# BACKGROUND PAPER FOR
# The Bureau of Household Goods and Services

## Joint Sunset Review Oversight Hearing, March 16, 2023
## Senate Committee on Business, Professions, and Economic Development and Assembly Committee on Business and Professions

## IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS

## BRIEF OVERVIEW OF THE BUREAU OF HOUSEHOLD GOODS AND SERVICES

### History and Function of the Bureau of Household Goods and Services

The Bureau of Household Goods and Services (Bureau or BHGS), within Department of Consumer Affairs (DCA), is responsible of the oversight and regulation of the Electronic and Appliance Repair Law (Business and Professions Code (BPC) §§ 9800 et seq.), the Home Furnishings and Thermal Insulation Act (BPC §§ 19000 et seq.), and the Household Movers Act (BPC §§ 19225 et seq.). Although the Bureau administers three practice acts, the Bureau's regulatory structure is divided into four distinct areas of regulation: 1) home furnishings and thermal insulation, 2) electronic and appliance repair, 3) service contracts, and 4) household movers.

The original Home Furnishings and Thermal Insulation (HFTI) program was established in early 1911 in response to flammability issues in the mattress manufacturers industry. Flammability issues were widely recognized during the 1906 San Francisco earthquake and the subsequent fires across the city.

The original Electronic and Appliance Repair (EAR) program was established in 1963 to address fraudulent and negligent issues in the television repair industry. Prior to the merger of HFTI and EAR, the jurisdiction of both regulatory entities had greatly expanded over time to keep pace with changing technology and industry products.

In 1994, service contracts for consumer electronic and home appliance products were added to the EAR regulatory program in response to concerns about companies selling or administering contracts without providing adequate financial backing or properly disclosing the terms and conditions as required by the Song-Beverly Consumer Warranty Act. Products covered under service contracts were expanded in 2004 to include furniture, jewelry, lawn and garden products, and other items used in homes for personal use. In 2014, service contract authority was expanded again to include optical products, such as eyeglasses. On January 1, 2020, the products covered under service contracts were expanded again to include all consumer goods.

The Bureau assumed the regulatory responsibility for household movers (HHM) effective July 1, 2018. SB 19 (Hill, Chapter 421, Statutes of 2017), transferred the licensing and enforcement duties for HHMs, which were formerly regulated by the Public Utilities Commission (PUC).

Today's Bureau has oversight and regulatory authority of four separate and distinct business operations. The HFTI program is responsible for the oversight and regulation of furniture and bedding manufacturers, importers, wholesalers, retailers, supply dealers, custom upholsterers, thermal insulation manufacturers, and bedding sanitizers. The EAR program oversees the repair of televisions, microwave ovens, audio and video playback equipment, video cameras, video games, copiers, computer systems, smart phones, tablets/ the repair and installation of auto stereo and alarm equipment, interlock ignition devices, residential satellite/antenna equipment, major home appliances, such as refrigerators, freezers, stoves/ovens, washer, dryers, dishwashers, trash compactors, and the sale and administration of service contracts for various consumer items sold or used for personal, family or household use. The HHM program issues permits for businesses and persons that move household goods throughout the state.

Unlike most regulatory programs within DCA that license or register individuals, the Bureau licenses and registers businesses. The following represents the Bureau's various licensure categories as of January 1, 2023 and licensing populations for fiscal year (FY) 2021/2022:

- Bedding Retailer: Sells bedding products including pillows, mattresses, quilts, comforters, and sleeping bags. (1,850 licensees)

- Custom Upholsterer: Repairs, reupholsters, re-covers, renews upholstered furniture, or who makes to order and specification of the user any article of upholstered furniture, using either new materials or the owner's materials. (449 licensees)

- Furniture and Bedding Manufacturer: Manufactures upholstered furniture or bedding in whole, or in part, or who uses new or secondhand materials to upholster any product. (1,338 licensees)

- Furniture/Bedding Retailer: Sells both upholstered furniture and bedding products. (10,351 licensees)

- Furniture Retailer: Sells upholstered furniture. (1,930 licensees)

- Importer: Manufactures or wholesales, through employees or agents, any article of upholstered furniture, bedding, or filling material manufactured outside of the United States for purpose of resale in California. (5,947 licensees)

- Sanitizer: Sanitizes bedding or filling materials for resale purposes. A licensee, who holds a Manufacturer, Importer, Bedding Retailer, Furniture/Bedding Retailer, or Custom Upholsterer license, does not need a separate Sanitizer license. (32 licensees)

- Supply Dealer: Manufactures, processes or sells any felt, batting, pads, woven, or plastic fabrics, or loose material in bags or containers, concealed or not concealed, to be used or that could be used in articles of upholstered furniture or bedding. (91 licensees)

- Thermal Insulation Manufacturer: Produces insulation materials or a combination of materials that retards the transfer of heat or cold. (99 licensees)

- Wholesaler: Sells any article of upholstered furniture or bedding or filling materials to another for the purpose of resale, but does not include an affiliate or subsidiary where the ownership and name are identical, and that is the exclusive sales outlet of a manufacturer. (156 Licensees)

- Appliance Service Dealer: Repairs, services or maintains major appliances. (2,555 licensees)

- Combination Service Dealer: Repairs, services, or maintain electronics and major appliances. (261 licensees)

- Electronic Service Dealer: Installs, repairs, services, or maintains electronics. (3,357 licensees)

- Service Contract Administrator: Facilitates the compensation of parties for claims or repairs under service contracts and other activities on behalf of service contract sellers. (69 licensees)

- Service Contract Seller: Sells service contracts. (11,703 licensees)

- Household Movers: Transports household goods and personal effects. (1,097)

The current mission statement of the Bureau as noted in its recent 2022 Sunset Review Report is as follows:

***To protect and serve consumers while ensuring a fair and competitive market.***

**Advisory Council**

The Bureau has a volunteer-based advisory council (Council) that makes recommendations and provides policy guidance to the Bureau Chief. The Director of the DCA appoints members to the Council and appointments are usually for two-year terms. Council members represent the various industries regulated under the Bureau's jurisdiction along with public members. Notices of meeting agendas and materials are on the Bureau's website at least 10 days prior to each meeting. Because the Council serves in an advisory role only and no official votes occur, a quorum is not required for the Council to take action. As noted in the Bureau's 2022 Sunset Review Report, the purpose of the Council is to provide:

- perspective and advice on consumer and market issues, trends, and business practices;
- creative solutions to consumer and industry problems; and,
- recommendations on a broad range of policy issues including consumer education, industry outreach, and regulatory compliance.

The Council is currently comprised of eight members, six professional and two public members. There is no statutory minimum for the number of members. During the Bureau's previous sunset review, the Council had 12 members. The most recent appointments include one representative of the HHM industry and one representative of the service contract industry. The Council aims to meet twice a year, at a minimum, and met three times in 2022 and has three meetings scheduled in 2023. The following is a listing of the Council members and their backgrounds:

| Name and Short Bio | Appointment Date | Term Expiration Date | Appointing Authority |
|---|---|---|---|
| **Pascal Benyamini, Public Member**<br>Mr. Benyamini is an attorney and partner at Faegre Drinker Biddle & Reath LLP. Since October 2009, Mr. Benyamini has served on the Board of Directors for the California Furniture Manufacturers Association, and since July 2015, he has served on the Board of Directors for the Los Angeles Chapter of the National Tooling and Machining Association. | 10/1/2017 | 04/01/2024 | Director of DCA |
| **Tom Keepers, Industry Member-Service Contract Industry Council**<br>As Executive Director of the Service Contract Industry Council (SCIC), Mr. Keepers is accountable for the advocacy and insight services delivered to the membership at the federal and state levels. Prior to this role, he successfully led the Consumer Credit Industry Association for almost seven years and spent more than two and a half decades in industry successfully leading almost every facet of the member product suite. | 10/01/2022 | 10/01/2024 | Director of DCA |
| **Burt Grimes, Industry Member-HIFI Manufacturer**<br>Mr. Grimes started his company, Pacific West Furniture Manufacturing, in 1979 and continues to successfully grow his business, including acquisition of Royal Mattress Manufacturing in 2010. Mr. Grimes currently serves on the Board of Directors of the California Furniture Manufacturers Association, and has served as president. | 10/1/215 | 04/01/2024 | Director of DCA |
| **Sara Oakley Industry Member – Household Movers**<br>Sara Oakley works directly with the Co-Presidents of Atlas Transfer & Storage Co. and Oakley Relocation LLC to implement strategic initiatives and risk mitigation programs for their family-owned and operated moving and storage business. | 09/01/2022 | 09/01/2024 | Director of DCA |
| **Dr. Donald Lucas, Public Member**<br>Dr. Lucas currently works as a Combustion Scientist at the Lawrence Berkeley National Laboratory and the University of California, Berkeley. His research focuses on combustion byproducts and has led to the development of diagnostic methods for the measuring of toxic combustion. | 10/01/2015 | 04/01/2024 | Director of DCA |
| **Dan Rhodes Industry Member – EAR Ignition Interlock Device**<br>Dan Rhodes has launched, expanded, and co-founded a variety of successful ventures both in the US and Canada, primarily in the Ignition Interlock, Probationary Monitoring, and Evidentiary Testing industries, aimed at the effort of reducing DUIs. Mr. Rhodes is also a BAIID and DUI Policy Expert and was the Legislative and Public Policy Chair for the MADD Arizona Operations Council 06-12, assisting and guiding in the creation of some of the highest regarded and effective DUI Legislation in the Country today | 04/01/2020 | 04/01/2024 | Director of DCA |
| **Toby Taylor Industry Member – EAR Ignition Interlock Device**<br>Mr. Taylor is the Vice President of Regulatory Compliance for Smart Start, a worldwide leader in breath alcohol testing and monitoring. His career began as a municipal police officer and he has spent the last 27 years in the breath alcohol testing/public safety field. He has worked in both the public and private sectors and created a national not for profit association providing sustained education and training programs to governmental entities who manage statewide breath alcohol testing | 04/01/2020 | 04/01/2024 | Director of DCA |

| | | | |
|---|---|---|---|
| programs. | | | |
| **Stephen Weitekamp, Industry Member-Household Mover** Mr. Weitekamp has been involved with the moving and storage industry since 1980. He has held several leadership positions and has served as President of the California Moving and Storage Association (CMSA) since 2006. He is also engaged with national and international moving and storage issues and serves as a member of the board of directors for the American Moving and Storage Association (AMSA). | 12/01/2017 | 04/01/2024 | Director of DCA |

In response to COVID-19, the Bureau implemented virtual Council meetings, held via the WebEx platform. Prior to 2020, all Council meetings were held in-person and by conference call. Going forward, the Bureau reports that it will hold meetings in a hybrid format allowing for both in-person and remote participation. Under current law, the Bureau is not required to follow the Bagley-Keene Open Meeting Act but voluntarily adheres to its requirements to ensure transparency and consistency.

**Fiscal, Fee, and Fund Analysis**

The Bureau is a special fund agency whose regulatory activities rely on funds collected through license, renewal, enforcement, and specified quarterly fees. The Bureau does not receive monetary support from the General Fund (GF).

Because of the merger of the HFTI, the EAR, and the HHM programs, the Bureau currently oversees three separate funds: HFTI Fund, EAR Fund and the HHM Fund. The service contract program is included in the EAR fund.

All licenses under the EAR program renew annually, and all licenses under the HFTI program renew biennially and all licenses expire on the last day of the month of expiration. Licensees under the HHM program are slightly different. When HHMs were under the PUC, HHM permits did not expire. Once issued, they were valid in perpetuity if the permit holder continued to meet insurance, quarterly report, and payment requirements. SB 19 (Hill, Chapter 421, Statutes of 2017) maintained the permit and quarterly fee requirements under the HHM act, and required the Bureau to maintain the fee structure as administered by the PUC until regulations are adopted. There have been no changes to regulatory fees for HHMs since the transfer of the program in July 2018 from the PUC to the Bureau. In addition, the Bureau continues the authorization for HHM permits to be issued without a renewal requirement pursuant to BPC § 19228. The Bureau reports that when it adopts new licensing regulations, it will reevaluate fees for the HHM program. The quarterly revenue fee structure for HHMs is unique within DCA for licensing programs, which typically use a standard renewal fee for licensees on an annual or biennial basis. HHMs pay quarterly fees, but licensure renewal is not subject to payment of those fees. However, the continuity of a license is dependent upon paying the required fees and maintaining the appropriate insurance.

