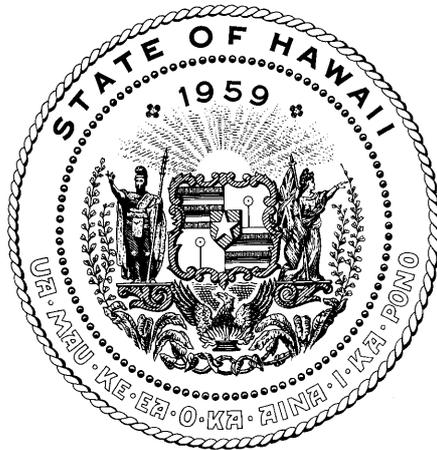


**2009 Annual
Compliance Resolution Fund Report
to the Legislature**



**DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS**

STATE OF HAWAII

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INTRODUCTION

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OVERVIEW

The Department of Commerce and Consumer Affairs (DCCA) submits its Annual Compliance Resolution Fund Report. As mandated by section 26-9(o) of the Hawaii Revised Statutes, DCCA describes the use of the Compliance Resolution Fund (CRF) by presenting individual overviews of the functions and activities of the various DCCA programs funded by the CRF, and provides a financial summary of the expenditures made from the fund including personnel and operating expenses, as well as revenues received. In addition, the report addresses the department's compliance with the reporting requirements contained in Act 100 (1999) regarding the statement of goals, objectives and policies.

The CRF, in existence since July 1, 1996, evolved into the primary funding source for the various DCCA programs as the department moved its operations away from support by general tax revenues to funding by fees and charges generated by its various programs. Pursuant to section 26-9(o), Hawaii Revised Statutes, fees shall be assessed and deposited into the CRF for the issuance of a license, permit, certificate, or registration, subsequent renewals, together with all other fines, income, and penalties collected or reimbursement of costs or attorneys' fees assessed as a result of actions brought by the department. The director may use the moneys in the fund to employ and train hearings officers, investigators, attorneys, accountants, and other necessary personnel for CRF funded operations, and the fund shall defray all other administrative costs, including costs of operating the supporting offices of DCCA. Any other activity related to compliance resolution may also be funded by the CRF. "Compliance resolution" means a determination of whether:

- (1) Any licensee or applicant under any chapter subject to the jurisdiction of the department of commerce and consumer affairs has complied with the requirements of said chapter;
- (2) Any person subject to chapters 485, 467B, 514E, and section 485-6(15), Hawaii Revised Statutes has complied with the applicable requirements; or
- (3) Any person has complied with the prohibitions against unfair and deceptive acts or practices in trade or commerce.

By Fiscal Year 1998-1999, eight DCCA programs were part of the CRF: Business Registration Division, Professional and Vocational Licensing Division, Regulated Industries Complaint Office, Office of Consumer Protection, and the Director's Office with its supporting offices of Administrative Services, Information Systems and Communications (ISCO), and Administrative Hearings.¹ Act 129 SLH 1999, effective July 1, 1999, expanded the CRF to include the Division of Consumer Advocacy, Division of Financial Institutions, and the Cable Television Division. Act 39, SLH 2002, effective July 1, 2002 merged

¹ The Director's Office provides general policy and administrative leadership in supervising and coordinating the various department activities. Personnel management services are provided by the Director's Office, while Administrative Services provides programs with centralized budgeting, accounting, personnel management, and organizational analysis support as well as centralized clerical services. Information Systems and Communications provides system and technical computer support services for the various DCCA programs. Administrative Hearings conducts formal administrative hearings for the department programs and various attached boards and commissions, administers the Medical Claims and the Design Professional Conciliation Panels, hears appeals of the State procurement code, and conducts due process hearings for DOE under the Individuals with Disability Education Act (IDEA).

the Insurance Regulation Fund, the primary funding source for the Insurance Division, into the CRF. Except for trust and special funds with dedicated purposes², the CRF provides the sole source of funding for DCCA since calendar year end 2003.

