible for licensing and regulating various businesses, professions, and trades. DLLR also administers a variety of federally funded employment service programs. This analysis focuses on the following DLLR business regulation divisions:

- ***Division of Labor and Industry:*** Responsible for safety inspections of boilers, elevators, amusement rides, and railroads. The division also enforces certain protective labor laws and administers the Maryland Occupational Safety and Health Act. The division's mission is to protect Maryland citizens' health, safety, and employment rights.
- ***Division of Occupational and Professional Licensing:*** Establishes boards and commissions to license, regulate, and monitor 26 different professions and trades. The divisions' mission is to ensure that regulated occupations and professions have practitioners that are competent and compliant with State laws, regulations, and standards. This oversight seeks to ensure that commercial services are conducive to the health, safety, and welfare of Maryland consumers.
- ***Division of Racing:*** Houses the Maryland Racing Commission, regulates thoroughbred and harness racing tracks across the State. The division's responsibilities include assigning racing days, regulating wagering on races, collecting the wagering tax, licensing all racetrack employees, and operating a testing laboratory. The division also pays the salaries and stipends of all racetrack employees that are appointed by the Maryland Racing Commission.
- ***Division of Financial Regulation:*** Regulates commercial banks, trust companies, credit unions, mortgage lenders and originators, collection agencies, and consumer loan companies. The division's mission is to protect financial services consumers, ensure appropriate licensing, and maintain safety and soundness in Maryland's financial services industry.

A separate analysis discusses the department's Division of Workforce Development and Adult Learning, the Division of Unemployment Insurance, and administrative units.

Performance Analysis: Managing for Results

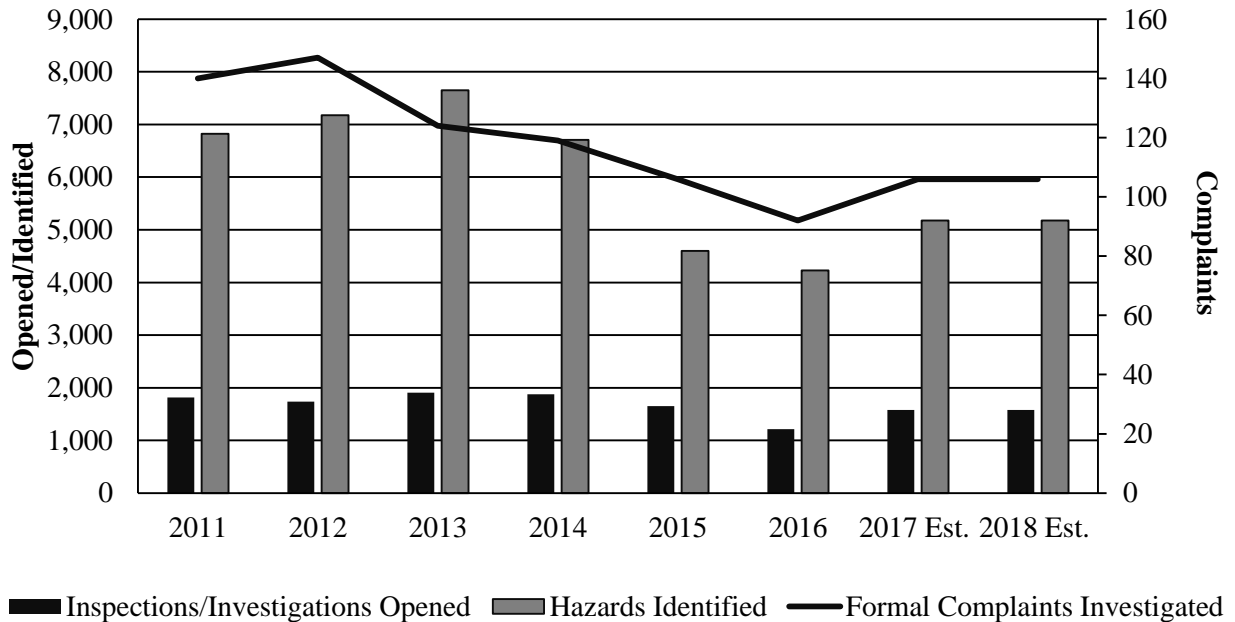
1. Maryland Occupational Safety and Health

The Williams-Steiger Occupational Safety and Health Act of 1970 required the Department of Labor to establish a program “to assure so far as possible every working man and woman in the nation with safe and healthful working conditions.” The federal legislation added that states may assume the responsibility for development and management of a state occupational safety and health program as long as standards under the state program meet the minimum federal requirements. In 1971, the Division of Labor and Industry assumed responsibility for the Maryland Occupational Safety and Health (MOSH) Administration.

Inspections conducted by MOSH are usually focused on high-hazard industries such as manufacturing or construction, but inspections can also be prompted by fatalities, serious accidents, employee complaints, and professional referrals. Employers may be exempt from traditional compliance inspections by participating in a voluntary compliance program. These programs include the Cooperative Compliance Partnership, the Safety and Health Achievement Recognition Program, and the Voluntary Protection Program.

Exhibit 1 outlines the number of inspections and investigations opened, as well as the number of hazards identified and the number of formal complaints investigated from fiscal 2011 through the fiscal 2018 estimates. There has been a decline in the number of inspections and investigations opened in fiscal 2016, as well as the number of complaints investigated. This is partly because there were several vacancies in the unit. There has also been an effort to increase outreach and consultation with employers to promote preventive measures, which may have translated into lower numbers of complaints.

Exhibit 1
MOSH Inspections, Hazards Identified, and Complaints Investigated
Fiscal 2011-2018 Est.



MOSH: Maryland Occupational Safety and Health

Source: Department of Labor, Licensing, and Regulation

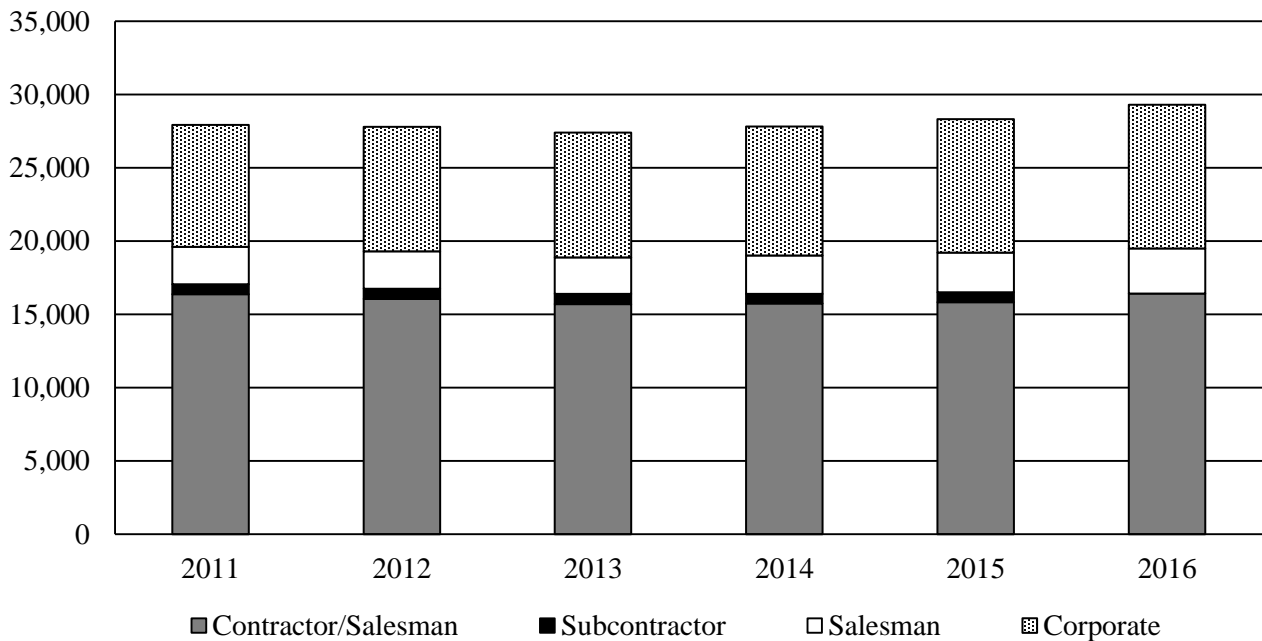
2. Maryland Home Improvement Commission

The Maryland Home Improvement Commission (MHIC) was created by Chapter 133 of 1962 and is responsible for:

- licensing home improvement contractors, subcontractors, and salespersons;
- administering an examination testing for knowledge related to operating a home improvement business;
- investigating complaints against licensed and unlicensed workers; and
- administering the Home Improvement Guaranty for the purpose of providing restitution to consumers with claims against licensed contractors.