The Bureau reports in its 2022 Sunset Review Report the following reserve levels for each program. By the end of FY 2021/22, the HFTI fund is anticipated to have $6.7 million (12.8 months in reserve), the EAR fund is anticipated to have $3.5 million (10.8 months in reserve), and the HHM fund is anticipated to have $7.1 million (22.2 months in reserve). According to the Bureau, the current reserves relate to the Bureau's efforts to reduce unnecessary spending where possible, such as eliminating maintenance agreements for outdated office equipment, and purchasing hybrid vehicles to reduce fuel expenses. The Bureau's three programs do not incur expenditures related to education or diversion.

There is not a statutory mandate, which would require the Bureau to maintain a certain reserve level in each fund. However, BPC § 128.5 requires the Bureau to reduce fees when reserve levels reach 24 months or more.

According to the Bureau, the HFTI fund projects to remain healthy through FY 2023/24, but it anticipates only 2.5 months in reserve by FY 2025/26. *(FY 2025/26 projections are not included in the table below.)*

| **Fund Condition – HFTI** ***(Table provided in the Bureau's 2022 Sunset Review Report)*** | | | | | | |
|---|---|---|---|---|---|---|
| **(Dollars in Thousands)** | **FY 2018/19** | **FY 2019/20** | **FY 2020/21** | **FY 2021/22** | **FY 2022/23** | **FY 2023/24** |
| Beginning Balance | $3,721 | $4,424 | $5,243 | $6,058 | $6,779 | $5,595 |
| Revenues and Transfers | $5,237 | $5,217 | 5,085 | $5,655 | $5,183 | $5,203 |
| **Total Resources** | $8,958 | $9,641 | $10,328 | $11,713 | $11,962 | $10,798 |
| Budget Authority | $5,035 | $5,521 | $5,244 | $6,268 | $5,895 | $5,939 |
| Expenditures | $4,363 | $4,027 | $3,898 | $4,475 | $5,895 | $5,939 |
| Loans to General Fund | N/A | N/A | N/A | N/A | N/A | N/A |
| Accrued Interest, Loans to General Fund | N/A | N/A | N/A | N/A | N/A | N/A |
| Loans Repaid From General Fund | N/A | N/A | N/A | N/A | N/A | N/A |
| **Fund Balance*** | $4,331 | $5,213 | $6,058 | $6,778 | $5,594 | $4,386 |
| **Months in Reserve** | 11.7 | 14.7 | 14.7 | 12.8 | 10.5 | 8.0 |

The EAR fund projects to have (2.8 months in reserve) in FY 2023/24 and projects to be in a deficit in FY 2024/25. *(FY 2025/26 projections are not included in the table below.)*

| **Fund Condition – EAR** ***(Table provided in the Bureau's 2022 Sunset Review Report)*** | | | | | | |
|---|---|---|---|---|---|---|
| **(Dollars in Thousands)** | **FY 2018/19** | **FY 2019/20** | **FY 2020/21** | **FY 2021/22** | **FY 2022/23** | **FY 2023/24** |
| Beginning Balance | $3,745 | $4,046 | $3,953 | $3,773 | $3,546 | $2,203 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Revenues and Transfers | $3,077 | $2,748 | $2,521 | $2,625 | $2,614 | $2,626 |
| **Total Resources** | $6,822 | $6,794 | $6,474 | $6,298 | $6,160 | $4,829 |
| Budget Authority | $2,802 | $2,978 | $2,817 | $4,264 | $3,722 | $3,700 |
| Expenditures | $2,594 | $2,659 | $2,526 | $2,620 | $3,722 | $3,700 |
| Loans to General Fund | N/A | N/A | N/A | N/A | N/A | N/A |
| Accrued Interest, Loans to General Fund | N/A | N/A | N/A | N/A | N/A | N/A |
| Loans Repaid From General Fund | N/A | N/A | N/A | N/A | N/A | N/A |
| **Fund Balance*** | $4,072 | $3,939 | $3,773 | $3,545 | $2,202 | $894 |
| **Months in Reserve** | 17.1 | 17.5 | 15.9 | 10.8 | 6.7 | 2.8 |

According to projections from the DCA budget analysts for the Bureau, it is anticipated that the HHM fund will reach the statutory maximum as specified in BPC § 128.5, of 24 months in reserve by the end of FY 2023/24. However, the Bureau notes that it does not anticipate the funds will actually reach the statutory maximum but will closely monitor the fund and consider alternatives should the fund reach 24 months in reserves. *(FY 2025/26 projections are not included in the table below.)*

| **Fund Condition – HHM** *(Table provided in the Bureau's 2022 Sunset Review Report)* | | | | | | |
|---|---|---|---|---|---|---|
| **(Dollars in Thousands)** | **FY 2018/19** | **FY 2019/20** | **FY 2020/21** | **FY 2021/22** | **FY 2022/23** | **FY 2023/24** |
| Beginning Balance | $0 | $2,335 | $3,415 | $5,062 | $7,132 | $7,109 |
| Revenues and Transfers | $3,553 | $2,952 | $3,648 | $3,782 | $3,839 | $3,830 |
| **Total Resources** | $3,553 | $5,287 | $7,063 | $8,844 | $10,971 | $10,949 |
| Budget Authority | $2,502 | $2,373 | $2,850 | $2,121 | $3,651 | $3,531 |
| Expenditures | $1,139 | $1,971 | $1,720 | $1,804 | $3,651 | $3,531 |
| Loans to General Fund | N/A | N/A | N/A | N/A | N/A | N/A |
| Accrued Interest, Loans to General Fund | N/A | N/A | N/A | N/A | N/A | N/A |
| Loans Repaid From General Fund | N/A | N/A | N/A | N/A | N/A | N/A |

| | | | | | | |
|---|---|---|---|---|---|---|
| **Fund Balance*** | $2,414 | $3,316 | $5,062 | $7,133 | $7,110 | $7,198 |
| **Months in Reserve** | 14.7 | 19.9 | 29.1 | 22.2 | 22.8 | 24.3 |

* Fund Balance includes the impact of statewide pro rata and supplemental pension payments against the fund, which are not listed on the tables.

The Bureau has not provided a loan to the GF since FY 2011/12. That loan has since been paid in full in FY 2013/14.

*Expenditures by Program*

***HFTI Program***

The Bureau attributes the overall decrease in personnel services and operating expenditures for the HFTI program to the Bureau's high vacancy rate. For the last four FYs, the HFTI program has expended approximately 58% on enforcement, 6% on licensing, 15% on administration, and 21% on DCA pro rata. The breakdown of HFTI expenditures by program component are as follows:

| **Expenditures by Program Component – HFTI** | | | | | | | | (list dollars in thousands) |
|---|---|---|---|---|---|---|---|---|
| | FY 2018/19 | | FY 2019/20 | | FY 2020/21 | | FY 2021/22 | |
| | Personnel Services | OE&E | Personnel Services | OE&E | Personnel Services | OE&E | Personnel Services | OE&E |
| Enforcement | $1,894 | $682 | $1,683 | $562 | $1,824 | $439 | $2,084 | $482 |
| Examination | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Licensing | $262 | $93 | $145 | $48 | $151 | $36 | $172 | $40 |
| Administration * | $451 | $161 | $536 | $178 | $476 | $114 | $544 | $125 |
| DCA Pro Rata | $0 | $837 | $0 | $875 | $0 | $858 | $0 | $1,028 |
| Diversion (if applicable) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| **TOTALS** | $2,607 | $1,773 | $2,364 | $1,663 | $2,451 | $1,447 | $2,800 | $1,675 |
| *Administration includes costs for executive staff, bureau, administrative support, and fiscal services. | | | | | | | | |

***EAR Program***

Expenditures related to the EAR program have seen a decrease in personnel services and operating expenditures due to the Bureau's high vacancy rate. For the last four FYs, the EAR program has expended approximately 44% on enforcement, 21% on licensing, 10% on administration, and 25% on DCA pro rata. The breakdown of EAR expenditures by program component is as follows:

| **Expenditures by Program Component – EAR** | | | | | | | | (list dollars in thousands) |
|---|---|---|---|---|---|---|---|---|
| | FY 2018/19 | | FY 2019/20 | | FY 2020/21 | | FY 2021/22 | |
| | Personnel Services | OE&E | Personnel Services | OE&E | Personnel Services | OE&E | Personnel Services | OE&E |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Enforcement | $1,108 | $212 | $1,024 | $135 | $918 | $125 | $891 | $120 |
| Examination | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Licensing | $341 | $57 | $558 | $53 | $501 | $56 | $520 | $59 |
| Administration * | $170 | $28 | $279 | $26 | $250 | $28 | $223 | $25 |
| DCA Pro Rata | $0 | $642 | $0 | $584 | $0 | $648 | $0 | $782 |
| Diversion (if applicable) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| **TOTALS** | $1,619 | $939 | $1,861 | $798 | $1,669 | $857 | $1,634 | $986 |
| *Administration includes costs for executive staff, bureau, administrative support, and fiscal services. | | | | | | | | |

***HHM Program***

Expenditures related to personnel services and operating expenses increased since the Bureau assumed the transfer of the HHM program in FY 2018/19. This is due to the staff recruitments to assist with the implementation of the HHM program. For the last four FYs, the HHM program has expended approximately 52% on enforcement, 15% on licensing, 14% on administration, and 19% on DCA pro rata. The breakdown of HHM expenditures by program component is as follows:

| **Expenditures by Program Component – HHM** (list dollars in thousands) | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | FY 2018/19 | | FY 2019/20 | | FY 2020/21 | | FY 2021/22 | |
| | Personnel Services | OE&E | Personnel Services | OE&E | Personnel Services | OE&E | Personnel Services | OE&E |
| Enforcement | $379 | $158 | $721 | $341 | $655 | $245 | $656 | $282 |
| Examination | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Licensing | $108 | $46 | $206 | $97 | $187 | $91 | $188 | $79 |
| Administration * | $108 | $45 | $206 | $96 | $187 | $59 | $188 | $61 |
| DCA Pro Rata | $0 | $295 | $0 | $304 | $0 | $296 | $0 | $350 |
| Diversion (if applicable) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| **TOTALS** | $595 | $544 | $1,133 | $838 | $1,029 | $691 | $1,032 | $772 |
| *Administration includes costs for executive staff, bureau, administrative support, and fiscal services. | | | | | | | | |

*Technology Update and Cost of BreEZe Project*

The BreEZe project was a system enhancement intended for use by all boards and bureaus at the DCA. In September 2011, DCA awarded Accenture LLC with a contract to develop and implement a commercial off-the-shelf IT system, commonly referred to as BreEZe. BreEZe was intended to provide applicant tracking, licensing, renewals, enforcement, monitoring, cashiering, and data management capabilities. In addition, BreEZe was designed to allow licensees to complete and submit applications, apply for renewals, and pay the necessary fees through the Internet. The public would be able to file complaints, access complaint status, and check licensee information. BreEZe was to be a one-stop-shop for all IT needs for each board and bureau. The project plan called for BreEZe implementation to occur in three releases. The first release was scheduled for July 2012. The Bureau was originally scheduled for inclusion in Release 3 of the project. Unfortunately, due to project delays, project issues and serious funding concerns, under Special Project Report 3.1, which outlined the changing scope and cost of the BreEZe project, Release 3 entities were removed from the project entirely in 2015. Unfortunately, the Bureau had invested significant resources in the BreEZe project, although it was ultimately removed from the program. The Bureau reports that it has not contributed to the BreEZe program since FY 2017/18. To date, the Bureau has not received any refund for payments made to the BreEZE project. Due to the timing of the Bureau acquiring the HHM program, the HHM program did not contribute to BreEZe costs.

| BreEZe Costs | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | FY 2009/10 | FY 2010/11 | FY 2011/12 | FY 2012/13 | FY 2013/14 | FY 2014/15 | FY 2015/16 | FY 2016/17 | FY 2017/18 | Total |
| HFTI | $3,019 | $0 | $50,746 | $4,620 | $86,479 | $46,073 | $44,605 | $107,581 | $80,428 | $423,551 |
| EAR | $4,202 | $29,480 | $36,875 | $2,739 | $60,955 | $29,305 | $28,173 | $70,404 | $52,414 | $314,547 |

Once the Bureau departed from the BreEZe program, the Bureau transitioned to a new IT project called the *Business Modernization* project as part of Cohort 2 (BMC2), which is currently in development. There were 19 boards and bureaus that ultimately never joined the BreEZe system as originally intended. All of those 19 programs paid into the BreEZe system, and also contribute additional funding to the new Business Modernization project.