GOALS and OBJECTIVES

The Department’s goals and objectives are reflected in the sum of those stated by each of its divisions throughout this report. ADMIN’s various functional areas have adopted the following objectives, goals and measures:

Functional Area	Objective	Goal	Measure
Director’s Office	Balance the department’s revenues and expenditures in light of department’s self-funded status.	Bring department’s beginning year cash reserves to 9 months of budget ceiling plus overhead.	Degree of cash reserve reduction until department reaches 9 month goal.
	Timely and complete responses to customer inquiries / complaints.	95% of all initial non-rhetorical customer inquiries / complaints properly addressed (or acknowledged) within 5 business days.	Percentage of inquiries / complaints sent to the Director’s Office addressed (or acknowledged) within 5 business days.
Personnel Office	Accurately process personnel transactions in timely manner.	100% processing of actions within time frame allotted to complete the transaction.	Percentage of personnel transactions processed properly and timely.
Fiscal Office	Review and process all departmental expenditures. Provide cashiering services for all payments and collections made to the department.	100% timely processing of payments.	Percentage of late payments processed.
Administrative Services Office	Provide timely clerical support to divisions	Timely collection and distribution of mail.	Percentage of requisitions completed in a timely

² The Professional and Vocational Licensing Division has the following trust funds: Real Estate Recovery, Real Estate Education, Condominium Management Education, Contractor’s Recovery, Contractor’s Education, Real Estate Appraisers, Travel Agency Recovery, all of which are managed and controlled by the respective licensing boards. The Insurance Division has the following trust funds: Insurance Commissioner’s Education, Patient’s Compensation; and the following special funds: Driver’s Education and Captive Insurance. The Regulated Industries Complaint’s Office has the Motor Vehicle Arbitration trust fund, and the Office of Consumer Protection has a Restitution trust fund. Additionally, the Hawaii Hurricane Relief Fund Board is administratively attached to DCCA, and its Board of Directors (rather than the director of DCCA) manages and controls the Fund. These funds are not included in the CRF.

	regarding mail, duplication projects and word processing.	Complete requests within deadline.	manner.
	Timely and complete response to division inquiries and complaints.	Timely address and answer all division concerns.	Percentage of concerns addressed (or acknowledged if time does not permit) within 5 business days.
ISCO	Find, acquire, implement and maintain information technology that improves the divisions' operations and allows them to provide better customer service.	Reduce Web site questions. Reduce travel costs. Reduce electrical costs. Reduce paper usage.	Reduce web site questions by 10%. Reduce travel costs by 10%. Reduce computer electrical costs by 10%. Reduce paper usage by 30%.

ACCOMPLISHMENTS

The overall CRF financial summary for FY 09³ is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$26,363,234	\$8,328,492	\$34,691,726	\$36,128,940

The department's financial strategy requires generally that revenue-generating divisions secure revenues to cover division expenses, and contribute equitably to overhead costs, while ensuring that anticipated major improvements are addressed and a portion of next year's operating expenses is available. This ensures solvency of the fund and continuation of mandatory services to the public. From the onset of the CRF, the department's primary fiscal goal has been to implement this strategy and, as a result, we have been very conservative in our spending and reduced expenses by the elimination of offices.⁴ Accordingly, the department's financial planning has taken into account current fiscal year expenses, and planning for future major projects and expenditures.

In the Information Technology (IT), area there were six major accomplishments this year: 1) in the Insurance area, ISCO completed work with the National Association of Insurance Commissioners (NAIC) to automate the submission of rate filing and payment electronically for all lines of Insurance; 2) completed the correct display of licensing information for all lines of insurance at NAIC; and 3) accommodated the addition of new Life Settlement Licenses; 4) in the Business Registration area 450,000 documents were scanned and redacted for SSNs and are now immediately available on-line; 5) DCCA's Internet services

³ The CRF financial summary relating to ADMIN (Director's Office, Personnel, Administrative Hearings, Fiscal and Administrative Services Offices and ISCO) for FY 08-09 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,666,061	\$1,455,587	\$5,121,648	\$504,714

⁴ The Hawaii Public Broadcasting Authority ("HPBA") was a program of DCCA until June 30, 2000, after which (and pursuant to Act 63 SLH 1999) all licenses and assets of HPBA were transferred to the non-profit Hawaii Public Broadcasting Foundation. The Hawaii Claims Office ceased operations under chapter 674, Hawaii Revised Statutes, in the fall of 1999.

were migrated to new hardware and the latest software versions to improve reliability and ultimately better service; and 6) eleven new public information videos were added to DCCA's web site for public education. To bring projects such as these to fruition, ISCO works collaboratively with DCCA business staff along with the State's central I.T. group (ICSD) and the State's Web Portal Manager.