The home improvement industry is large and unorganized with a wide range of projects and levels of expertise for the almost 30,000 licensees. **Exhibit 2** shows that the number of home improvement contractors increases annually even with the removal of the subcontractor licensure requirement in the 2016 legislative session.

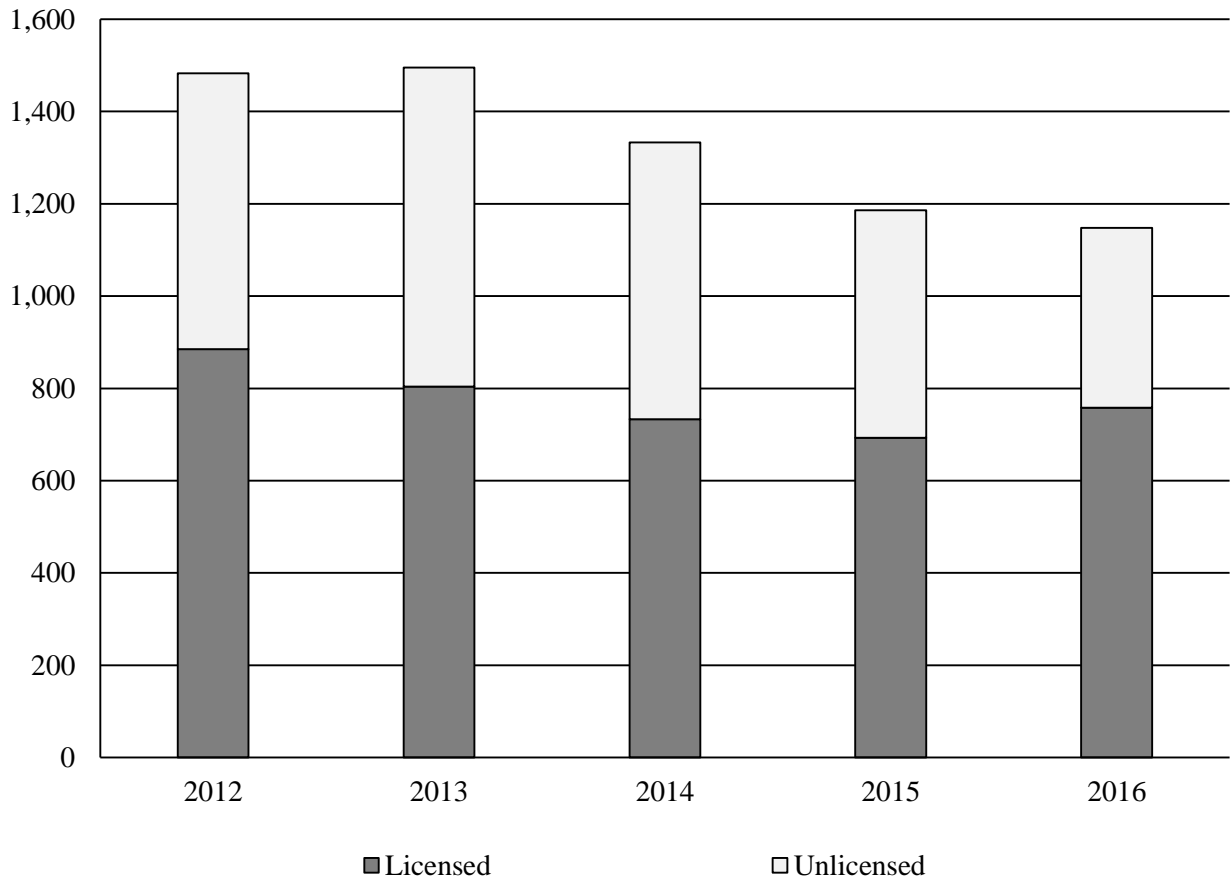
Exhibit 2
Home Improvement Commission Licenses
Fiscal 2011-2016



Source: Department of Labor, Licensing, and Regulation

The current regulations require trade experience for licensure but that is a broad description that encompasses a wide range of experience. As a result, the trade experience of a contractor may not necessarily translate to the work that is being requested by a customer. This, combined with the trend of overly vague contracts and conflicting expectations between the contractor and the customer, is responsible for a significant portion of the complaints against home improvement contractors. Often a customer feels that the work is either not completed or not completed in the fashion requested. The other significant factor in the number of complaints is licensure. A significant number of the complaints filed against contractors are against unlicensed workers, as shown in **Exhibit 3**.

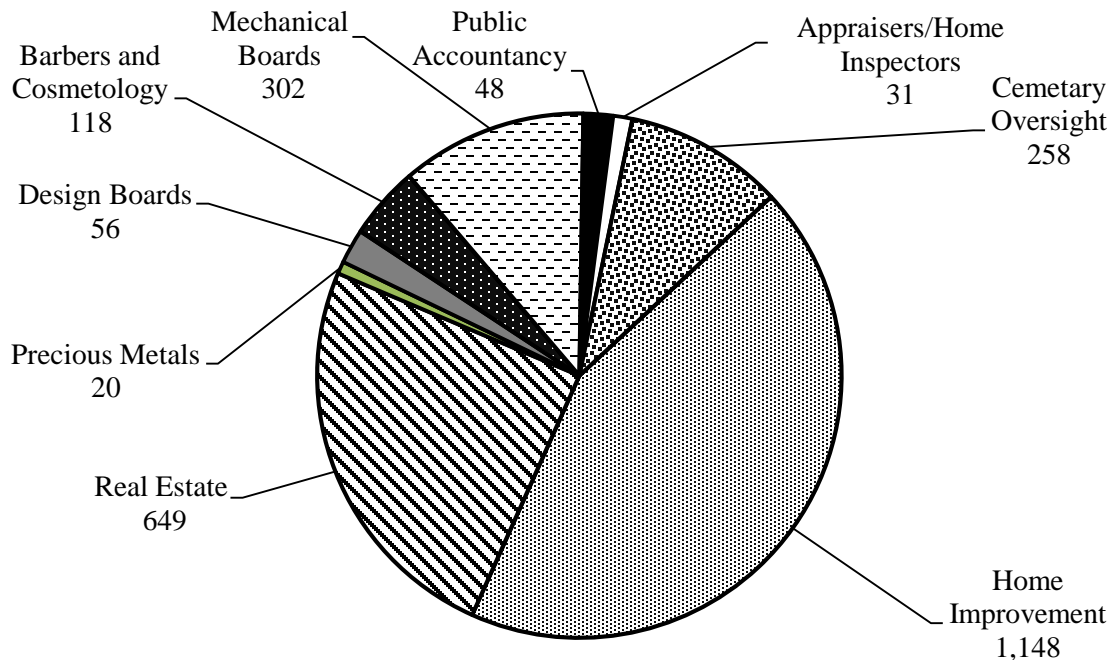
Exhibit 3
Complaints Received by the Home Improvement Commission
Fiscal 2012-2016



Source: Department of Labor, Licensing, and Regulation

While the number of complaints has gradually decreased each year, home improvement complaints still make up almost half of the occupational complaints received, as shown in **Exhibit 4**.

Exhibit 4
Occupational Complaints by Occupation Board
Fiscal 2016



Source: Department of Labor, Licensing, and Regulation

Cost Containment

In November 2016, the Board of Public Works eliminated 1 vacant contractual position in the Division of Labor and Industry and reduced the general fund appropriation by \$36,379.