Although still in the development phase, the new IT system is projected to include online application submission (initial and renewal), online payments, back office functionality for application and enforcement, and data reporting. The project will also incorporate HHM applications and will replace a PUC-supported platform that the Bureau has been using under a Memorandum of Understanding (MOU) pursuant to BPC section 19288(e). Because the Bureau is currently using a separate IT platform that is under the PUC, the Bureau reports that it is working on a data-conversion project with the PUC to ensure historic licensing information is retained at the Bureau. Additionally, because the Bureau relies on a non-DCA supported system and the MOU for that system expires at the end of 2023, the Bureau reports that it identified HHM as a top priority to go live on the updated IT platform. In the last three FYs, the Bureau has paid the PUC $40,000 annually to utilize their IT system and is authorized to expend up to $150,000 annually.

Until all license types are upgraded to the new IT platform, they will remain on the Bureau's old Legacy IT systems. The Bureau has made the following contributions to the new IT project:

| Business Modernization Costs | | | |
|---|---|---|---|
| | FY 2021/22 | FY 2022/23* | Total |
| HFTI | $13,364 | $404 | $13,768 |
| EAR | $40,092 | $1,211 | $41,303 |
| HHM | $88,464 | $5,779 | $94,243 |
| Bureau Total | $141,920 | $7,394 | $149,314 |

* Through July 2022

***Program Fees***

All license classifications under EAR and HFTI programs pay initial and renewal fees, with the exception of HHM permits, which do not expire.

Fee authority for EAR registration, renewal, and delinquency fees is specified in BPC § 9873 and California Code of Regulations (CCR) Title 16, section 2760.

| **Fee Schedule and Revenue – HFTI** | | | (list revenue dollars in thousands) | | | | |
|---|---|---|---|---|---|---|---|
| Initial License Fee | Current Fee Amount | Statutory Limit | FY 2018/19 Revenue | FY 2019/20 Revenue | FY 2020/21 Revenue | FY 2021/22 Revenue | % of Total Revenue |
| Bedding Retailer | $140 | $150 | $44 | $40 | $17 | $14 | <1% |
| Custom Upholsterer | $420 | $450 | $10 | $8 | $20 | $21 | <1% |
| Furniture and Bedding Manufacturer | $750 | $940 | $94 | $57 | $102 | $67 | 1% |
| Furniture and Bedding Retailer | $280 | $300 | $146 | $155 | $140 | $133 | 2% |
| Furniture and Bedding Wholesaler | $625 | $675 | $13 | $11 | $10 | $7 | <1% |
| Furniture Retailer | $140 | $150 | $15 | $13 | $57 | $20 | <1% |
| Importer | $750 | $940 | $688 | $589 | $683 | $665 | 12% |
| Sanitizer | $420 | $450 | $5 | $0 | $0 | $3 | <1% |
| Supply Dealer | $625 | $675 | $0 | $1 | $2 | $3 | <1% |
| Thermal Insulation Manufacturer | $2,000 | $2,500 | $22 | $14 | $10 | $10 | <1% |
| Certified Directory Fee | Current Fee Amount | Statutory Limit | FY 2018/19 Revenue | FY 2019/20 Revenue | FY 2020/21 Revenue | FY 2021/22 Revenue | % of Total Revenue |
| Thermal Insulation Manufacturer | $50 | $5,000 | $84 | $89 | $77 | $77 | 1% |
| Renewal Fee | Current Fee Amount | Statutory Limit | FY 2018/19 Revenue | FY 2019/20 Revenue | FY 2020/21 Revenue | FY 2021/22 Revenue | % of Total Revenue |
| Bedding Retailer | $140 | $150 | $127 | $110 | $136 | $128 | 2% |
| Custom Upholsterer | $420 | $450 | $88 | $85 | $84 | $75 | 1% |
| Furniture and Bedding Manufacturer | $750 | $940 | $484 | $437 | $459 | $424 | 7% |
| Furniture and | $280 | $300 | $1,210 | $1,551 | $1,058 | $1,717 | 30% |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Bedding Retailer | | | | | | | |
| Furniture and Bedding Wholesaler | $625 | $675 | $55 | $37 | $52 | $35 | 1% |
| Furniture Retailer | $140 | $150 | $172 | $90 | $68 | $115 | 2% |
| Importer | $750 | $940 | $1,455 | $1,407 | $1,616 | $1,592 | 28% |
| Sanitizer | $420 | $450 | <$1 | $5 | $2 | $8 | <1% |
| Supply Dealer | $625 | $675 | $30 | $24 | $27 | $27 | <1% |
| Thermal Insulation Manufacturer | $2,000 | $2,500 | $211 | $220 | $218 | $202 | 4% |
| Delinquency Fee | Current Fee Amount | Statutory Limit | FY 2018/19 Revenue | FY 2019/20 Revenue | FY 2020/21 Revenue | FY 2021/22 Revenue | % of Total Revenue |
| Bedding Retailer | $28 | $28 | $1 | $4 | $2 | $5 | <1% |
| Custom Upholsterer | $84 | $84 | $4 | $3 | $4 | $2 | <1% |
| Furniture and Bedding Manufacturer | $100 | $100 | $9 | $9 | $11 | $7 | <1% |
| Furniture and Bedding Retailer | $56 | $56 | $15 | $22 | $26 | $38 | 1% |
| Furniture and Bedding Wholesaler | $100 | $100 | $2 | $1 | $2 | $1 | <1% |
| Furniture Retailer | $28 | $28 | $1 | $1 | $2 | $12 | <1% |
| Importer | $100 | $100 | $34 | $36 | $49 | $49 | 1% |
| Sanitizer | $84 | $84 | $0 | $0 | $0 | $0 | 0% |
| Supply Dealer | $100 | $100 | <$1 | <$1 | <$1 | $1 | <1% |
| Thermal Insulation Manufacturer | $100 | $100 | $2 | $2 | $4 | $3 | <1% |
| Penalty Fee | Current Fee Amount | Statutory Limit | FY 2018/19 Revenue | FY 2019/20 Revenue | FY 2020/21 Revenue | FY 2021/22 Revenue | % of Total Revenue |
| All Home Furnishings License Types | N/A | N/A | $53 | $43 | $52 | $115 | 2% |
| Thermal Insulation Manufacturer | $600 | $750 | $2 | $0 | $3 | $5 | <1% |

| **Fee Schedule and Revenue – EAR** (list revenue dollars in thousands) | | | | | | | |
|---|---|---|---|---|---|---|---|
| Initial Registration Fee | Current Fee Amount | Statutory Limit | FY 2018/19 Revenue | FY 2019/20 Revenue | FY 2020/21 Revenue | FY 2021/22 Revenue | % of Total Revenue |
| Appliance | $190 | $205 | $94 | $61 | $74 | $67 | 3% |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Combination Service Dealer | $375 | $405 | $24 | $9 | $6 | $5 | <1% |
| Electronic | $190 | $205 | $72 | $59 | $37 | $65 | 2% |
| Service Contract Administrator | $95 | $95 | $2 | $1 | $1 | $31 | 1% |
| Service Contract | $95 | $95 | $69 | $85 | $156 | $266 | 10% |
| **Renewal Fee** | **Current Fee Amount** | **Statutory Limit** | **FY 2018/19 Revenue** | **FY 2019/20 Revenue** | **FY 2020/21 Revenue** | **FY 2021/22 Revenue** | **% of Total Revenue** |
| Appliance | $190 | $205 | $455 | $452 | $420 | $425 | 16% |
| Combination Service Dealer | $375 | $400 | $190 | $159 | $94 | $94 | 4% |
| Electronic | $190 | $205 | $806 | $714 | $668 | $606 | 23% |
| Service Contract Administrator | $95 | $95 | $4 | $12 | $5 | $29 | 1% |
| Service | $95 | $95 | $1,124 | $1,047 | $913 | $920 | 35% |
| **Delinquency Fee** | **Current Fee Amount** | **Statutory Limit** | **FY 2018/19 Revenue** | **FY 2019/20 Revenue** | **FY 2020/21 Revenue** | **FY 2021/22 Revenue** | **% of Total Revenue** |
| Appliance | $95 | $95 | $33 | $30 | $32 | $23 | 1% |
| Combination Service Dealer | $150 | $150 | $4 | $3 | $2 | $6 | <1% |
| Electronic | $95 | $95 | $52 | $40 | $50 | $46 | 2% |
| Service Contract Administrator | $47.50 | $47.50 | $0 | $0 | $0 | $0 | <1% |
| Service | $47.50 | $47.50 | $18 | $6 | $21 | $34 | 1% |

| **Fee Schedule and Revenue – HHM** | | | | | (list revenue dollars in thousands) | | |
|---|---|---|---|---|---|---|---|
| Permit Fee | Current Fee Amount | Statutory Limit | FY 2018/19 Revenue | FY 2019/20 Revenue | FY 2020/21 Revenue | FY 2021/22 Revenue | % of Total Revenue |
| Household Mover | $500 | $500 | $57 | $109 | $101 | $84 | 2% |
| Permit Transfer Fee | $150 | $150 | $2 | $2 | $3 | $2 | <1% |
| Quarterly Filing Fee | $10 | $10 | $43 | $58 | $44 | $45 | 1% |
| Quarterly Fee for CHP | $5 | $5 | $0 | $0 | $22 | $22 | <1% |
| Quarterly Gross Operating Revenue Permit Fee | Various | Various | $2,049 | $2,676 | $3,301 | $3,846 | 92% |
| Quarterly Gross Operating Revenue | 25% | 25% | $36 | $90 | $125 | $119 | 3% |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Penalty Fee | | | | | | | |
| Underpayment of Quarterly Filing Fee Collected | Various | Various | $30 | $41 | $65 | $52 | 1% |

*Staffing*

For FY 2022/23, the Bureau's current personnel authorization is 69.9 positions. Although staff are designated to the EAR, HFTI or HHM program separately, the Bureau notes that many staff work across all three programs, with the exception of an inspector who is dedicated to the HFTI program. In addition, any personnel who is a textile technician, environmental scientist, or flammability engineer is dedicated to the HFTI program. The Bureau reports that as of January 2023, there are approximately 20 staffing vacancies throughout all of its programs (EAR, HFTI, and HHM). The Bureau's enforcement program has seen a high turnover, especially in its northern California Investigations and Compliance Units.

**Licensing**

The Bureau reports that it has an internal performance target of 30 days from receipt of a complete application to processing for both HFTI and EAR applications. This means that once the Bureau receives a complete application, the Bureau will issue a license to those entities without cause for denial. The application process for HHMs is slightly different than for the EAR and HFTI programs and therefore the timeframes are different. In the HFTI and EAR programs, typical causes for licensure denial pertain to issues with past criminal history. Additionally, the Bureau reports that often times, deficiencies on applications are not corrected and those applications are eventually abandoned.

As noted in the Bureau's 2022 Sunset Review Report, the Bureau was able to meet internal processing times in FY 2019/20 and FY 2020/21; however, processing times in FY 2021/22 have exceeded the performance target as the cycle times ranged from 17 to 120 days. The Bureau attributes this delay to vacancies at the Bureau, along with the impact of the COVID-19 pandemic. The Bureau reports that it has hired additional staff to fill vacancies and anticipates improvements within the next year.

Processing times for EAR and HFTI programs have significantly increased since the last sunset review of the Bureau in 2018. At that time, the Bureau reported that it had met its internal timeframes by processing applications within 5-16 days. However, those processing times were prior to the Bureau's implementation and regulation of the HHM program.

The Bureau notes in its 2022 Sunset Review Report, that with respect to the EAR processing timeframes, the Bureau received an influx of over 3,000 service contract seller applications in FY 2021/22. The Bureau attributes the increase in service contract seller applications to the implementation of AB 1221 (Flora, Chapter 452, Statutes of 2021) which now allows service contracts to be offered month-by-month or continuous until canceled.

Regarding the HHM program, the application processing timelines and performance targets are different as there are more permit requirements for an HHM applicant. The Bureau reports that it provides licensing workshops for HHMs to discuss the specific permit requirements. The Bureau's performance target for HHM applications is 120 days from receipt of a complete application, although the Bureau reports that all applications received are technically “incomplete”. In order to obtain a permit, a HHM applicant must submit fingerprints to the Department of Justice (BPC § 19239), acquire workers’ compensation insurance (BPC § 19239.1), cargo liability, public liability, and property damage insurance (BPC § 19248), and must take and pass an examination (BPC § 19239). HHM applications are not complete upon receipt and are not processed until all these requirements are met. Obtaining the appropriate insurance is typically acquired upon passage of the required examination, instead of prior to taking the examination, in order to avoid unnecessary expenses for potential registrants before the insurance is needed. Although the application process for HHMs is lengthy, the insurance requirements and background check timeframes are outside the Bureau’s control, the Bureau’s average days to issue a permit in FY 2021/22 was 125 days, compared to the prior FY, which averaged 176 days.