Although not as visible to our customers, ISCO continues to enhance its infrastructure to provide DCCA's business staff with efficient and secure computer tools to get their work done. Included in these infrastructure enhancements are: 1) remote access was implemented and training provided for DCCA's 85 laptop users to allow staff to have access to all computer services while outside the office for normal work or in the event of disaster or pandemic; 2) desktop management software was installed and configured to improve the accuracy and speed of delivery of new programs and other computer updates; 3) wireless networking was installed at DCCA's main office on Merchant street to allow board members and the public working at DCCA to access the Internet; 4) policies and procedures were created to increase password security, protect confidential data, and to ensure that all confidential information is destroyed or erased appropriately when retiring or transferring equipment.

Projects underway at this time include: 1) upgrading the DCCA web site; 2) configuration of video conferencing to reduce expenses for DCCA as well as travel time for staff and board members to and from the neighbor islands; 3) configuration of virtualization of servers to reduce costs for hardware and electricity; 4) configuration of virtualization for personal computers to reduce costs for expensive desktops and associated electricity, while also providing remote access capability for telework and in the event of a disaster; 5) evaluation of printers to reduce paper and electricity costs; 6) upgrade of screen technology for DCCA core applications; 7) implementation of the Model Registered Agents Act (Act 55, SLH 2009); 8) BREG addition of remaining forms on-line; 9) Real Estate Condominium project on-line registration assessment; and 10) compliance tracking for legal outcomes for licensing cases.

CONCLUSION

The department looks forward to continuing to fulfill its mission to regulate business fairly and reasonably, while protecting consumers from fraud and unfair business practices. We have adopted the motto "Upholding fairness in the marketplace" to remind us of our responsibilities. We will endeavor to provide our customers with the best value for their money by continuing our efforts to find more efficient ways of providing our services that are also convenient for our customers, such as making more services available online.

ADMIN will continue to provide administrative support to the department's divisions so that they can concentrate on their respective specific substantive responsibilities. ADMIN will also continue to make a concerted effort to expand and improve the use and operation of information technology as a means to improve efficiency and effectiveness of our programs. We will continue our efforts to ensure that inquiries and complaints are responded to in a reasonable amount of time, and that our expenditures are aligned with our revenues.

BUSINESS REGISTRATION DIVISION (BREG)

website: www.BusinessRegistrations.com

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OVERVIEW

The Business Registration Division (BREG) has three primary functions. Its ministerial registration duties include the processing and maintaining for public access registrations of corporations, general and limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies, trade names, trademarks, service marks and publicity rights. It provides point-of-service information and assistance to the public to help facilitate, coordinate and simplify the application process for customers who wish to register with the State in the areas of business, tax and employment. Its regulatory function includes substantive regulatory oversight of the securities industry in the State of Hawaii in the following areas: (1) registration of broker-dealers, securities sales agents, investment advisers, investment adviser representatives, investment companies and securities and franchise offerings for sale in the State, (2) field examinations of broker-dealers and investment advisers in the State, (3) review of securities and franchise offerings for sale in the State, and (4) the enforcement of the Uniform Securities Act.

Composition

The division's main offices are located at 335 Merchant Street, Honolulu, HI 96813 on the second floor. It also occupies three Business Action Center (BAC) offices: one at 1130 North Nimitz Highway, Second Level, Suite A-220, Honolulu, HI 96817; one at 70 E. Kaahumanu Ave., Unit 8-9, Kahului, HI 96732; and one at 100 Pauahi St., Suite 109, Hilo, Hawaii 96720.