Proposed Budget

As shown in **Exhibit 5**, there is a \$2.4 million, or 27.6%, decrease in general funds between fiscal 2017 and the adjusted fiscal 2018 allowance. There is a \$42.7 million, or 26.8%, increase in special funds, largely due to increases in video lottery terminal (VLT) funds dedicated to horse racing and local impact aid.

Exhibit 5
Proposed Budget
DLLR – Business Regulation
(\$ in Thousands)

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2016 Actual	\$8,673	\$96,769	\$4,712	\$1,453	\$111,608
Fiscal 2017 Working Appropriation	8,698	158,850	5,231	1,305	\$174,084
Fiscal 2018 Allowance	<u>6,298</u>	<u>201,499</u>	<u>5,298</u>	<u>1,259</u>	<u>\$214,355</u>
Fiscal 2017-2018 Amount Change	-\$2,400	\$42,649	\$67	-\$46	\$40,270
Fiscal 2017-2018 Percent Change	-27.6%	26.8%	1.3%	-3.5%	23.1%

Where It Goes:

Personnel Expenses

Overtime	\$273
Employee and retiree health insurance.....	117
Turnover adjustments	63
Social Security.....	-43
Regular earnings.....	-164
Net savings for positions returned to base.....	-551

Racing

Video lottery terminal local impact aid	31,100
Maryland Racing Commission purse enhancement	6,876
Grants for racing facility redevelopments	2,144

Financial Regulation

Travel for examinations	54
Conference of State bank supervisors nondepository dues	53
Foreclosure registry enhancements	50
Computer and laptop replacements	43
Banking fees for online services	33

P00C – DLLR – Business Regulation

Where It Goes:

Labor and Industry

One-time costs associated with building renovations for MOSH Hunt Valley and Hagerstown Offices.....	-21
Promotional Items for MOSH	-26
Three abolished contractual positions in MOSH.....	-135

Occupational and Professional Licensing

Development and Administration of CPA examinations	468
One-time costs for enhancements of license tracking system	-38
Seven abolished contractual positions in Occupational and Professional Licensing	-187

Other Changes

New vehicles and maintenance	87
Association dues.....	70
Travel	43
Communications.....	24
Rent	15
Software	-38
Administrative hearings	-92
Miscellaneous.....	52

Total **\$40,270**

CPA: certified public accountant
DLLR: Department of Labor, Licensing, and Regulation
MOSH: Maryland Occupational Safety and Health

Note: Numbers may not sum to total due to rounding.

Personnel

There is a \$273,000 increase for overtime and shift differentials for safety inspectors when inspections have to be performed after normal work hours. There is also a \$164,000 decrease in regular earnings because of the transition of the apprenticeship program to the Workforce Development section. There is also a \$551,000 decrease as a result of net savings from reducing salaries for vacant positions to the base.

Racing

The largest increase in the agency is due to the increased availability of VLT funds from Maryland casinos for local impact grants, purse and bred fund enhancements, and racetrack facility redevelopment. There was a \$31.1 million increase in local impact aid, as show in **Exhibit 6**. These funds are provided to the localities that host casinos. There is also a \$6.9 million increase in the Purse Dedication Account to enhance the amounts of winnings (or the purse) for horse races. As discussed below, the Budget Reconciliation and Financing Act (BRFA) redirects another \$2.5 million of new Purse Dedication Account revenues to other purposes. There is also a \$2.1 million increase in grants for racetrack facility redevelopment, which reimburses racetracks for renovations completed.

Exhibit 6
Share of Video Lottery Terminal Revenue for Local Impact Grants
Fiscal 2016-2018

	<u>2016</u>	<u>2017</u>	<u>2018</u>
Allegany County	\$1,135,127	\$1,548,659	\$1,813,518
Anne Arundel County	18,774,853	23,505,533	31,039,065
Baltimore City	11,788,521	19,854,786	29,473,758
Cecil County	3,610,513	3,787,295	4,035,327
Howard County	89,286	89,286	89,286
Prince George’s County	1,053,571	9,915,773	23,949,317
Worcester County	3,163,144	3,458,038	3,555,780
Unallocated	40,207	696,750	
	\$39,655,222	\$62,856,120	\$93,956,051

Source: Department of Budget and Management

BRFA

The fiscal 2018 budget bill includes a \$54.5 million (all funds) across-the-board contingent reduction for a supplemental pension payment. Annual payments are mandated for fiscal 2017 through 2020 if the Unassigned General Fund balance exceeds a certain amount at the close of the fiscal year. This agency’s share of the reductions is \$19,922 in general funds, \$69,262 in special funds, and \$16,137 in federal funds. This action is tied to a provision in the BRFA of 2017.

The 2018 budget bill has three other contingent reductions based on the enactment of the BRFA that directly affect the Division of Racing. The first two are a \$475,221 general fund reduction for operating expenses for the Maryland Racing Commission (MRC) and a \$2 million general fund

reduction for operating expenses for racetrack operations to be replaced with special funds from the Purse Dedication Account. The BRFA authorizes the use of the Purse Dedication Account special funds for MRC and racetrack operations. **Exhibit 7** outlines the funding changes that would result with the enactment of the BRFA.

Exhibit 7
Changes to Chapter 727 of 2016 Proposed in the BRFA of 2017
Fiscal 2017-2019

	2017		2018		2019	
	Chapter <u>727</u>	BRFA of <u>2017</u>	Chapter <u>727</u>	BRFA of <u>2017</u>	Chapter <u>727</u>	BRFA of <u>2017</u>
Maryland International Thoroughbred Race Purse	\$0	\$0	\$500,000	\$500,000	\$500,000	\$500,000
Maryland-bred or Maryland Sired Horses Running in the Preakness Stakes	500,000	500,000	0	0	0	0
Maryland Office of Sports Marketing Grant	0	0	350,000	0	350,000	0
Maryland Humanities Council	0	0	150,000	0	150,000	0
Balance of the Horse Racing Special Fund	500,000	0	0	0	0	0

BRFA: Budget Reconciliation and Financing Act

Source: Department of Legislative Services

Chapter 727, among other provisions, created a mandated appropriation of \$1 million to be paid from State Lottery revenues to the horse racing special fund. The legislation required \$500,000 to be paid to MRC for a bonus award at the Preakness Stakes in fiscal 2017. Beginning in fiscal 2018 and also for fiscal 2019, the funding was to be used for the purse of the Maryland International Thoroughbred Race (\$500,000), a grant to the Maryland Office of Sports Marketing (\$350,000), and a grant to the Maryland Humanities Council (\$150,000). The BRFA repeals the transfers from the State Lottery and the fiscal 2018 and 2019 mandates for the Office of Sports Marketing and the Maryland Humanities Council and funds the Preakness Stakes bonus award in fiscal 2017 and the purse for the Maryland International Thoroughbred Race in fiscal 2018 and 2019 through the Purse Dedication Account, as shown in **Exhibit 8**.

Exhibit 8
Changes to the Purse Dedication Account from the BRFA of 2017
Fiscal 2017-2018

	<u>2017</u>	<u>2018</u>	<u>Change</u>
Revenue to the Purse Dedication Account*	\$58,001, 899	\$67,383,000	\$9,381,101
Funding for the Maryland International	0	-500,000	-500,000
Funding for the Preakness Sates Bonus Award	-500,000	0	500,000
Funding for the Maryland Racing Commission	0	-2,505,000	-2,505,000
Remaining Funding for Nondedicated Purse Enhancements	\$57,551,899	\$64,378,000	\$6,876,101

BRFA: Budget Reconciliation and Financing Act

* Current revenue estimates assume only \$56.8 million is available in fiscal 2017 and \$66.4 million is available in fiscal 2018.