*License Application Denials Due to Conviction*

For the previous four FYs, the Bureau reports that it has denied three applicants across the EAR, HFTI and HHM programs *(See table 7b below).*

| **License Denial** | | | |
|---|---|---|---|
| | FY 2019/20 | FY 2020/21 | FY 2021/22 |
| License Applications Denied (no hearing requested) | 2 | 0 | 0 |
| SOIs Filed | 1 | 0 | 0 |
| Average Days to File SOI (from request for hearing to SOI filed) | 108 | N/A | N/A |
| SOIs Declined | 0 | 0 | 0 |
| SOIs Withdrawn | 0 | 0 | 0 |
| SOIs Dismissed (license granted) | 0 | 0 | 0 |
| License Issued with Probation / Probationary License Issued | 0 | 0 | 0 |
| Average Days to Complete (from SOI filing to outcome) | 81 | N/A | N/A |

*Criminal or Disciplinary History*

The Bureau does not have authority to require fingerprints for purposes of conducting criminal record inquires for HFTI and EAR program applicants. EAR and HFTI applicants must self-disclose applicable criminal history. BPC § 19239(d) requires each applicant under the HHM program to submit fingerprint images to Department of Justice (DOJ) for each owner, partner, officer, and director as a prerequisite to the issuance of a permit. The Bureau receives criminal records from the DOJ, including subsequent arrest and conviction records.

All three programs’ applications for licensure include a section that inquires whether the applicant held a license that had been subject to disciplinary action from the Bureau or any other state agency. The applicant must provide all information regarding another state agency’s action, including the name of the agency, date and type of action taken against the license, etc. In addition, the Bureau reports that all applications for licensure are reviewed against Bureau records for prior criminal or administrative cases, citations, consumer complaints, or other actions related to the applicant.

The Bureau notes that it has not denied any licenses due to the applicant's failure to disclose information on the application in the last four years.

*National Databanks*

Unlike the majority of healing arts licensees, there is not a national databank, which provides history or records of disciplinary actions, related to HFTI or EAR licensees. Incidents that occur when licensed in another state must be disclosed on any application for licensure in California.

Related to the HHM program, the Bureau reports that it entered into a memorandum of agreement with the U.S. Department of Transportation in October 2020, which provides the Bureau access to the Federal Motor Carrier Safety Administrator (FMCSA) portal. The Bureau has access to databases with HHM complaint history filed with FMCSA and its other state partners. The portal allows the Bureau to validate the applicant's response to the inquiry regarding disciplinary actions and allows the Bureau to consult with other states to determine the extent of the disciplinary actions, specifically related to HHMs.

*Out-of-State/Out-of-Country Applicants*

Licensing/registration requirements for out-of-state applicants under the EAR and HFTI programs are the same as for in-state applicants. HFTI and EAR applicants are not subject to education or experience requirements for licensure and the physical location of the applicant does not hinder their ability to obtain and maintain licensure. All of the Bureau's programs (EAR, HFTI, and HHM) may have out-of-state or out-of-country licensees. However, the Importer license under HFTI and Service Contract Sellers under EAR have the highest population of out-of-state licensees. Out of 5,947 Importer licensees, 664 reside out-of-state, and 4,727 reside out-of-country, respectively.

Out-of-state applicants for HHM permits must meet the same application requirements as those operating within the state, such as meeting examination and insurance requirements including cargo liability, public liability, and property damage and worker's compensation. Similar to movers operating within California, out-of-state movers structured as individuals or partnerships are required to provide evidence of residing in California for not less than 90 days preceding the filing of their application. Out-of-state corporations are not required to meet this residence requirement, nor are they required to meet worker's compensation insurance requirements. The Bureau does not permit out-of-country movers.

*Military Applicants*

Per BPC § 114.5, the Bureau is to inquire of every applicant for licensure if the individual is serving in, or has previously served in, the military. Further, the statute requires that if a board's governing law authorizes veterans to apply military experience and training towards licensure requirements, that board shall post information on the board's website about the ability of veteran applicants to apply military experience and training towards licensure requirements.

Regarding military experience as described in BPC § 35, no formal training or experience is required for licensure. The Bureau has not received a fee waiver request from licensees called to active duty pursuant to BPC § 114.3, nor has the Bureau received a request for an expedited military spouse application pursuant to BPC §115.5.

*No Longer Interested (NLI)*

The Bureau has not sent NLI notifications to the DOJ and reports that it will establish a process to submit NLIs on a monthly basis. The Bureau reports that as of January 1, 2023, it has a backlog of 166 notifications based on applications withdrawn or businesses that are no longer in business. The Bureau notes that it aims to clear the existing backlog and ensure all NLI notifications are current before the end of this year. Because the EAR and HFTI programs do not require fingerprints for licensure, the Bureau has not had needed to send NLIs prior to the HHM program oversight.

*Examination*

The only examination required for licensure, for any program under the Bureau's jurisdiction, is for the HHM programs. HHM applicants are required to take and pass a California-specific examination that tests applicants on their knowledge and ability to abide by the rates and rules of the Maximum Rate Tariff 4 (Tariff). The examination is specific to California's tariff and no national examination is required.

The current examination was developed by the Bureau in consultation with the Office of Professional Examination Services at the DCA. The examination is offered in English only; however, applicants can select an interpreter (aged 18 or older) to accompany them on examination day. The examination is available at PSI testing centers, of which 20 sites are available throughout California and 22 others nationwide. After an applicant submits an application to the Bureau, they are provided the appropriate testing access information. The test is computer based and is open book and results are provided immediately.

**Enforcement**

Between FYs 2019/20 and 2021/22, the Bureau reports approximately 56% increase in the number of complaints it has received. The majority of complaints are received from the public and close to 50% of cases are closed without a referral for an investigation. The increase in complaints likely stems from the addition of the HHM program at the Bureau, which increased its regulatory footprint.

The Bureau's established performance target for its investigation process is 180 days or less. According to the Bureau, cases are prioritized based on the level of consumer harm and business practices. Average completion times range between 127-169 days, which is an increase from the Bureau's last sunset review when cases were averaging completion between 90 to 100 days. The Bureau attributes the increase in processing times to staff shortages and the new investigation process for HHMs.

The Bureau uses the applicable criteria in the DCA's *Complaint Prioritization Guidelines for Health Care Agencies* for complaint prioritization. The Bureau's highest priority is 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.

Cases identified as a high priority are assigned to field staff to investigate, while the Compliance Unit handles routine complaints in-house. Among the Bureau's highest priorities are HHM "hold hostage cases". These are cases in which a mover takes possession of the consumer's belongings, and then uses those belongings to extort money from the consumer. In almost all hold hostage cases, the mover is unpermitted, the move is most likely inter-state, and the job is likely to have involved a broker so there are multiple elements that make these cases more complex than others. However, time is essential in these cases and priority is placed on recovering the consumer's belongings. The Bureau also prioritizes cases involving elder abuse or when another state agency is participating in the investigation. Currently, the Bureau does not have a standard number of businesses that it investigates to determine whether they comply with the law.

The Bureau acknowledges in its Sunset Review Report 2022, that it is in the process of rebuilding the enforcement program as the overall statistics show a decrease in disciplinary actions. While there have been citations issued and investigations conducted, the Bureau has not taken any formal disciplinary actions. The Bureau reports that it is working to improve its disciplinary process.

The Department of Industrial Relations is required to report to the Bureau when a stop order is issued to a HHM for failing to pay wages due to its employees and when a judgment has been entered against a HHM for failing to pay wages. The Bureau has not received any notices, but also is not aware of any issues relating to these reports indicating they have not been reported.

*Cite and Fine*

The fine schedule for violations of EAR laws are specified under Title 16, California Code of Regulations (CCR) § 2771, and the fines for service contract violations are specified in BPC §9855.8. Fines are levied depending on the severity of the violation, repeat violations, and can range anywhere between $50 and $2000. The fine schedule for violations of the HFTI laws are specified under 4 CCR §§ 1383.2, 1383.6 and BPC §§19094, 19103. The various fine amounts for specified violations of the HHM act are specified in BPC §§ 19277-19284.

Fines are assessed based on the violation as specified under each program's authority. For example, a violation of labeling requirements can result in a fine between $100 and $1000. The highest fines levied under HFTI can be up to $2500 and are predominately assessed for violations of the flammability regulations. The average fine under the EAR program is $250 and $500 under the HFTI program. As reported by the Bureau, the most common reasons for issuing citations are:

- Unlicensed activity (BPC §§ 9840, 19049, 19237).
- Failure to make deliveries within a reasonable time or provide a refund (HFTI, 4 CCR 1304.1(g)).
- Thermal insulation standards failure (BPC § 19165).

According to the DCA 2021, annual report to the Legislature, the Bureau assessed $219,951 in fines, reduced $420, and collected $11,150.

The Bureau has not recently participated in the Franchise Tax Board (FTB) intercept program because the Bureau's licensees are businesses, not individuals. The intercept program is not available for corporations or limited liability companies, only sole proprietors. The Bureau reports it is in the discussion phase to develop a process for cost recovery, which will be applicable to licensees for which the intercept program is not applicable.

The Bureau seeks cost recovery in most administrative cases for costs associated with the enforcement process. The Bureau's collection rate is poor. The Bureau notes that it recently updated procedures on collecting outstanding fees and fines and will be working with the DCA and the FTB's intercept program, as well as leveraging a DCA contract with a third-party collection agency. The Bureau is currently in the process of hiring two positions where collection will be among their duties.

Since the last sunset review, the Bureau has not taken action such as revocations, surrenders, or placed a licensee on probation. In addition, the Bureau does not seek costs when the matter relates to denying an applicant licensure. The Bureau has requested cost recovery in all cases for which it was authorized to do so since 2020.

| **Cost Recovery** | | | | (list dollars in thousands) |
|---|---|---|---|---|
| | FY 2018/19 | FY 2019/20 | FY 2020/21 | FY 2021/22 |
| Total Enforcement Expenditures | 0 | 0 | 0 | 0 |
| Potential Cases for Recovery * | 0 | 0 | 0 | 0 |
| Cases Recovery Ordered | 0 | 0 | 1 | 1 |
| Amount of Cost Recovery Ordered | 0 | 0 | $1,610 | $1,040 |
| Amount Collected | 0 | 0 | 0 | 0 |
| * "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act. | | | | |

The Bureau does not have the authority to order restitution for EAR and HFTI consumers, however, the Bureau can recommend settlements for refunds, reworks, and adjustments to the transaction. For HHM, the Tariff sets rates that may be charged to consumers and requires those charges to be set according to weight and distance of the move. Any mover that bases its rate on a volumetric unit of measurement rather than weight is required to pay restitution to the consumer (BPC § 19253.1).

| **Restitution** | | | | (list dollars in thousands) |
|---|---|---|---|---|
| | FY 2018/19 | FY 2019/20 | FY 2020/21 | FY 2021/22 |
| Amount Ordered | $0 | $0 | $0 | $0 |
| Amount Collected | $0 | $0 | $0 | $0 |

*Laboratory/Product Testing*

California is one of two states in the nation that conducts laboratory testing and establishes classifications for filling materials contained in furniture and bedding products. Laboratory testing is conducted for products under the HFTI program. The rest of the country has looked to California for technical expertise in determining the industry standards. California's licensees in these industries typically produce products that meet California's high standards and distribute those products to the rest of the nation.

The Bureau developed and implemented the performance standard for upholstered furniture, Technical Bulletin (TB) 117-2013, in 2015. The intent of the standard is to slow the propagation of upholstered furniture fires and reduce the probability of death or injury by providing an opportunity for escape. California was the only state with a mandatory flammability standard for upholstered furniture until December 2020 when Congress signed H.R. 133, "COVID-19 Regulatory Relief and Work from Home Safety Act." The Act adopted the Bureau's flammability standard as the national standard and requires the U.S. Consumer Product Safety Commission to promulgate regulations for the implementation and enforcement of TB 117-2013. This has resulted in a collaborative effort to gain insight into the Bureau's experience with testing efforts and guidelines.

The Bureau has access to, and may inspect and test, any article of upholstered furniture, bedding, or insulation, and may condemn, seize, or destroy any of those products that are in violation of the law. While companies do not need to have their products tested to receive a license, staff may randomly select items for testing to determine if products are in compliance. BPC § 19200.5 authorizes the Bureau to open and inspect any article of upholstered furniture or bedding, including pillows or cushions for inspection purposes to ensure the materials comply with California's product standards.

Under current law, the Bureau is required to reimburse the manufacturer, distributor, or retailer for the actual cost of any article or sample of filling material or insulation taken for testing. However, if the product fails the test, then the Bureau is not required to provide reimbursement.