In order to carry out the division's primary missions, the division is segregated into three branches: (1) the Documents Registration Branch that includes the Business Action Center, (2) the Securities Compliance Branch that includes the Investor Education Program, and (3) the Securities Enforcement Branch. These branches are supported by a fourth branch, the Office Services Branch. The division's staff includes attorneys, investigators, securities examiners, securities registration staff, business center specialists, investor education specialists, business registration assistants, clerk-typists, legal secretaries, licensing clerical staff, clerical support staff and administrative staff.

The **Documents Registration Branch** maintains the business registry for corporations, limited liability companies, general partnerships, limited partnerships, limited liability limited partnerships and limited liability partnerships conducting business activities in the State. In addition, the registry contains trade names, trademarks, service marks and publicity rights. This branch consists of the Documents Information Section, the Documents Processing Section and the Records Section. It also includes the Business Action Center.

The **Business Action Center (BAC)**, as part of the Documents Registration Branch, operates business centers on Oahu, Maui and the Big Island that provide point-of-service information and assistance to the public primarily to facilitate, coordinate and simplify the application process with the State for business, tax and employer registration and licensing purposes. The BAC accepts BREG filings and fees and also serves as an information clearinghouse that provides general information on county, state and federal licensing, permitting and filing requirements and assistance programs related to business or

commerce activities. Services are delivered in-person at the center and via phone, e-mail, mail, fax, and Live Chat (an instant messaging system which allows customers on the Hawaii Business Express website to obtain live help).

The **Securities Compliance Branch** handles the registration activities for the securities industry operating in the State. This includes the registration of securities broker-dealers, securities sales agents, investment advisers, investment adviser representatives, investment companies, securities offerings, and the filing of franchise offering circulars in the State. The branch is also responsible for conducting field examinations of broker-dealers and investment advisers in the State. The Division's Investor Education Program that provides investor education and financial literacy outreach to the public is also part of the Securities Compliance Branch.

The **Securities Enforcement Branch** enforces the State laws governing the securities industry, the Uniform Securities Act, by investigating and taking legal action against those persons and/or firms, both registered and unregistered, who violate securities laws or evade them. The branch has also worked in conjunction with other government agencies such as the Securities Exchange Commission, the Office of Consumer Protection and the Insurance Division in DCCA, the Honolulu Police Department's White Collar Crime Unit, the State Attorney General's Offices, the U.S. Bankruptcy Trustee, and other federal and state securities and law enforcement agencies.

GOALS, OBJECTIVES and ACCOMPLISHMENTS

Documents Registration Branch

The Documents Registration Branch is supervised by one branch supervisor and three section supervisors. It provides an invaluable service to the business community in assuring that the information on file is readily available, accessible, and current in order to support commercial activities in the State. Without the availability of this information to the business community, commercial activity in the State would be substantially impaired, since businesses depend on the information on record to support the extension of trade credit, commercial leases, real estate transactions and the delivery of financial services.

The Documents Registration Branch processed over 120,000 documents this past fiscal year, up 20% from last year, and maintains the public registry of over 165,000 businesses, trade names, trade marks and service marks. The active files include business entities that have been on record with the State for over 100 years. Information is also retained for business entities that have been dissolved or cancelled. Minimal information must be kept for these inactive files for the purposes of research, litigation, real estate transactions, and general business use.

As part of an effort to make the Documents Registration Branch as convenient as possible for the public, we have been working to advance our computerized information systems so we can process and record documents with enhanced speed and accuracy. We have also been working on an extensive project to redact social security numbers from the records. We hope to complete this project in 2010.

Goals and Objectives

The goal of the Documents Registration Branch is to become one of the fastest, most efficient, customer-oriented business registries in the nation. To accomplish this goal, the branch has the following

objectives: (1) review and implement policies and procedures designed to achieve a level of efficiency in processing document filings and information requests in a timely manner consistent with industry best practices; (2) continue to modernize the business laws so that they track as closely as possible the most current versions of the best uniform or model laws; (3) enhance the information systems to improve retrieval, processing and recording of public filing information while protecting the integrity of the data system, and (4) remove social security numbers from public information.