Source: The Budget Reconciliation and Financing Act of 2017

Other Changes

The Office of Financial Regulation (OFR) increased \$233,000 for expenses associated with travel, association dues, updates for the foreclosure registry, and banking fees for online banking. A departmental bill (HB 247 of 2017) would transition OFR to the Maryland Insurance Administration (MIA). OFR regulates State-chartered banks, credit unions, non-deposit trust companies, and the mortgage lender industry. If enacted, over 90 positions and almost \$10 million in operational costs would be transferred to MIA. Both MIA and DLLR assert that this transition will provide better customer service and consolidate consumer education into a more comprehensive effort. While the licensing and regulatory elements of OFR and MIA do parallel, this could be concerning because the mortgage industry has demonstrated significant volatility in recent years, and the department has developed a certain level of expertise in responding to such volatility. **The Department of Legislative Services (DLS) recommends that DLLR discuss the proposed transfer of OFR to MIA.**

In the Division of Labor and Industry, the fiscal 2018 allowance reflects the reduction of 3 contractual positions resulting in a \$135,000 savings. There were one-time costs associated with building renovations for two satellite offices and promotional materials in fiscal 2017 that resulted in decreases of \$21,000 and \$26,000, respectively.

P00C – DLLR – Business Regulation

The Office of Occupational and Professional Licensing has a \$468,000 increase for the development and administration of the updated certified public accountancy examination. The National Association of State Board of Accountancy and the American Institute of Certified Public Accountants have announced an updated examination. There is also a \$187,000 decrease for 4.6 abolished contractual positions including 1.8 positions for the General Administration, 1.0 position in MHIC, 1.0 position in the Real Estate Commission, and 1.0 position for the Locksmith Board. The loss of the locksmith position leaves the board with no direct staff, and DLLR asserts that the duties will be absorbed by the staff for the mechanical boards.

Issues

1. Horse Racing

The horse racing industry has been a staple in Maryland since the inception of the Maryland Jockey Club in 1743. The Maryland Jockey Club is the private organization that operates Laurel Park, Timonium, and Pimlico racetracks. Pimlico Racetrack is the home to the Preakness Stakes, the second leg of the Triple Crown series. While thoroughbred horse racing has historically been the most popular, there are several different types of horse racing currently allowed in Maryland, including harness racing and steeplechase or hurdle racing.

There are five racetracks in Maryland, which includes three thoroughbred tracks (Pimlico, Laurel, and Timonium) and two harness tracks (Rosecroft and Ocean Downs). The difference in thoroughbred horses and standardbred (the horses used for harness racing) is their stature, which determines the use of each breed. Standardbred horses are traditionally heavier, more muscular, and with longer torsos.

Horse racing as a sport is supported by the public wagering on racing. Approximately 80% of wagered amounts are returned to the public in the form of winnings with the other 20% being used for purses, breeder/owner/stallion awards, and racetrack operating expenses. Historically, the larger the purse (winnings for the horse), the better the horses in the race. The better the horses, the more likely people are to watch and wager on the races. This model was effective because, historically, horse racing has been regarded as a popular pastime as both a sporting event and gambling opportunity, but as more sporting events became televised and other opportunities for gambling became available, the horse racing industry has struggled to maintain relevancy in a crowded field.

Gambling in Maryland and VLT

In fiscal 2008, the legislature voted to approve casino gambling in Maryland in part as an effort to save the horse racing industry and better compete with neighboring states that were opening casinos. As of fiscal 2017, there are six casinos in Maryland. As a part of the legislation for new casinos, a revenue stream was created to ensure support for the horse racing industry, specifically the Purse Dedication Account and the Racetrack Facility and Renewal Account. In addition, funding for Local Impact Aid for those jurisdictions that house gaming facilities is also housed in DLLR. Implicit behind this infusion of funding was that there would be more incentive for Maryland breeders to breed horses and out-of-state breeders to travel to Maryland for a chance at more lucrative winnings. This more competitive field along with improved facilities would in turn reignite the interest of horse racing from a variety of interested parties as well as the public.

The original legislation provided that 7.0% of proceeds from VLTs from each facility go to the Purse Dedication Account and 5.5% of revenue go to local impact grants. The remaining 2.5% went to capital improvements under the authority of MRC. The Purse Dedication Account funds were divided among the five main racetracks with 85.0% of purse funds going to the thoroughbred industry. The other 15.0% of purse funds are for the standardbred industry.

Overtime, with the opening of new casinos, this distribution has changed to that shown in **Exhibit 9**. Similarly, the purse dedication division changed from 85% thoroughbreds and 15% standardbreds to 80% and 20%, respectively.

Exhibit 9
Percent of VLT Funds for Horse Racing
Fiscal 2018
(\$ in Millions)

	<u>Percent of VLT Funds</u>	<u>2018 VLT Allocation</u>
Purse Dedication Account	6.0%	\$66.4
Local Impact Aid from VLT revenue (for Fiscal 2018)	5.5%	61.0
Local Impact Aid from Table Games (for Fiscal 2018)	5.0%	32.9
Capital Improvements	1.0%	11.0

VLT: video lottery terminal

Source: Department of Budget and Management; Department of Legislative Services

Racetrack Facility Renewal Account

Funds for Racetrack Facility Renewal Account are used for capital projects at the racetracks. Because of declining revenues, the aesthetics of the tracks suffered in an effort to keep costs low. As of November 2016, the Racetrack Facility Renewal Account has paid out \$36.3 million to the five racetracks in Maryland for a variety of repairs including washing stalls; stables; landscaping; plumbing; heating, ventilation, and air conditioning repairs and replacements; barn renovations; soil treatments; fences; environmental engineering; roofs; and a host of other structural, cosmetic, and horse-related repairs. It is important to note that there is currently a \$6.1 million balance in the Racetrack Facilities Renewal Account, and there is a \$2.1 million increase in revenue from the fiscal 2017 allowance.

Racing as a Source of Jobs

In the years since VLT revenue, there have been conflicting reports on the restoration of the horse racing industry. Those reports that conclude that the industry has in fact rebounded use two indicators to support the claim – the number of workers generating tax revenue and the increase in horse breeding in Maryland.

The Sage Policy Group, along with the Maryland Breeders Association, published a report in 2016 that concluded that Maryland’s racing industry has rebounded based on the number of jobs created through the horse racing industry and the number of horses bred. According to the report, the number

of direct jobs as a result of the Maryland racing industry is estimated at 5,768. While any number of positions filled is important, to provide context, the entire racing industry has less full-time employees than the top 25 individual employers in Maryland. The twenty-fifth largest employer in Maryland employs 7,000 Marylanders. When comparing the revenue infused into horse racing through VLT funds, the State is paying \$13,350 for every job directly created from horse racing.

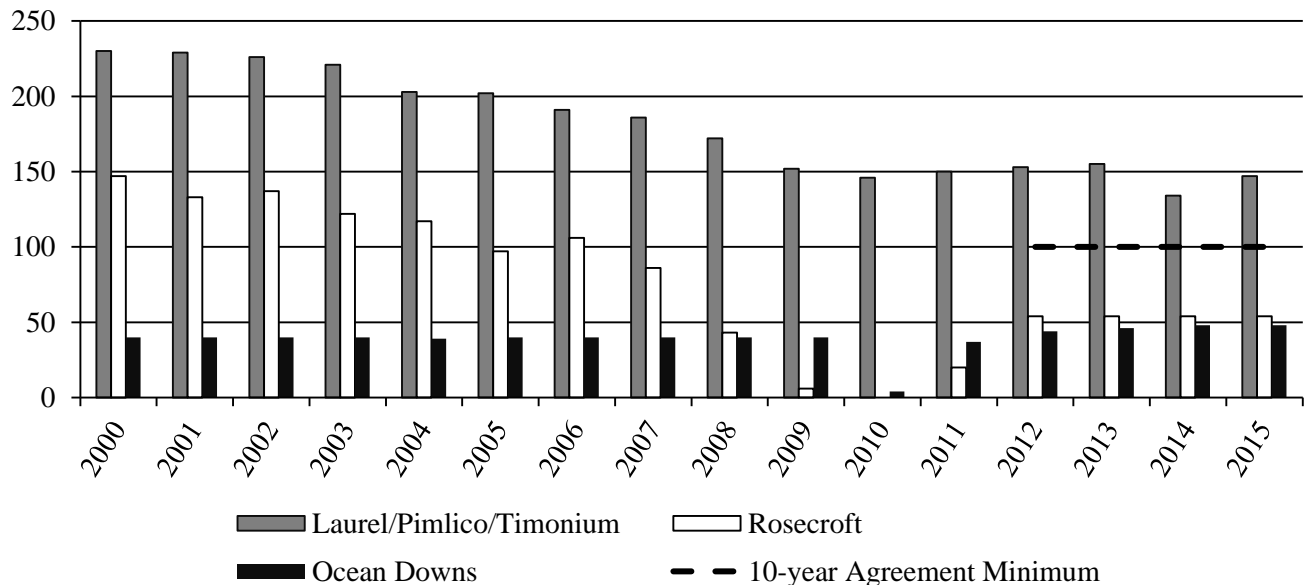
Breeding in Maryland

As a part of the horse racing economic model, in the years since the infusion of VLT funds, there has been a notable increase in the number of both thoroughbred and standardbred mares and stallions bred in Maryland. Arguably, this increase is in anticipation of higher purses and more racing days. Since fiscal 2010, the number of horses bred in Maryland has almost doubled from a low of 644 horses in fiscal 2010 to 1,052 in fiscal 2015.