The Bureau continues to conduct inspections and compliance testing to ensure the industry is compliant with testing standards. The Bureau averaged approximately $1,231 in reimbursement costs for product sampling between 2019 and 2022. During those same years, the Bureau tested approximately 479 total samples of upholstered furniture products (adult and juvenile), mattresses (crib and twin, etc.), bedding products (pillows, mattress pads, plumage products, among others), and thermal insulation products (i.e. boards, battings, reflective barriers, etc.). Upholstered furniture continues to make up the largest share of those samples. In 2023, the Bureau's goal is to sample approximately 240 samples, including 100 upholstered furniture samples and approximately 20 insulation samples. These samples do include products tested by the Department of Toxics and Substance Control (DTSC), as part of SB 1019 (Leno, Chapter 862, Statutes of 2014) labeling and product compliance for flame retardant chemicals.

The Bureau has tested an average of 70 samples per year since FY 2018/19. The majority of businesses meet TB 117-2013 as test results indicate a minimum passing rate of 92 percent over the last four years.

| TB 117-2013 Test | Completed | Pass | Fail | Pass Rate |
|---|---|---|---|---|
| FY 2018/19 | 72 | 66 | 6 | 92% |
| FY 2019/20 | 64 | 61 | 3 | 95% |
| FY 2020/21 | 81 | 80 | 1 | 99% |
| FY 2021/22 | 62 | 59 | 3 | 95% |

**Consumer Awareness and Education**

The Bureau's website, *https://bhgs.dca.ca.*gov provides a variety of information of interest to consumers, industry members, and regulators. The Bureau's website includes information on the advisory committee including agendas, minutes, and a calendar of meetings. Through the website, there is access to licensing and renewal applications, both online and downloadable complaint forms, and a licensee look-up. There are publications of EAR, HFTI, and HHM laws and regulations, along with access to the Max 4 Tariff. There is access to enforcement actions; however, the citation information does not appear to be up to date. The Bureau webcasts advisory committee meetings and past meetings are accessible on the DCA's YouTube page and on the Bureau's webpage: https://bhgs.dca.ca.gov/about_us/meetings/index.shtml.

**Bureau Actions and Responses to COVID-19**

To the Bureau's knowledge, there are not any emergency statutes that are applicable to the Bureau. Additionally, the Bureau did not work on waiver requests with the DCA.

The Bureau reported that in response to the COVID-19 pandemic, it reduced its in-office staff by approximately 70 percent. Staff were authorized to telework on a staggered schedule, some staff work from home full-time, and laboratory staff utilizing workstations in the laboratory as their primary workstations.

In the initial stages of the pandemic (March – June of 2020), the Bureau's enforcement staff was unable to conduct field operations. During this time, staff used several internet search tools to identify unlicensed movers, issue cease and desist letters, which the Bureau maintains on file. In the event the mover continues to not obtain a permit, these letters are used as evidence the mover is aware of their violations. In FY 2019/20, the Bureau sent 151 cease and desist letters. Once field operations resumed in June 2020 as part of the Governor's COVID-19 Enforcement Task Force efforts, this activity ebbed. In FY 2020/21, the Bureau issued 72 cease and desist letters and in FY 2021/22, the Bureau issued just four letters.

The Bureau's field personnel were members of the Governor's COVID-19 Enforcement Task Force from July 2020 to June 2021. Task force members educated businesses in Bureau-regulated industries about best practices to avoid the spread of COVID-19. While providing education as part of the Task Force, the Bureau also continued site visits to support investigations and enforcement actions of the Bureau.

# CURRENT SUNSET REVIEW ISSUES FOR THE BUREAU OF HOUSEHOLD GOODS AND SERVICES

The Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business and Professions (the Committees) last reviewed last reviewed the Bureau through the sunset review oversight process in 2018; the Bureau was originally scheduled to be reviewed again in 2022. Due to the COVID-19 pandemic and strains on the Legislature in 2019 and 2020, the Bureau was granted an additional one-year extension to balance workload and ensure an appropriate and thoughtful legislative review of the program. During the Bureau's previous sunset review, the Committees raised 14 issues related to the administration and operations of the Bureau including its licensing, enforcement, and operations. In December 2022, the Bureau submitted its required sunset report to the Committees. In this report, the Bureau described actions it has taken since its prior review to address the recommendations made, among other changes resulting from changing economies, the recent COVID-19 pandemics and other issues to address issues.

The following are unresolved issues pertaining to the Bureau and other areas of concern that should be considered, along with background information for each issue. There are also recommendations the Committees' staff have made regarding particular issues or problem areas the Bureau needs to address. The Bureau and other interested parties have been provided with this Background Paper and the Bureau will respond to the issues presented and the recommendations of staff.

## ***ADMINISTRATIVE ISSUES***

**ISSUE #1: (HHM FEE STRUCTURE AND PROJECTED FUND RESERVE LEVEL)** ***Are HHM permit fees appropriate?***

**Background:** The fee structure for HHMs is unique. HHMs pay an initial licensing fee, currently set at $500, but are not required to pay any renewal fees. Licenses last in perpetuity as long as other designated fees are paid and insurance and ownership is maintained. As specified in BPC § 19288, HHMs must pay quarterly fees and gross operating fees to the Bureau. Specifically, BPC § 19288(b)(2) requires every HHM to pay the Bureau a permit fee equal to 1/10 of 1 percent of gross operating revenue. The quarterly gross operating revenue permit fee provides 92% of the HHMs fund's annual revenue. Given that fees for HHMs licensees are fluid, based on revenue that can fluctuate, it likely makes annual budgeting for the Bureau a challenge. SB 19 (Hill, Chapter, 421, Statutes of 2018) which transferred the licensing and regulation of HHMs from the PUC to the Bureau also requires the Bureau to engage in public workshops and a formal rulemaking process to potentially revise the fee structure for HHM.

BPC § 19288, requires the Bureau to complete a review and possible restructure of the fee structure specifically related to the HHM program. The current fee schedule for HHMs was a carryover from prior regulation under the PUC, until such time the Bureau could review and revise the fee structure. The current fees for HHMs are set to sunset at such time the Bureau establishes a new fee schedule, if it determines necessary. The HHM act requires the Bureau to engage in stakeholder workshops and a formal rulemaking process to adopt a fee structure for HHM permit holders by January 1, 2023 (BPC §

19288). That fee structure may change the fees or impose an alternate fee structure. The Bureau reports that this is currently in process.

The Bureau seeks to have the HHM permit application costs solely cover the Bureau's workload associated with the application. Moving forward, the applicant would pay separate fees to commercial entities that fingerprint applicants and a separate fee to the Bureau's test administrator vendor – at this time the vendor is PSI Exams. This is not a large departure from the current fee structure, but the Bureau believes more time administering the program and workload analysis is necessary to determine whether fee changes are warranted.

There is no statutory requirement under the HHM act for the Bureau to maintain a designated fund reserve. BPC § 128.8 requires any entity with more than 24 months in reserve to lower the licensing fees or other fees during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years. This is to help ensure that licensing and regulatory entities under the DCA are not overcharging fees for licensure and regulation,

With respect to the HHM fund, the Bureau's 2022 sunset review report projects the fund to have 24.3 months in reserve, which is more than the operating budget for two years. However, the Bureau notes that although the DCA budget office is projecting the reserve balance to reach slightly above the 24 months, the Bureau does not anticipate the reserve level to ultimately reach 24-months. The Bureau notes that after filling staff vacancies and completing the data migration from the PUC to the Bureau, the fund condition outlook will likely decrease.  Given the unique structure of fees under the HHM program, it is unclear what the Bureau's plan is for reducing fees if there are more than 24 months in reserve for this program.  The other funds (HFTI and EAR) are projected to have many less months in reserve, at 8 months and 2.8 months respectively.

| **Fund Condition – HHM** | | | | | | |
|---|---|---|---|---|---|---|
| **(Dollars in Thousands)** | **FY 2018/19** | **FY 2019/20** | **FY 2020/21** | **FY 2021/22** | **FY 2022/23** | **FY 2023/24** |
| Beginning Balance | $0 | $2,335 | $3,415 | $5,062 | $7,132 | $7,109 |
| Revenues and Transfers | $3,553 | $2,952 | $3,648 | $3,782 | $3,839 | $3,830 |
| **Total Resources** | $3,553 | $5,287 | $7,063 | $8,844 | $10,971 | $10,949 |
| Budget Authority | $2,502 | $2,373 | $2,850 | $2,121 | $3,651 | $3,531 |
| Expenditures | $1,139 | $1,971 | $1,720 | $1,804 | $3,651 | $3,531 |
| Loans to General Fund | N/A | N/A | N/A | N/A | N/A | N/A |
| Accrued Interest, Loans to General Fund | N/A | N/A | N/A | N/A | N/A | N/A |
| Loans Repaid From General Fund | N/A | N/A | N/A | N/A | N/A | N/A |
| **Fund Balance*** | $2,414 | $3,316 | $5,062 | $7,133 | $7,110 | $7,198 |
| **Months in Reserve** | 14.7 | 19.9 | 29.1 | 22.2 | 22.8 | 24.3 |

* Fund Balance includes the impact of statewide pro rata and supplemental pension payments against the fund, which are not listed on the tables.

**Staff Recommendation:** ***The Bureau should inform the Committees on the progress of establishing a new fee structure for the HHM program and share its plan for reducing fees if the HHM fund maintains a reserve level of greater than two years operating expenses.***

**ISSUE #2: (FUND MERGER AND FEES)** ***Should the three separate program funds be merged into one fund that the Bureau administers? Do the EAR and HFTI programs need a fee increase?***

**Background:** The Bureau reports in its 2022 Sunset Review Report two fiscal concerns: 1) the oversight of three separate program funds; and 2), the projected reserve levels and fees under the EAR and HFTI programs. Although the fiscal outlook for HHMs, described in issue 1) above, appears to be healthy. The Bureau notes that annual reserve projections for the EAR and HFTI funds are concerning. The Bureau projects a reserve balance of 2.8 months at the end of the next FY (a significant decline from 17.1 months in FY 2018/19) for the EAR program, and projects a reserve balance of 8 months at the end of the next FY (a slight decline from 11.7 months in FY 2018/19) for the HFTI program. The Bureau is requesting to consolidate the separate funds of the three programs (EAR, HFTI and HHM) into one fund.

Because the Bureau administers three separate funds, there may be duplicate administrative work, such as reviewing separate fund expenditure and revenue reports, and separating each application, audit report, or fine to make sure it was charged to the appropriate fund. With the recent addition of the HHM fund, performing budget, accounting, and administrative Bureau functions is becoming increasingly onerous on staff time and resources.

Each year, the Bureau must conduct a reconciliation between the three funds to ensure proper billing occurs. Reconciliation is exceedingly difficult because it is hard to determine workload and equipment devoted to a specific practice area. The Bureau currently administers three separate funds, and the majority of Bureau staff time and equipment are devoted to multiple practice acts, making fund reconciliation challenging. It is not uncommon for staff to perform their duties throughout their day in all three acts although their positions are allocated to only one of the three funds. One example noted by the Bureau of existing challenges with having three separate funds is employee compensation. The Bureau Chief and all other staff are compensated from one specific fund but often work in all three practice areas. It is difficult to allocate time in the absence of a periodic workload analysis. Vehicle use is another example. A Special Investigator may start their day interviewing a household mover, then visit three EAR establishments and finish their day with several inspections of furniture retailers and suppliers. Without a workload analysis, it is difficult to divide the cost of the vehicle's use into the three funds.

The Bureau is in the process of finalizing a fee study and reviewing potential efficiencies. Based on preliminary findings in a fee study and review of Bureau internal operations (e.g., fleet operations and supply ordering), the Bureau is recommending the three operating funds be consolidated into one fund, the "Household Goods and Services Fund." The Bureau further recommends that licensing fees be augmented based on the recommendations in the study to ensure all license types pay in accordance with the Bureau's identified operational workload.

Fund consolidation may enable allocation of Bureau staff and resources more efficiently. In addition, the Bureau is seeking a fee increase for the EAR and HFTI programs, and is currently working on a revised fee structure for HHMs, which may require statutory changes and increased fee assessments.

A workload analysis conducted by the Bureau found that the administration of the HHM program requires more resources of the Bureau, than the 11 personnel originally provided to implement the transition of the HHM program. The workload study found HHM requires the workload equivalent of 8.1 more PYs than is budgeted to license and enforce while HFTI requires 3.4 fewer PY and EAR requires 4.3 fewer PY.