ACCOMPLISHMENTS

The branch's accomplishments and goals this year continue to be focused on actively looking at thoughtful ways to improve and automate online services for the public. We were one of the first business registries in the country with the technological and legal infrastructure in place to allow both online incorporation and annual filings and now we continue to be one of the most efficient and technologically advanced registries.

Our efforts have been internationally recognized. The branch has won top honors for technological innovation four times in the recent past, as awarded by the International Association of Commercial Administrators (IACA). IACA is the leading association for business registries and has given top honors to Hawaii in 2005, 2006, 2007, and 2008.

This year, the branch continued to improve the documents online project that allows the public to purchase filed documents through an online webpage. Over 7,200 documents were ordered online this past year. Through our redaction project, we have made over 700,000 documents immediately available online as of this past fiscal year. This saves the public time and money and increases convenient public access to the registry documents, especially to businesses on the neighbor islands. The branch is continuing to upgrade the interface of its website that can be found at www.BusinessRegistrations.com, and is also continuing a long term project to redact private information from the extensive database.

Last year, the branch completed a year-long project to "go green" with respect to annual filings. Beginning in October 2008, the branch no longer mailed pre-filled paper annuals automatically to filers. Instead, filers received reminder postcards to file online and could receive paper annuals only on request.

This year, the "going green" effort has increased our online adoption rate for annual report filings to 75% and saved the Division an estimated **560** pounds of paper and nearly **\$24,000** in postage. The increased online filing rate also reduces paper, postage and other costs for the consumer, helps keep our community green and reduces the division's manual handling, thereby allowing faster automated processing. We are working to modify the timing of the postcard notification so that it may also save the Division an additional \$2,000 per quarter on postage.

In addition to annual filings, the branch currently accepts a total of 17 other online filings. We are working to add more online form filings in the upcoming year. Name searches and certificates of good standing requests can also be done online. Additionally, all forms that the branch generates are now available online for the public to download. The branch also maintains its Hawaii Business Express website that allows customers to submit one filing through the internet portal to satisfy three different filings: register their business entity with the Department of Commerce and Consumer Affairs, obtain a general excise tax number from the Department of Taxation and obtain an identification number from the Department of Labor and Industrial Relations.

In FY09, the branch also completed an extensive tracking system for online transactions, fees and refunds. This new system compares and checks online transactions, fees and refunds reported by the vendor against that which is received by the branch. The project took over a year and half to complete and required extensive work from staff and IT developers. Although this project does not directly impact customer service and does not attract the public attention that other efforts do, this was critical work to improve fiscal accountability.

The branch also completed a database software upgrade to assure that the database is running on supported software instead of obsolete software. We also completed a project to make agent names consistent within our database, preparing the database for the new Model Registered Agent Act that was passed last year and will be effective July 1, 2010.

The technological innovations and the work of the staff have also kept the processing times down to an average of 3 to 4 days and annual backlogs as low as a record-breaking zero.

Business Action Center Branch

The BAC is supervised by a business center specialist who is responsible for five business registration assistants and three offices. The BAC runs permanent business centers on Oahu and Kahului, Maui and opened a temporary office in Hilo in February 2008. The offices offer point-of-service assistance and information to help facilitate, coordinate and simplify the application process for those who wish to register with the State in the areas of business, tax and employment. Customers interested in starting a business receive one-on-one assistance with completing necessary business license and registration applications. Customers can also submit applications instantly, receive certain temporary tax licenses and pay fees.

With the popularity of online registration increasing through Hawaii Business Express (HBE), the BAC also provides the support for "Live Chat," HBE's instant messaging system accessible to online filers who have registration questions. BAC also provides e-mail, fax and phone support for HBE or any other filers. The BAC encourages online filing by referring customers to the HBE website and providing designated terminals in the offices for customer use. Online filing reduces the number of paper filings over-the-counter at BAC while also increasing processing efficiencies.

In addition, BAC acts as a clearinghouse of information for broader business-related matters. For other industry-specific licenses and permits, the BAC provides application forms and information for obtaining them from the respective state, federal or county offices. The BAC also provides general business start-up information and refers prospective business owners to a broad spectrum of public and private nonprofit organizations that assist new and existing businesses, and to business seminars and other training or entrepreneurial education programs.