Live Racing Days

A counterpoint to the contention of growth in the racing industry is lack of growth in live racing days, particularly for thoroughbred racetracks. **Exhibit 10** shows the number of live racing days for each racetrack from fiscal 2000 to 2015.

Exhibit 10
Live Racing Days for Maryland Tracks
Fiscal 2000-2015



Source: Department of Labor, Licensing, and Regulation

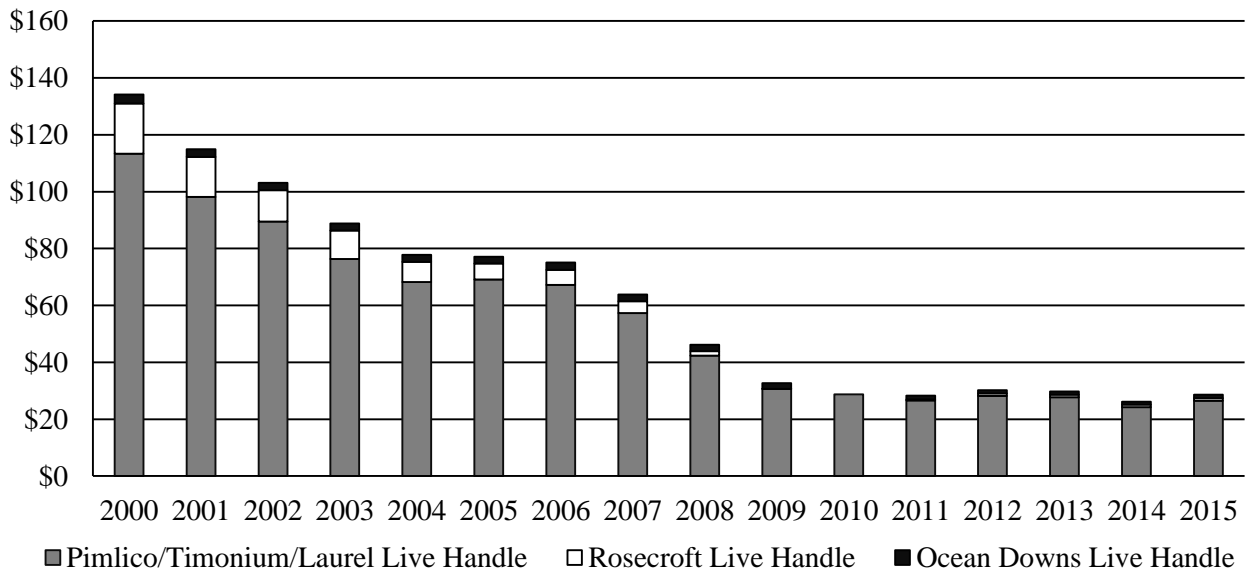
Wagering Handle

A different question is whether there is public interest in racing. This can be assessed to some degree to the annual wagered amounts or handle. With technology, racing enthusiasts no longer have to attend the racetrack to place bets. There are now a few different ways to account for wagering from different markets. The live handle is the revenue generated from bets placed at the racetrack. The import handle is the revenue generated from Marylanders betting on races simulcast from out-of-state racetracks, and the export handle is from bettors from other states betting on races in Maryland.

While all three types of handle have seen declines since the Great Recession, the decline has slowed since the influx of VLT funds, and for export handle, the funds have increased since fiscal 2010. While this data has created initial optimism around the stabilization and potential rebound of the racing industry, there are other factors to consider.

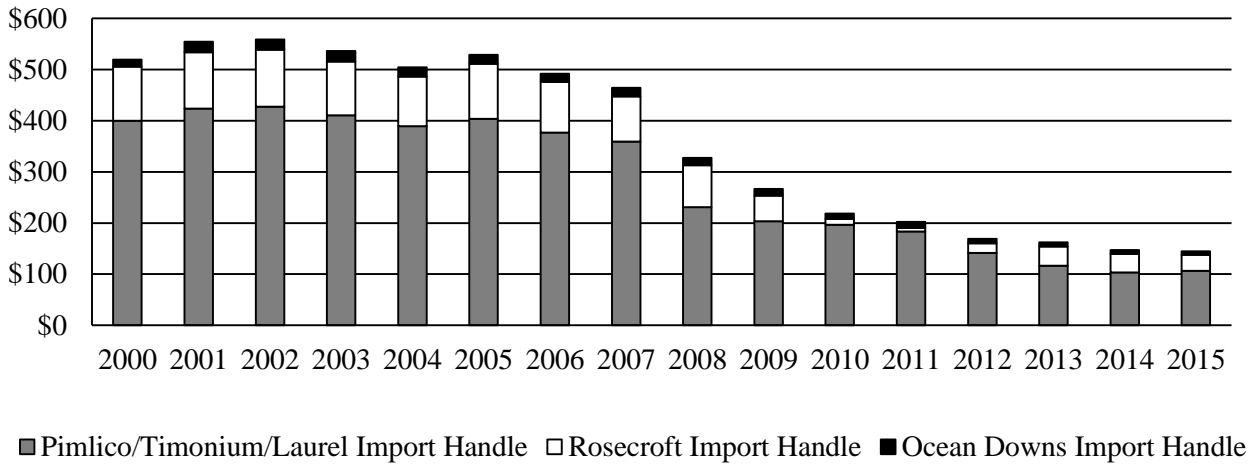
For example, as seen in **Exhibits 11, 12, and 13**, a significant portion of wagers collected in Maryland are from out-of-state bettors. This might suggest that bolstered purses has increased breeder interest and led to increased betting. Alternatively, the acknowledged natural decline in horse racing may simply be focusing betting activity on fewer locations.

Exhibit 11
Live Handle in Maryland
Fiscal 2000-2015
(\$ in Millions)



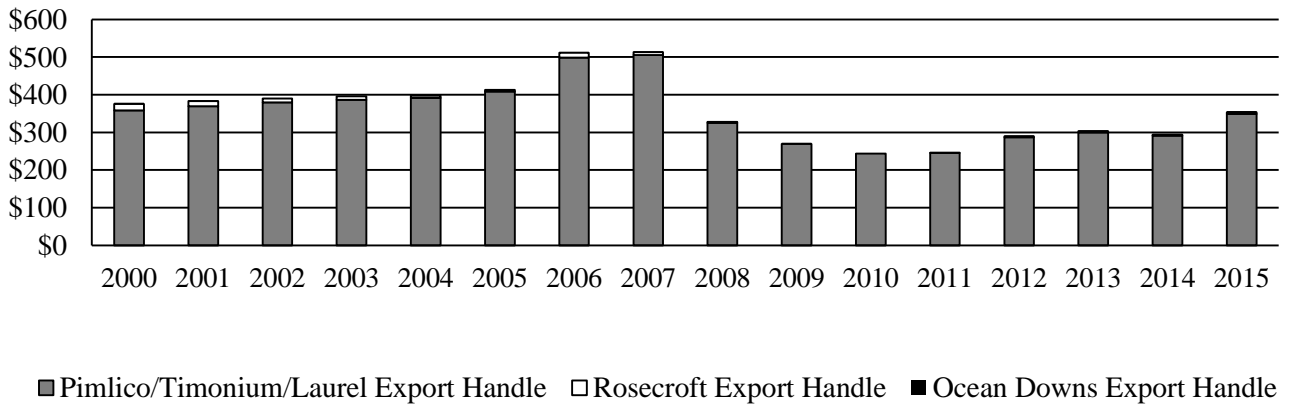
Source: Department of Labor, Licensing, and Regulation