According to the Bureau, although the EAR and HFTI programs require less workload than budgeted, these funds do not support the activities required to administer the programs. The Bureau's forthcoming fee study evaluated appropriate fee levels to recover actual costs to the Bureau associated with administering each practice act. Based on that preliminary report, the following are proposed increases that could assist the Bureau in effectively continuing to undertake its work.

| Program | License Type | Initial or Renewal Fee | Current Fee | Proposed Fee | Percent Increase |
|---|---|---|---|---|---|
| HFTI | Furniture or Bedding Retailer | Initial | $140 | $300 | 114 |
| | Furniture and Bedding Retailer | Initial | $280 | $300 | 7 |
| | Wholesaler | Initial | $625 | $1,000 | 60 |
| | Furniture or Bedding Retailer | Renewal | $70* | $150 | 114 |
| | Furniture and Bedding Retailer | Renewal | $140* | $150 | 7 |
| | Wholesaler | Renewal | $312.50* | $500 | 60 |
| | Costs associated with product noncompliance | N/A | $0 | Actual Cost | N/A |
| | | | | | |
| EAR | Appliance Service Dealer | Initial | $190 | $220 | 16 |
| | Electronic Service Dealer | Initial | $190 | $220 | 16 |
| | Combination Service Dealer | Initial | $375 | $400 | 7 |
| | Service Contract Seller | Initial | $95 | $120 | 26 |
| | Service Contract Administrator | Initial | $95 | $500 | 426 |
| | Appliance Service Dealer | Renewal | $190 | $220 | 16 |
| | Electronic Service Dealer | Renewal | $190 | $220 | 16 |
| | Combination Service Dealer | Renewal | $375 | $400 | 7 |
| | Service Contract Seller | Renewal | $95 | $120 | 26 |
| | Service Contract Administrator | Renewal | $95 | $200 | 110 |
| | | | | | |
| HHM | Permit | Initial | $500 | $500 | 0 |
| | | | | | |
| New Fees All | Change Business Name | N/A | $0 | $110 | N/A |

| | | | | | |
|---|---|---|---|---|---|
| **Programs** | Returned Check Fee | N/A | $0 | Actual Cost | N/A |

* Existing fees are charged biennially but this shows the cost if they were charged annually.

**Staff Recommendation**: ***The Bureau should provide the Committees and interested parties the fee study when available. Should a fund merger or the required update to the HHM fee structure occur prior to any fee changes?***

## ISSUE #3: (FLAME RETARDANT CHEMICAL DOCUMENT REQUIREMENTS) *Should the documentation requirements be revised?*

**Background**: BPC § 19094(c) requires furniture manufacturers to maintain documentation to show whether flame-retardant chemicals were added to their furniture materials. Statute permits a written statement by the supplier of each component covered by TB 117-2013 attesting that flame retardant chemicals are either contained or not contained in the item, to be sufficient documentation. However, the Bureau notes that under current practice, the ways in which manufacturers obtain raw materials, makes complying with the requirements specified in BPC § 19094(c) difficult for the Bureau to enforce.

As noted by the Bureau, licensees are not able to compel suppliers to provide such documentation in a manner consistent with statutes, and additionally have shifting suppliers for cover fabrics, foams, and other materials that are often overseas. In addition, these purchases are often transacted through other companies so that a furniture manufacturer never has a direct relationship with the producer of a product. This, along with the fact that the Bureau has no jurisdiction over the makers of these materials, makes enforcement of this provision difficult and often needlessly punitive.

The Bureau recommends removing the documentation requirement as specified in BPC § 19094(c), and instead allowing the Bureau to issue a citation to a licensee if they receive notice that one of their products contains added chemicals. Eliminating the requirement for documentation would not prohibit a licensee from inquiring whether the product has certain chemicals, to ensure they are in compliance.

**Staff Recommendation**: ***The Bureau should advise the Committees on any potential problems it foresees with eliminating the flame retardant chemical documentation requirement.***

## ISSUE #4: (IT SYSTEM UPDATE) *When will the Bureau's new IT system be operational?*

**Background**: Because the Bureau is currently using a separate IT platform for HHMs only, which is a carryover from the PUC's oversight, and currently operated by the PUC, the Bureau reports that it is working on a data-conversion project with the PUC to ensure historic licensing information is retained. Additionally, because the Bureau relies on a non-DCA supported system and the MOU for that system expires at the end of 2023, the Bureau identified HHM as its top priority to transition to a new updated IT platform. Currently, the Bureau is under a five-year agreement with the PUC for remote access to the PUC's specific database. That agreement authorizes the PUC to charge the Bureau up to $150,000, annually. Below is a table of amount paid by the Bureau to the PUC:

| Fiscal Year | Paid to PUC |
|---|---|
| FY 2018-19 | $60,000 |
| FY 2019-20 | $40,000 |
| FY 2020-21 | $40,000 |
| FY 2021-22 | $40,000 |
| FY 2022-23 | TBD |

TOTAL $180,000*

Although the Bureau notes that updating the IT infrastructure is a priority, there is not a clear timeline for when the Bureau will migrate to its new IT system. As noted earlier, the Bureau was originally included in the project to transition to the BreEZe system, as part of the Release 3, along with 19 other boards and bureaus under the DCA. However, after expending approximately $730,000 between the HFTI and EAR funds, the Bureau will never join the BreEZe system. As a result, the Bureau is part of the Business Modernization project, which is a revised IT system plan. As of July 2022, the Bureau reports that it has expended approximately $149,000 on the new system. The new IT platform and timeline is still unclear.

**Staff Recommendation**: ***Because there is an urgency for the Bureau to transition the HHM program to an IT platform operated by the Bureau under the DCA, the Bureau should provide the Committees an update on its transition plan for migrating to a new IT system, including the EAR and HFTI programs as well. Additionally, the Bureau should inform the Committee of the process to transition prior regulatory history from the PUC to the Bureau.***

## *LICENSING ISSUES*

**ISSUE #5: (LICENSURE FOR OUT-OF-STATE HOUSEHOLD MOVERS).** ***Are updates to the HHM act necessary to ensure movers located outside of CA are able to easily obtain licensure in CA?***

**Background:** HHMs may perform two different types of moving services. 1) Intrastate moves, where the mover moves used household goods and personal effects from one location in California to another location in California, and, 2) Interstate moves, where the mover moves individuals across state lines from one state to another to or from or through California. Under existing law, HHMs who reside in California and perform defined moves, must secure a license issued by the Bureau (or hold a license issued under PUC prior to 2018, as specified), in order to conduct intrastate moves.

Specifically, BPC § 19237(a) specifies that a household mover shall not engage, or attempt to engage, in the business of the transportation of used household goods and personal effects by motor vehicle over any public highway in this state, including by any means or media, advertising, soliciting, offering, arranging as a broker, or entering into an agreement regarding the transportation of used household goods and personal effects, unless both of the following are satisfied:

> (1) For transportation of household goods and personal effects entirely within this state, there is in force a permit issued by the bureau authorizing those operations. Permits issued by the Public Utilities Commission pursuant to the former Chapter 7 (commencing with Section 5101) of Division 2 of the Public Utilities Code, that are valid and effective on the operative date of this chapter, shall remain in effect, subject to the provisions of this chapter, for a period of not more than two years after the operative date of this chapter, or until the time the bureau issues, reissues, renews, suspends, revokes, or otherwise alters or amends the permit, whichever occurs earlier.
>
> (2) For transportation of household goods and personal effects from this state to another state or from another state to this state, there is in force a valid operating authority issued by the FMCSA.

In addition, BPC § 19239(h)(1)(2) requires HHM applicants to have resided in California for at least 90 days preceding the issuance of a license. For applicants as a corporation, the applicant must be a domestic corporation or be qualified to transact business in California as a foreign corporation at the time of filing the application.

To be eligible to provide "interstate" moves, movers are required to be registered with FMCSA, which is the lead federal agency responsible for regulating and providing safety oversight of commercial motor vehicles. However, as noted by the Bureau, FMCSA is not a licensing body, and does not submit registrants to enforcement actions for violations of state licensure or registration requirements.

As defined in BPC 19225.5(h), a HHM includes every corporation or person, their lessees, trustee, receivers, or trustees appointed by any court whatsoever, engaged in the permitted or unpermitted transportation for compensation or hire as a business by means of a motor vehicle or motor vehicles being used in the transportation of used household goods and personal effects over any public highway in this state.

Further, BPC § 19235 prohibits a HHM from engaging in the business of transporting used household goods and personal effects for compensation by motor vehicle over any public highway in this state, except in accordance with the provisions of the HHM act.

The Bureau raised the issue of licensing for out-of-state movers in California. As part of that issue, the Bureau notes that the current licensing requirements for HHMs are not feasible for those businesses that are not primarily housed in California, but provide interstate moves into and out of California. Because of this, there are out-of-state HHM businesses that may not be compliant with features of California law.

According to the Bureau's 2022 Sunset Review Report, "Although existing law requires inter-state movers to obtain permits to operate in California, there are several unnecessary barriers to an out-of-state-company obtaining a permit. For example, the Household Movers Act requires sole proprietor and partnership applicants to meet residency requirements (BPC section 19239, subd. (h)(1) and (2), respectively). Consequently, this requirement can deny affected businesses a path to licensure. The Household Movers Act also requires applicants to pass an examination to demonstrate possessing the requisite knowledge to operate as a household mover; however, the examination content is based wholly on the Tariff, which is not applicable to interstate moves. These permit requirements also do not allow the Bureau to recognize household movers that are permitted in their home state through reciprocity."

Additionally, the Bureau reports when the regulatory structure for HHMs transferred to the Bureau from the PUC, there was an Act within the Public Utilities Code pertaining to the regulation of interstate movers that was not included in the transfer of the program. PUC §§ 3901-3950 is the Interstate and Foreign Motor Carriers of Household Goods and Passenger Act. The Bureau notes that a lack of clear statutory authority hinders the Bureau's ability to regulate interstate movers and establish a registration program that is sufficient for businesses that are housed outside of California, but do moves into and out of California.

**Staff Recommendation:** ***The Bureau should advise the Committees on what statutory changes would be necessary to ensure the Bureau's oversight of all HHM performing moves in California. In addition, the Bureau should advise the Committees on how it would implement a registration plan for interstate movers that would ensure easy compliance and how the Bureau would be able to take enforcement actions.***

**ISSUE #6: (LICENSURE FOR LIMITED LIABILITY COMPANIES (LLCS))** ***Should LLCs be eligible for licensure for all of the Bureau's regulatory programs?***

**Background:** The Bureau raised the issue of licensing LLCs in its 2022 Sunset Review Report. Currently, none of the licensees/registrants under the Bureau's jurisdiction can obtain a license as an LLC. Current law (CORP § 17701.04(b)) prohibits an LLC from providing "professional services" unless it is expressly authorized to do so in the BPC. "Professional Services" is defined as any type of professional services that may be lawfully rendered only pursuant to a license, certification, as specified, (CORP) § 13401(a)). In order to allow for a thorough evaluation of the potential for consumer harm without recourse when LLCs are licensed, legislative authorization is necessary. As noted by the Bureau, several HHM permit holders were issued licenses to an LLC under the regulatory authority of the PUC. As the Bureau seeks to re-evaluate the fee and renewal structure for the HHMs, adding a pathway to issuing a license to an LLC may be necessary.

Since the early 2000s, there have been a number of bills passed by the Legislature, and signed into law, which have authorized a variety of professions to organize as LLCs and LLPs including, alarm companies, contractors, private investigators, engineers, land surveyors, and architects, among others. Historically, the authorizing or re-authorizing legislation has included a mechanism to ensure consumer protection and recourse for consumer harm through liability insurance and sunset dates.

In addition to requiring liability insurance coverage, previous legislation has also required the authority of LLC license to be subject to a "sunset" date, which is reflected in the history of previous legislation on this issue. Some examples include SB 904 (Wieckowski, Chapter 406, Statutes of 2018), which extended the authorization for the BSIS to issue an alarm company operator license to a LLC until January 1, 2024;.SB 177 (Wieckowski, Chapter 140, Statutes of 2015) extended the authorization of the BSIS to issue an alarm company operator license to a LLC until January 1, 2019; SB 1077 (Price, Chapter 291, Statutes of 2012), authorized a licensed alarm company to be organized as a LLC until January 1, 2016; SB 559 (Morell, Chapter 569, Statutes of 2017); extended the BSIS's authority to issue private investigator licenses to an LLC; AB 1608 (Olsen, Chapter 669, Statutes of 2014) authorized a licensed private investigator to be organized as a LLC until January 1, 2018.

**Staff Recommendation:** ***The Bureau should update the Committees on which licensees/registrants should be eligible for a LLC license and further indicate how it would ensure consumer protection is not impacted and how claims paid would be reported to the Bureau.***

**ISSUE #7: (FINANCIAL REQUIREMENTS FOR HOUSEHOLD MOVERS)** ***Should permit requirements for HHMs be revised?***

**Background:** BPC § 19239(a) requires a HHM applicant to establish *ability and reasonable financial responsibility* to initiate the proposed operations. Further, BPC § 19239(g) specifies that *The bureau shall issue a permit only to those applicants who it finds have demonstrated that they possess sufficient knowledge, ability, integrity, and financial resources and responsibility to perform the service within the scope of their application.* The Bureau reports that it is not currently equipped to adequately evaluate whether or not the applicant has the *financial resources* for operating as a HHM. Instead, the Bureau is more appropriately suited to evaluate whether or not the applicants have sufficient liability insurance, workers' compensation coverage, as well as knowledge of their obligations to consumers during household moves, through an examination. The Bureau reports that it is not equipped to determine whether an applicant is financially responsible or has sufficient financial resources, and in order to do so would need to perform some form of credit check and/or financial audit of all applicants. To do so would increase Bureau costs and time to process applications. In addition, there is no clear direction or understanding from the Bureau as to what level of documentation would be necessary or what amount of resources would be deemed" sufficient." As a result, the Bureau is requesting BPC § 19239(g) be deleted from statute entirely. The Bureau would still be required to ensure applicants meet appropriate insurance requirements.

**Staff Recommendation:** ***The Bureau should advise about the challenges of including a financial assessment in the current application process.***

**<u>ISSUE #8</u>: (EAR AND HFTI LICENSURE EXPIRATION AND RENEWAL)** ***Should there be a cap on the timeframe in which an expired EAR license can be renewed?***

**<u>Background</u>:** Existing renewal requirements under the EAR program do not provide a timeframe for which a registration remains expired and is no longer accruing delinquency fees. By comparison, existing HFTI law prohibits an expired license from being renewed after six years of the license expiring (BPC § 19170.5). In order to obtain a new license after six years, the HFTI applicant must pay all renewal, delinquency and penalty fees that have accrued since the license was last renewed.

Since the provisions for a renewal timeframe under EAR's provisions fail to provide a cap on when a license can no longer be renewed after its expiration, businesses that unintentionally failed to cancel their registration, then attempt to reopen business after a period, must pay all accrued fees no matter the elapsed time. HFTI provisions provide a six-year cap of when a license may no longer be renewed, restored, reinstated, or reissued, although the business must apply for a new license and still pay any accrued fees from the last six years.

The Bureau recommends updating EAR provisions to be consistent with BPC § 19170.5 (HFTI program) to state that a registration not renewed within six years of expiration shall not be renewed, restored, reinstated, or reissued so that renewal and delinquency fees are not accrued indefinitely. The Bureau also recommends updating HFTI provisions, which require a business pay all renewal, delinquency, and penalty fees accrued for six years although the business is required to apply for a new license. The Bureau believes that this change would remove a barrier to licensure especially to those that were legitimately out of business during the six-year period and would be unable to pay accumulating fees.

**<u>Staff Recommendation</u>:** ***The Bureau should advise the Committees on current issues with EAR registrations being expired and then renewing after an extended period. The Bureau should explain any impact this change may have on the Bureau's workload and any potential fiscal impacts.***

## ***<u>ENFORCEMENT ISSUES</u>***

**<u>ISSUE #9</u>: (CRIMINAL BACKGROUND CHECKS)** ***Should the Bureau be authorized to collect fingerprints for purposes of criminal history review for its EAR and HFTI programs?***

**<u>Background</u>:** The Bureau has statutory authority to require fingerprints for purposes of conducting criminal record background reviews for HHM applicants. The Bureau does not have statutory authority to require HFTI or EAR applicants to submit fingerprints. The Bureau notes concerns about the lack of criminal history review for service dealers (EAR program) as they frequently enter consumers' homes to provide services.

Per the Bureau, allowing the applicant to self-disclose criminal history pursuant to BPC § 480(f) creates a loophole for unscrupulous applicants to circumvent disclosure on their application. Although applicants certify under penalty of perjury that all statements made on the application are true and correct, the Bureau has found instances where registrations were granted to applicants who were untruthful on the application regarding their criminal history. Because the Bureau does not have statutory authority under EAR and HFTI to require fingerprints, applicants who do not self-disclose are granted a registration or license and may operate for years without the Bureau having knowledge of the criminal history.

The Bureau provides the following example: a service dealer was granted a registration in March 2006, and falsely indicated that they did not have a criminal history. Later the service dealer was arrested on suspicion of using their customer's credit card information for their own personal use. In February 2011, the registrant was convicted after pleading guilty to violating Penal Code sections 459, (burglary); and 476, (forgery). The registrant was also convicted in November 2012 after pleading nolo contendere to four felony counts of violating Penal Code section 470, subdivision (d), (forgery) and one felony count of violating Penal Code section 487, subdivision (a), (grand theft). The Bureau became knowledgeable of these convictions only because the registrant applied for a secondary location and was partially truthful on the application for registration by disclosing one of four convictions.

If an applicant discloses prior convictions on an application, the Bureau will request records from the appropriate court to determine eligibility for registration. According to the Bureau, "it has no other reliable tool to truly validate and ensure applicants are truthful when responding to the Bureau's criminal history inquiry. This puts consumers at risk, as they may be unknowingly allowing dangerous criminals into their homes rendering themselves, their families, and their personal information susceptible to egregious and potentially violent acts."

Further, the Bureau notes that conducting criminal history background checks "would allow the Bureau to receive immediate notification of a registrant's criminal activity and would allow the Bureau to take action in determining whether the registrant's criminal acts warrant disciplinary action pursuant to BPC sections 480 and 9841… Such a change would provide consistency with the fingerprinting requirements for other professional licensing categories within the Department whose licensees also perform work in and around consumers' homes, such as household movers permitted by the Bureau and licensees of the Contractors State License Board and the Structural Pest Control Board."

**Staff Recommendation**: ***The Bureau should advise the Committees on how including fingerprints and criminal background check requirements would improve consumer protection.***

**ISSUE #10: (HFTI PROGRAM: STATEWIDE WITHHOLD FROM SALE)** ***Should the Bureau be authorized to withhold identical items from being sold if one of the same items does not meet Bureau standards and requirements?***

**Background:** Under the HFTI program, the Bureau is responsible for the licensure/registration of businesses that sell and provide consumer products in the state, many of which are manufactured outside of the United States. Per BPC § 19060.5, *Every person who, on his or her own account, sells either directly or indirectly to any person either at wholesale or retail any merchandise subject to this chapter by means of a car, catalog, office or in any other manner, shall obtain the proper license for each method of sale or distribution*. Through the regulation of the HFTI program, the Bureau seeks to ensure that products are properly labeled with accurate information about the kinds and types of filling materials inside and that the items meet the Bureau's applicable flammability standards as specified in TB 117-2013.

Under current law, if the Bureau finds a product is in violation of the law, it can tag only that specific item and thus prevent the item from being offered for sale in the marketplace until compliance is achieved. However, the tag is specific to only that individual product and the Bureau does not have authorization under current law to withhold the sale of all identical items unless each item is tested and found to be in violation. If the Bureau had authority to withhold all products with the same Global Trade Item Number, Universal Product Code number, item number, or other identifier, it would be able to create something similar to a product recall until compliance is satisfied, and in the meantime, the Bureau would publicize the recall.

BPC § 19202 authorizes the Bureau to "condemn, withhold from sale, seize, or destroy any upholstered furniture or bedding or any filling material or insulation which is found to be in violation of this chapter." The Bureau previously withheld products from sale; but in July 2007, after discussions with legal counsel, the Bureau stopped withholding products statewide when compliance was established on an item at one location. At the time, the concern was the Bureau has no process for licensees to question the Bureau's determination (due process) since product withholds were carried out immediately upon finding a violation in an effort to protect consumers.

Although the Bureau may issue citations and fines and take disciplinary action against those who commit violations of the HFTI Act, the Bureau reports that traditional enforcement action is not effective when the business is in another country and offers products for sale throughout the state.

The Bureau is requesting a statutory change to reinstate a statewide withhold for items in violation of the HFTI act, and addresses licensee due process issues by allowing licensees a choice to comply with the withhold order immediately or after the appeal period has been exhausted. In addition, the Bureau's proposal recognizes that a withhold from sale is a severe penalty and is intended only to be used in response to the more egregious violations of the HFTI Act and unlicensed activity. The Bureau believes this solution is critical because a statewide withhold from sale capability is a stronger incentive than fines alone to gain compliance and would benefit consumers by removing potentially harmful products from the marketplace.

**Staff Recommendation:** ***The Bureau should advise the Committees on any discussions with industry about the proposed statutory change and how it would affect product availability in the State. The Bureau should advise the Committees on what the most serious violation is that should result in withholding a product from sale.***

**ISSUE #11: (LICENSURE SUSPENSION)** ***Should the Bureau be able to immediately suspend a HHM permit for Insurance Violations?***

**Background:** The Household Movers Act requires proof of insurance for liability, cargo, and Workers' Compensation (BPC §§ 19248 (a), 19248 (c), and 19239.1, respectively) in order to obtain a permit. Maintaining each form of insurance is also necessary for a permit to remain valid and failure to do so is cause for permit suspension. BPC § 19239.4, subdivision (a), explicitly provides for suspension of a household mover permit for failing to obtain or maintain the required Workers' Compensation insurance. However, existing law does not permit the Bureau to suspend a permit holder for a violation of cargo and liability insurance. While permit holder is subject to discipline, it is not an immediate suspension. The Bureau notes that when the HHM program was under the regulatory authority of the PUC, the PUC had broader authority to suspend a license for any reason.

Because the HHM program was transferred almost verbatim from the PUC to the BPC, some of the regulatory structure under the PUC may not be operationally effective under the Bureau's regulatory landscape. As stated by the Bureau, "Consequently, the Bureau inherited a licensing system designed to process and issue HHM permits that recognizes the Commission's authority and has auto-suspend for all types of insurance built into the system. The Bureau is not exempt from the Administrative Procedures Act, and unless specifically authorized to automatically suspend by operation of law, must file an accusation to pursue disciplinary action, such as suspension or revocation, or pursue other appropriate action."

**Staff Recommendation:** ***The Bureau should advise the Committees on what statutory changes would be needed to permit an immediate suspension for violating insurance requirements. In addition, the Bureau should inform the Committees on the number of licensees that violate insurance requirements.***

## ISSUE #12: (ENFORCEMENT ACTIONS) *What can the Bureau do to improve the enforcement program?*

**Background:** The Bureau is responsible for both the licensing and enforcement of the practice acts for which it regulates. Specifically BPC §§ 9810.1, 19004.1, 19234.1 states that protection of the public should be the highest priority for the Bureau in exercising its licensing, regulatory, and disciplinary functions. The Bureau may conduct routine inspections, investigate complaints, and take necessary disciplinary action to promote consumer protection, minimize substandard practices and maintain a fair and competitive marketplace.

According to information provided in the Bureau's 2022 Sunset Review Report, while the Bureau has issued citations, the data shows that the Bureau did not refer any enforcement cases to the Attorney General for formal prosecution in FY 2021/22, and between FYs 2019/20 and 2020/21 only referred nine cases. The Bureau does reference citations on its website, although there is no data for 2022. In addition, there is no citation history for HHMs on the Bureau's website.

Prior to FY 2020-21, instead of issuing citations and taking enforcement actions, the Bureau focused on education as a means to address deficiencies and provided licensees/registrants with an opportunity to correct and focused on education rather than citations and formal enforcement. In FY 2014/15, the Bureau implemented the $0 citation program, which provides violators with 30 days to correct a violation before a monetary citation or fine is issued. The Bureau reports that it has recently moved away from this program, and the Bureau acknowledges in its Sunset Review Report 2022, that it is in the process of rebuilding its enforcement program.

**Staff Recommendation**: ***The Bureau should advise the Committee on efforts to enhance its enforcement program. The Bureau should advise the Committees on why the issuance of citations has been low and if cost recovery could improve the Bureau's fiscal outlook.***

**ISSUE #13: (UNDERGROUND ECONOMY)** ***What is the Bureau doing to address unlicensed activity?***

**Background**: Unlicensed activity and the underground economy continue to present challenges for the Bureau and the programs it regulates. The Bureau notes that it primarily struggles with making industry participants aware of the laws and regulations related to all of it licensing programs.