Exhibit 12
Import Handle for Maryland
Wagers at Maryland Tracks on Out-of-state Races
Fiscal 2000-2015
(\$ in Millions)



Source: Department of Labor, Licensing, and Regulation

Exhibit 13
Export Handle for Maryland
Wagers at Out-of-state Locations on Maryland Races
Fiscal 2000-2015
(\$ in Millions)



Source: Department of Labor, Licensing, and Regulation

P00C – DLLR – Business Regulation

The live handle in Maryland has not improved, suggesting that the infusion of VLT funds has not generated a renewed interest in the sport from Marylanders. The improvement in export handle while the overall industry declines suggests that Maryland may be tapping into a declining market with limited growth potential. **DLS recommends that the department comment on any observable improvements in the horse racing industry.**

The fiscal 2018 budget includes a \$2.4 million, or 24.0%, increase for the racetrack facilities program and a \$6.9 million, or 12.1%, increase in funding for purses with funding from VLT for racetrack facilities and racing purses for fiscal 2018 totaling over \$66.4 million. **DLS also recommends that the Purse Dedication Account and the Racetrack Facility Renewal Fund be flat funded in accordance with fiscal 2017 levels and that the additional revenue for fiscal 2018 be transferred to the Education Trust Fund.**

Recommended Actions

	<u>Amount Reduction</u>	
1. Reduce special funds in the Purse Dedication Account to the fiscal 2017 funding level.	\$ 10,583,000	SF
2. Reduce special funds for Racetrack Facility Redevelopment to the fiscal 2017 funding level.	2,144,047	SF
Total Special Fund Reductions	\$ 12,727,047	

Updates

1. Wage Misclassification

The Division of Labor and Industry is responsible for monitoring the compliance and executing the enforcement of the prevailing wage, minimum wage, and worker classification laws in the State. The 2016 *Joint Chairmen's Report* included committee narrative that required a report on the number of complaints, the demography of complainants, and enforcement measures taken for fiscal 2014, 2015, and 2016.

Prevailing Wage Unit

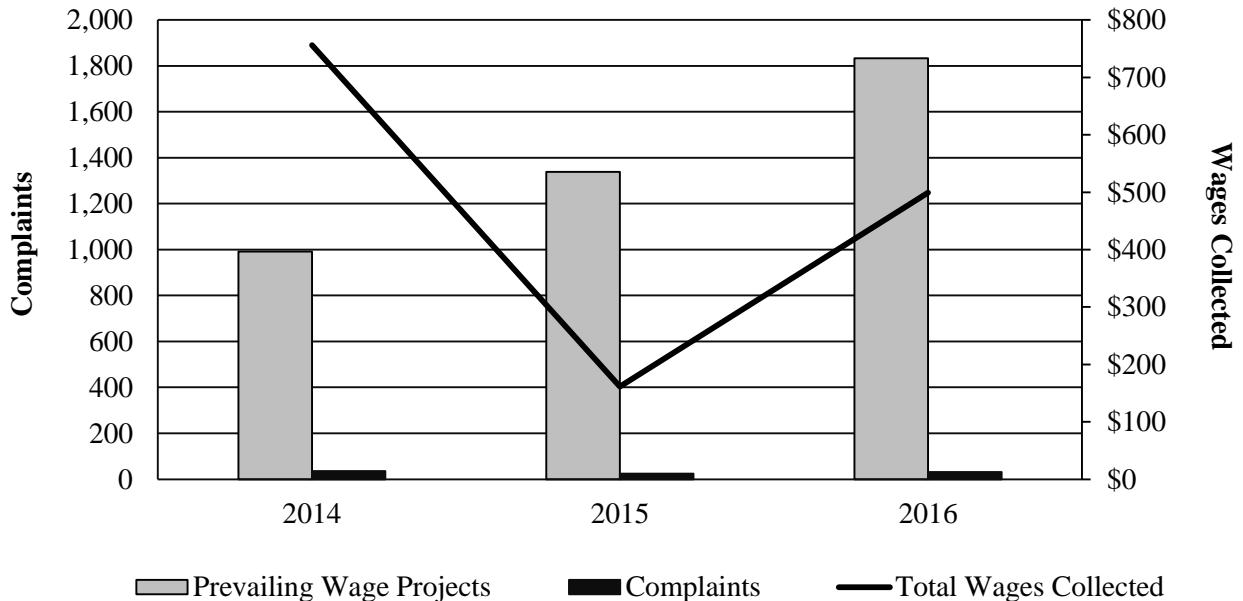
The Davis-Bacon Act of 1931 is the federal law established to ensure that laborers and construction workers working on federal public works projects are paid a wage that corresponds to the wages provided for locally comparable projects. While there have been many amendments and adjustments to the law since 1931, it was the catalyst for prevailing wage legislation in many states across the country, including Maryland.

Prevailing wage in Maryland is the hourly wage as well as benefits and overtime that is normally paid to workers performing certain tasks for State construction projects with contracts that exceed a threshold of \$500,000. The law is intended to protect construction workers and to ensure that competitive bids for construction contracts are not underbid at the expense of the people working on the project.

Exhibit 14 outlines the number of prevailing wage complaints received, total wages collected, and the number of complaints in fiscal 2014, 2015, and 2016.

While the number of projects has steadily increased, both the number of complaints and the amount of wages collected have fluctuated over time. The Division of Labor and Industry asserts that there is no way to determine the full extent of wages collected outside of their investigations and complaints. They also currently do not maintain the demographic information for prevailing wage complainants and suggest that a shift in the fundamental data capabilities of the unit would be necessary to adequately collect and maintain that information in a useful way. To protect from prevailing wage discrepancies, the Prevailing Wage Unit holds pre- and post-construction evaluations to ensure proper rates were paid to workers. Violations not found during these measures are found throughout the course of the project through site checks, reviews of payroll, or referrals from other units and agencies.

Exhibit 14
Prevailing Wage Complaints
Fiscal 2014-2016
(\$ in Thousands)



Source: Department of Labor, Licensing, and Regulation

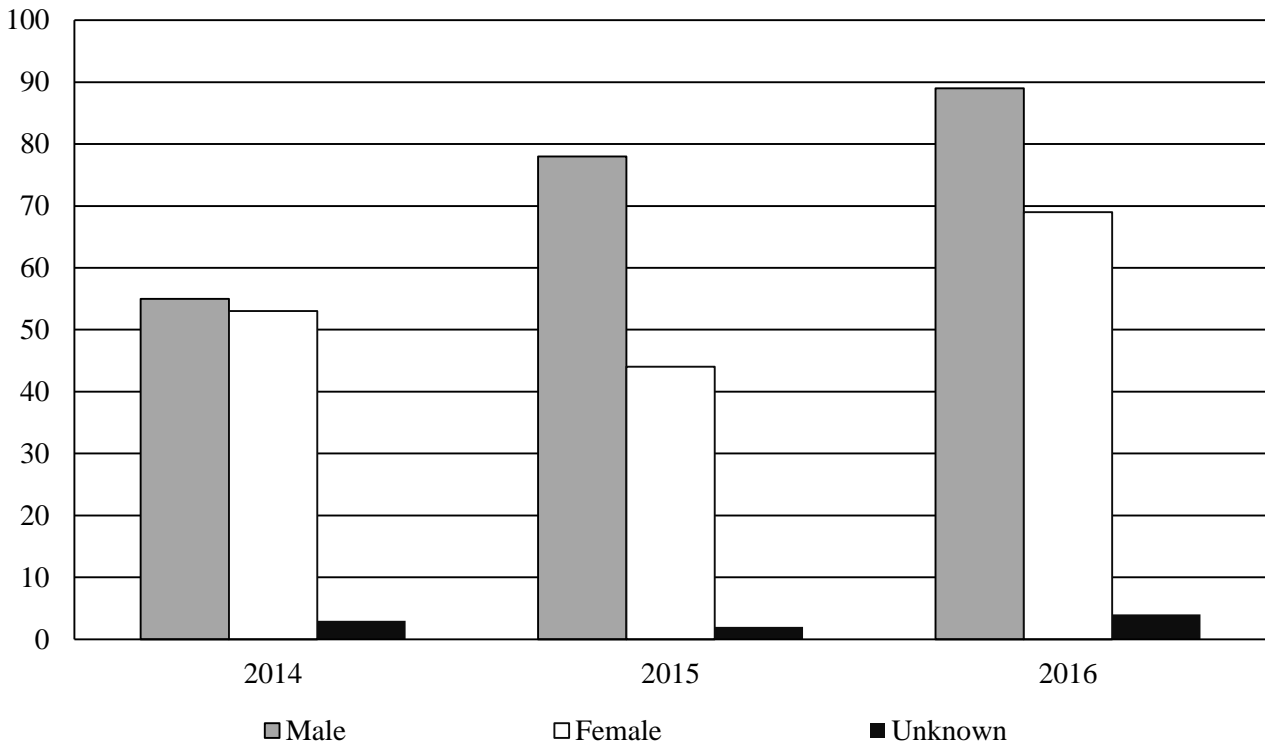
Minimum Wage

Minimum wage is the rate for most employees with few exemptions. Complaints of being paid lower than the minimum wage are handled by the Employment Standards Service (ESS) Unit within the Division of Labor and Industry. Traditionally, a significant portion of the wage and hour complaints were referred to the federal government because the Maryland minimum wage and the federal minimum wage were the same. As of January 1, 2015, the Maryland minimum wage (\$8.00) was greater than the federal minimum wage (\$7.25), with the Maryland minimum wage increasing to \$8.75 on July 1, 2016. This has opened the possibility for more complaints to be handled solely at the State level. As a result, wage and hour complaints have increased each year from fiscal 2014 to 2016. While the number of complaints have increased approximately 46% since fiscal 2014, the amount of monies collected has fluctuated.

ESS has some demographic data, but it is voluntary and not all complainants offer the information. **Exhibit 15** shows the number of male and female complainants for each fiscal year. For each fiscal year, the total number of complaints has increased significantly, but the majority of

complaints consistently come from male complainants. This is particularly true of fiscal 2015 and 2016.

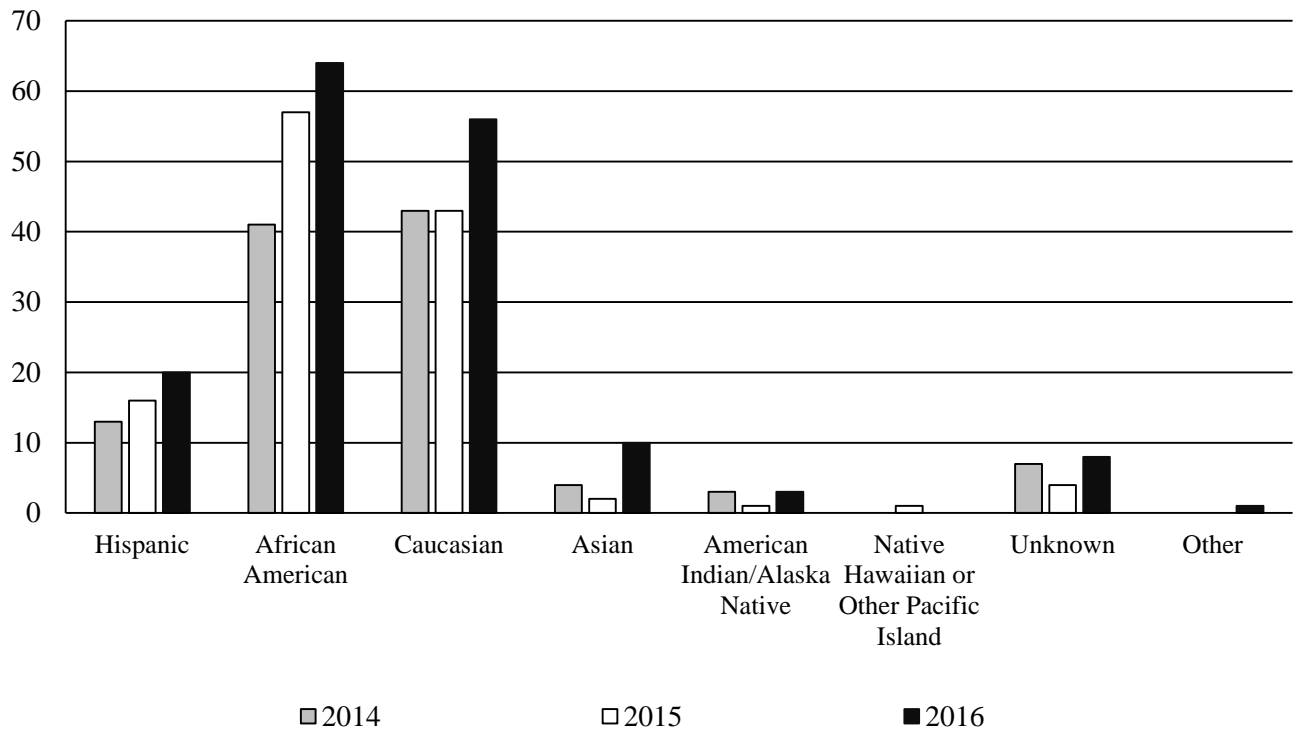
Exhibit 15
Wage and Hour Complaints by Sex
Fiscal 2014-2016



Source: Department of Labor, Licensing, and Regulation

Exhibit 16 shows the number of complainants by ethnicity. While the number of complainants of unknown ethnicity could play a significant role in skewing the data in various ways, the overall information suggests that over the course of the three fiscal years, complaints were from mostly African American and Caucasian complainants, with the largest number being from African American complainants.

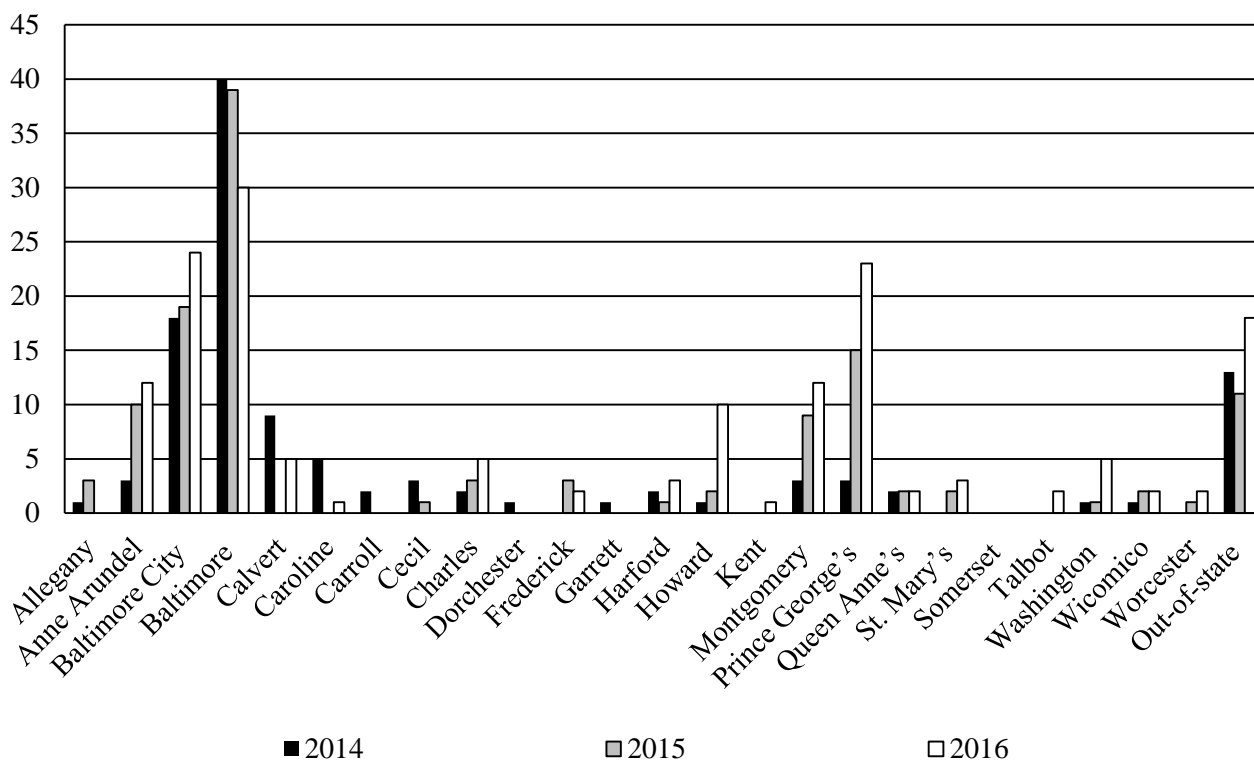
Exhibit 16
Wage and Hour Complaints by Ethnicity
Fiscal 2014-2016