Due to limited data of the PUC's licensing and enforcement activities, it is unclear how many non-compliant household movers were in business prior to the oversight of household movers transitioning to the Bureau. The Bureau reports a total of 180 "hold hostage" and recovery cases since it began regulating the household goods moving industry. Hold hostage cases pertain to goods that are being transported but are held hostage for ransom or additional fees from consumers beyond what was specified in the contract. Recoveries are cases when a mover has misplaced, lost or abandoned the household goods or a consumer has refused a delivery. If not registered with the Bureau, there would be no enforcement tools available to the Bureau to help retrieve a person's property that has been taken and not returned or to hold those responsible accountable.

The Bureau reports it has created brochures, authored consumer articles, and plans to release a video in spring 2023 to YouTube to teach consumers how to select a mover and what to expect throughout the moving process. The release date will coincide with National Moving Month and the beginning of peak moving season.

The Bureau also recently resumed sting operations on unpermitted movers using tips, Craigslist, and other online ads to set up appointments at sting houses to refer cases and provide notices to appear to unpermitted movers to appear in court. This effort will continue to ramp up in 2023. The Bureau's goal is to decrease unlicensed activity in California through sting operations and consumer outreach. The Bureau plans to evaluate this outcome by reviewing FY 2023/24 complaints and comparing the overall number of permitted mover complaints to unpermitted complaints, the goal being the ratio of unlicensed activity is significantly reduced.

With respect to the EAR program, the Bureau primarily relies on internet tools to find new businesses and educate them on licensure requirements. With electronic repair stores, business ownership changes hands frequently and new business owners do not typically realize that a registration on their wall is long expired nor are they aware that they need to apply for their own registration. Bureau field staff often visit stores with a delinquent registration and the new owners are not aware the Bureau existed. These conversations usually lead to compliance because staff provides brochures to the owner and walks them through registration and business practice requirements, such as what is necessary in their estimates and invoices to consumers and their obligations to return parts.

Related to the HFTI program, according to the Bureau, while many store-based retailers are aware they need to register with the Bureau. It is more typical they let their registration lapse because these registrants are on a two-year renewal cycle. Many licensees prefer the Bureau cut the fee in half and send annual renewal notices, so they know once a year this is something they need to keep up to date.

**Staff Recommendation**: ***The Bureau should advise the Committees on what, if any, statutory changes are necessary to help address the unlicensed network in California. The Bureau should advise the Committees about the most egregious cases it encounters and coordination efforts with local authorities to seek solutions and penalties, especially in hold-hostage cases by HHMs.***

## ***OTHER ISSUES***

**ISSUE #14: (COVID-19 RESPONSE AND OPERATIONS).** ***What were the impacts of the pandemic and did the Bureau achieve process improvements during this time?***

**Background:** As noted in the Bureau's 2022 Sunset Review Report, the Bureau was able to meet internal processing times in FY 2019/20 and FY 2020/21; however, processing times in FY 2021/22 reportedly exceeded the performance target as the cycle times ranged from 17 to 120 days. The Bureau attributes application process delays to vacancies at the Bureau, along with the impact of Covid-19 pandemic.

In addition, the Bureau notes that fifteen employees of the Bureau's Investigative Unit (13 Special Investigators, a Field Representative and an Inspector) were members of the Governor's COVID-19 Enforcement Task Force, which provided health and COVID-related safety guidance and education to California businesses regulated by the Bureau.

The Bureau's Investigations Unit served as members of the Governor's COVID-19 Task Force from June 2020 to May 2021, during which Bureau personnel contacted approximately 20 businesses each week to assist the businesses with coming into compliance with public health orders to protect California consumers, employees, and business owners.

Additionally, the Bureau moved its advisory committee meetings to on-line, and is transitioning to a hybrid meeting system, where advisory committee members, stakeholders, and the public can participate in-person or remotely. It is unclear if any statutory changes are necessary for the Bureau to continue with this format.

As the state of emergency ended on February 28, 2023, the opportunity to assess critical emergency responses and address the future needs of Bureaus and Boards under the DCA, during State of Emergency declarations is timely and important.

**<u>Staff Recommendation</u>:** ***The Bureau should advise the Committees on any requested or necessary statutory changes based on experiences during the COVID-19 State of Emergency. In addition, the Bureau should explain the workload impact to the Bureau as a result of staff being re-directed and how the Bureau is adjusting to remote work systems and whether the Bureau has achieved any financial savings. The Bureau should advise the Committees on any potential issues with continuing advisory committee meetings in a hybrid capacity.***

## <u>ISSUE #15</u>: (SERVICE CONTRACTORS) *Does the Bureau Need a New Service Contractor Workgroup?*

**<u>Background</u>:** Products covered under service contracts were expanded in 2004 to include furniture, jewelry, lawn and garden products, and other items used in homes for personal use. In 2014, service contract authority was expanded again to include optical products, such as eyeglasses. On January 1, 2020, the products covered under service contracts were further expanded to include all consumer goods.

As part of the EAR program, the Bureau regulates registered service contractors who sell service contracts for the repair of a variety of consumer products in California. Retailers are required to hold a valid registration in order to act as a service contract seller and those retailers with multiple locations are required to have a separate registration for each location that sells service contracts. Further, companies offering a contract via the internet must also have a registration for contracts sold to California residents. Service contracts generally provide for the pre-paid repair or replacement of specified consumer products.

At the onset of regulation in California, service contracts were specific to consumer electronic equipment and home appliances. Since the early 1990's, the regulation of service contracts has evolved to keep pace with new technology. Today, there are a variety of consumer products for which service contracts are available, including furniture, electronics, appliances, home healthcare products, jewelry, fitness equipment, and most recently, eyewear, among many others. In California, the products that are included in the definition of service contracts have expanded overtime on a case-by-case basis. Most recently, SB 1483 (Hill, Chapter 578, Statutes of 2018) further amended the definition of service contracts to include all consumer goods. Moreover, AB 1221 (Flora, Chapter 452, Statutes of 2021) authorized a service contract to cover a class of products, and permitted service contracts to be offered on a continuous basis or month-by-month.

Laws pertaining to service contracts and warranties also fall under the jurisdiction of the Song-Beverly Act (Civil Code § 1790 et seq.) which was originally established to regulate warranty products which are separate from service contracts. A warranty is typically included in the price of the item, whereas a service contract comes at an additional cost. Service contracts are separate and apart from a manufacturer's warranty in that it is an additional item purchased separately from the product. Additionally, warranty products are regulated through the insurance code, while service contracts are regulated in BPC § 9855 et seq.

As a result of the Bureau's 2014 sunset review, AB 2740 (Bonilla, Chapter 428, Statutes of 2014), the committee staff background paper recommended Bureau conduct a market condition assessment: to monitor the market and shifts in the market; to identify where the problems currently are for consumers and to determine where resources could be refocused or expanded; to make sure current statutes and regulations reflect the current needs of the market; and to determine whether regulation is still required for all industries or whether some level of self-regulation would be advisable in some cases.

Upon completion of the market condition assessment required by AB 2740, the Bureau determined that it needed to conduct an additional assessment of the service contract industry. In order to provide an appropriate review of the industry, the Bureau established a "Service Contract Working Group" comprised of stakeholders and industry members to help determine which areas of law need updates, clarifications, or revisions, if any. The workgroup concluded its duties in 2016 and released a report with recommendations based on the report at that time. In the meantime, both SB 1483 and AB 1221 have resulted in significant changes to the service contract industry, but the Bureau's last workgroup on service contracts ended prior to implementation and enactment of both of these bills which significantly expanded the service contract industry and market in California.

As noted by the Bureau in its 2022 Sunset Review Report, "as discussed in the legislative process for SB 1483 (Hill, Chapter 578, Statutes of 2018) and AB 1221 (Flora, Chapter 452, Statutes of 2021), the service contract industry is evolving and the no longer clear lines between a "warranty" a "service agreement" and "insurance" often lead to confusion. For example, the Bureau reviewed an agreement to "protect" the electronic devices in a consumer's home that could include appliances, cellphones and tablets, and elements of an HVAC system. This could arguably be considered a home warranty, a service contract, or a form of limited homeowner's or renter's insurance. Further discussion on which entities regulate these agreements, including the licensees that oversee the work is appropriate. The Bureau has no recommendations at this time, but it would be beneficial as a first step to clarify what aspects of these industries should fall into the purview of the California Department of Insurance and which should be within the Bureau's jurisdiction." In addition, the Bureau notes an uptick in unlicensed activity from online sellers that are not aware of registration requirements to sell service contracts to a consumer in California.

**Staff Recommendation**: ***The Bureau should advise the Committees on whether a service contact workgroup would be beneficial, or if there are any statutory changes for service contract licensees/registrants that would enhance consumer protection and improve the program?***

**ISSUE #16: (TECHNICAL CLEANUP)** ***Are there any technical changes necessary for any of the practice acts regulated by the Bureau which would improve operations and enhance efficiencies?***

**Background**: There may be a number of non-substantive, technical changes, or statutory updates which many improve operations and efficiencies of the Bureau. Since the Bureau's last sunset review in 2018, there have been at least nine separate pieces of legislation that affect the Bureau and its operations, not including the transition and regulation of an entirely new licensing group. There may be a number of statutory revisions, which need to be made to ensure the Bureau's three practice acts, and four regulatory landscapes are up-to-date.

For example, as provided by the Bureau, definitions describing the products covered within the scope of the Bureau's jurisdiction are outdated. This causes stakeholders to question the Bureau's authority over certain products, encourages unlicensed activity, and requires the Bureau to repeatedly respond to inquiries to provide clarification over the Bureau's jurisdiction.

The terminology applicable to electronics and appliances mentioned in BPC § 9801 has not been updated since mid-1990s. New technology has come into existence since then making it unclear as to whether certain products are within the Bureau's scope since definitions have not kept up with advancements over the years. The existing definitions within BPC § 9801 do not account for technology such as smart devices, including smart phones or smart watches, tablets, laptops, GPS devices, drones, or Bluetooth technology devices such as speakers or headphones. For example, instead of disk drives, more popular today are solid-state drives.

Definitions within the HFTI program have not been updated since the 1970s. Expanding definitions with terms that are commonly used within the industry would likely increase industry's ability to meet flammability and labeling requirements as manufacturers are required to list filling material components for consumer review, e.g. many common components used as filling materials are not currently defined such as polyurethane foam.

The new federal requirements do not preempt or otherwise affect how the Bureau currently administers TB 117-2013 in California, nor does it change the Bureau's current labeling requirements. However, there are slight differences in product classification and test application that will bring confusion to the industry due to differences in definitions. One example is CPSC considers a floor cushion or a seat cushion, which is intended to be sat on, as an upholstered furniture item that would be subject to the flammability testing and labeling requirements. Although the Bureau would have the same opinion, the existing definition of "Upholstered furniture" as established under BPC section 19006 implies that this same product would not be considered an upholstered furniture product since the cushion is not "together with the structural unit." In this case, the product that is intended to only be used as a seat cushion would no longer be required to meet the TB 117-2013 standard, but it would be considered a "Bedding" product as defined in BPC section 19007. The Bureau intends to review and update definitions as some have not been updated in statute since the 1970s. This will ensure products are properly classified and test application is consistent with the intended use of the product.

**Staff Recommendation**: ***The Bureau should provide the Committees with any proposals for technical statutory cleanup that may be necessary.***

## *CONTINUED REGULATION BY THE BUREAU OF HOUSEGHOLD GOODS AND SERVICES*

**ISSUE #17: (CONTINUED REGULATION BY THE BUREAU)** ***Should the Bureau be continued?***

**Background**: Although there are significant challenges and a lack of clear enforcement-related actions, there are still a substantial number of complaints received and investigated by the Bureau, especially as the Bureau has begun to implement the HHM program, in addition to a number of enforcement activities with respect to out-of-country, out-of-state, and unlicensed activity that warrants the Bureau's continued regulation. The Bureau's role in ensuring flammability labeling standards, ensuring safe furniture and other consumer products, administering and enforcing service contract providers, along with its new role overseeing the HHM industry helps to maintain the health, safety and welfare of consumers. As noted above, the Bureau needs to continue to monitor its licensee population to ensure that only products, which necessitate continued regulation; the Bureau needs to focus on enhancing its enforcement program, consumer outreach, maintaining product safety and updating regulations as necessary.

To that end, the Bureau along with its licensing and registration programs should be continued and subject to legislative review once again, so the Legislature may continue to determine whether the issues and recommendations in this Background Paper have been addressed, and whether or not the licensed and registered entities within the Bureau should be reduced, expanded or remain the same in the future.

**Staff Recommendation:** ***The Bureau maintain its current oversight of the regulated professions, while continuing to update and enhance its enforcement process and monitoring its licensing population to ensure that regulation is necessary, and be reviewed again at a date to be determined.***