Source: Department of Labor, Licensing, and Regulation

Exhibit 17 outlines the number of complaints by county. Predictably, most of the complaints have come from the counties with the highest populations. Baltimore County has the highest number of complaints for each fiscal year followed closely by Baltimore City. While there are less complaints in Montgomery and Prince George’s counties, respectively, both have seen a significant increase in the number of complaints in fiscal 2015 and 2016.

Exhibit 17
Wage and Hour Complaints by County
Fiscal 2014-2016



Source: Department of Labor, Licensing, and Regulation

P00C – DLLR – Business Regulation

Appendix 1
Current and Prior Year Budgets
Department of Labor, Licensing, and Regulation – Business Regulation
(\$ in Thousands)

	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>Federal</u> <u>Fund</u>	<u>Reimb.</u> <u>Fund</u>	<u>Total</u>
Fiscal 2016					
Legislative Appropriation	\$8,283	\$122,402	\$5,164	\$1,457	\$137,306
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	617	302	62	0	981
Reversions and Cancellations	-226	-25,935	-514	-4	-26,680
Actual Expenditures	\$8,673	\$96,769	\$4,712	\$1,453	\$111,608
Fiscal 2017					
Legislative Appropriation	\$8,639	\$158,554	\$5,160	\$1,305	\$173,659
Cost Containment	-36	0	0	0	-36
Budget Amendments	96	295	71	0	462
Working Appropriation	\$8,698	\$158,850	\$5,231	\$1,305	\$174,085

Note: Does not include targeted reversions, deficiencies, and contingent reductions. Numbers may not sum to total due to rounding.

Fiscal 2016

The fiscal 2016 legislative appropriation for the Department of Labor, Licensing, and Regulation – Business Regulation increased by \$981,214 through budget amendments. General funds increased by \$617,069 including:

- \$257,356 to restore a 2% pay reduction;
- \$89,713 for the annual salary review; and
- \$270,000 because of an agencywide realignment.

There was \$184,324 reverted back to the General Fund for vacancies and \$42,023 for operational costs.

The special fund appropriation increased by \$302,248 to restore a 2% pay reduction for fiscal 2016. There was \$25,935,181 in canceled special funds, which included:

- \$2,600,972 in canceled special funds from vacant positions;
- \$66,819 from operational costs; and
- \$23,267,390 in lower than appropriated spending of the video lottery terminal funds.

The federal fund appropriation increased by \$61,897 to restore the 2% pay reduction. There was \$514,434 in canceled federal funds that included \$500,828 from vacant positions and \$13,606 for operational costs.

The reimbursable fund appropriation decreased \$3,878 in canceled funds for operational costs.

Fiscal 2017

To date, the fiscal 2017 legislative appropriation increased \$426,000. General funds increased \$95,758 by budget amendment, including \$92,405 for statewide salary adjustments and \$3,353 for annual salary reviews. Cost containment decreased general funds by \$36,379. Special funds increased \$295,455, and federal funds increased \$70,886 by budget amendment for statewide salary adjustments.

Appendix 2
Object/Fund Difference Report
DLLR – Business Regulation

<u>Object/Fund</u>	<u>FY 16</u> <u>Actual</u>	<u>FY 17</u> <u>Working</u> <u>Appropriation</u>	<u>FY 18</u> <u>Allowance</u>	<u>FY 17 - FY 18</u> <u>Amount Change</u>	<u>Percent</u> <u>Change</u>
Positions					
01 Regular	355.10	349.10	349.10	0.00	0%
02 Contractual	44.87	63.74	51.90	-11.84	-18.6%
Total Positions	399.97	412.84	401.00	-11.84	-2.9%
Objects					
01 Salaries and Wages	\$ 28,035,673	\$ 32,130,780	\$ 31,932,734	-\$ 198,046	-0.6%
02 Technical and Spec. Fees	2,160,135	2,808,963	2,511,416	-297,547	-10.6%
03 Communication	631,257	625,087	649,464	24,377	3.9%
04 Travel	835,359	928,154	970,979	42,825	4.6%
06 Fuel and Utilities	2,714	5,398	3,056	-2,342	-43.4%
07 Motor Vehicles	343,516	239,793	326,998	87,205	36.4%
08 Contractual Services	5,270,990	4,768,014	5,268,104	500,090	10.5%
09 Supplies and Materials	310,382	276,583	255,789	-20,794	-7.5%
10 Equipment – Replacement	141,161	146,978	183,538	36,560	24.9%
11 Equipment – Additional	42,321	43,770	47,770	4,000	9.1%
12 Grants, Subsidies, and Contributions	72,409,927	130,629,972	174,255,051	43,625,079	33.4%
13 Fixed Charges	1,424,364	1,480,883	1,562,895	82,012	5.5%
Total Objects	\$ 111,607,799	\$ 174,084,375	\$ 217,967,794	\$ 43,883,419	25.2%
Funds					
01 General Fund	\$ 8,673,407	\$ 8,697,931	\$ 8,823,706	\$ 125,775	1.4%
03 Special Fund	96,769,484	158,849,936	202,569,129	43,719,193	27.5%
05 Federal Fund	4,711,712	5,231,154	5,315,669	84,515	1.6%
09 Reimbursable Fund	1,453,196	1,305,354	1,259,290	-46,064	-3.5%
Total Funds	\$ 111,607,799	\$ 174,084,375	\$ 217,967,794	\$ 43,883,419	25.2%

DLLR: Department of Labor, Licensing, and Regulation

Note: Does not include targeted reversions, deficiencies, and contingent reductions.

**Appendix 3
Fiscal Summary
DLLR – Business Regulation**

<u>Program/Unit</u>	<u>FY 16 Actual</u>	<u>FY 17 Wrk Approp</u>	<u>FY 18 Allowance</u>	<u>Change</u>	<u>FY 17 - FY 18 % Change</u>
01 Division of Financial Regulation	\$ 8,796,402	\$ 10,569,710	\$ 10,775,567	\$ 205,857	1.9%
01 Division of Labor and Industry	16,873,905	19,551,013	19,058,388	-492,625	-2.5%
01 Division of Racing	75,245,160	133,436,846	177,360,429	43,923,583	32.9%
01 Division of Occupational and Professional Licensing	10,692,332	10,526,806	10,773,410	246,604	2.3%
Total Expenditures	\$ 111,607,799	\$ 174,084,375	\$ 217,967,794	\$ 43,883,419	25.2%
General Fund	\$ 8,673,407	\$ 8,697,931	\$ 8,823,706	\$ 125,775	1.4%
Special Fund	96,769,484	158,849,936	202,569,129	43,719,193	27.5%
Federal Fund	4,711,712	5,231,154	5,315,669	84,515	1.6%
Total Appropriations	\$ 110,154,603	\$ 172,779,021	\$ 216,708,504	\$ 43,929,483	25.4%
Reimbursable Fund	\$ 1,453,196	\$ 1,305,354	\$ 1,259,290	-\$ 46,064	-3.5%
Total Funds	\$ 111,607,799	\$ 174,084,375	\$ 217,967,794	\$ 43,883,419	25.2%

DLLR: Department of Labor, Licensing, and Regulation

Note: Does not include targeted reversions, deficiencies, and contingent reductions.