In FY09, the BAC branch assisted over **15,000** customers over the counter or via phone, e-mail, fax, or Live Chat. In particular, the popularity of Live-Chat assistance seems to be increasing dramatically, going from 170 customers in the first quarter of FY08 to 833 customers for the last quarter of FY09.

GOALS and OBJECTIVES

The goal of the BAC is to be the most responsive and helpful point-of-service business center for business registration and licensing assistance to as many businesses in Hawaii as possible. The BAC objectives for the fiscal year ending June 30, 2010, will be to: (1) continue to develop relationships with the business community; (2) explore better ways to accept business, employer and state tax registration filings from the remote BAC sites such as Maui and Hilo; (3) continue seeking ways to reach communities in need of business registration assistance and to market BAC's services; and (4) continue working closely with other state agencies (including cross-training) to help increase compliance with new laws.

ACCOMPLISHMENTS

BAC continues to support the temporary office in Hilo and the permanent offices in Maui and Oahu.

In FY09, the BAC has worked with accounting firms to see if BAC can set up a volunteer accounting assistance program similar to the volunteer lawyers program at the BAC. In addition, the BAC participated in workshops and counseling sessions throughout Hawaii, many with the military. The BAC has also expanded outreach services to other state agencies such as the Department of Health in Kapolei. We are striving to meet the needs of our community and look forward to continue to do so in the upcoming fiscal year.

The BAC continues to host the Hawaii State Bar Association volunteer lawyers project where HSBA attorneys come to the BAC Nimitz office and offer free legal services to BAC customers each Thursday. This is one of BAC's most popular programs. In addition, BAC has set up a feedback survey for users of the BAC and the response has been consistent in recognizing the quality and value of BAC to small businesses. We have received a number of letters of gratitude from businesses that began as small businesses seeking assistance from BAC and have grown to big businesses.

The BAC also hosts U.S. Small Business Administration representatives who offer financial services counseling to our customers once a week. The BAC continues to work with the Service Corps of Retired Executives ("SCORE"). SCORE is a nonprofit organization partially funded by the U.S. Small Business Administration. It provides business counseling and mentoring services free of charge. BAC customers are paired with a SCORE volunteer, who may be an attorney, accountant, marketing expert, business owner in the same industry as the BAC customer, or other expert, depending on the needs of the customer. SCORE volunteers meet in one-on-one sessions with the customer to offer advice. If no local SCORE volunteer fits the customer's needs, SCORE can find a volunteer with the requisite expertise through its nation-wide network of volunteers. These partnerships allow unique opportunities for small business owners to speak with experts on a one-on-one basis.

Securities Compliance Branch

The Securities Compliance Branch of the division is supervised by a specialist who is responsible for the work of six examiners, five licensing clerical staff, and two secretaries. The branch currently has approximately 75,200 securities salespersons and 1414 broker/dealer firms on record registered to sell securities. In addition, the branch has 58 state registered investment advisory firms and over 1600 registered investment adviser representatives on record. The branch also processed over 1030 franchise

offering circular filings and approximately 450 filings for the private placement of securities in FY09 and conducted 24 exams.

GOALS and OBJECTIVES

The goal of the Securities Compliance Branch and Securities Enforcement Branch is to become one of the most effective state securities regulatory agencies in the country. To accomplish this goal, the Securities Compliance Branch's objectives are to: (1) implement an ongoing comprehensive training program, (2) implement a regular field examination cycle for registered broker/dealers and state registered investment advisers, and (3) develop valuable investor education programs and materials that improve investor awareness of fraud, reach communities throughout Hawaii with investor education materials and increase investor education efforts for students throughout the State.

With respect to investor education, in particular, we are currently in the process of (1) collaborating with the Department of Education's Instructional Services Branch of the Office of Curriculum, Instruction & Student Support. DOE will use investor education/ financial literacy as the topic for its next student competition to create a game focusing on the topic. The securities branch will be in the role of "client" to these students and will train the teachers in financial literacy and investor education-related matters; (2) continuing our partnerships with nonprofits and state agencies in order to expand outreach throughout Hawaii to Native Hawaiians, the military, labor unions and others; (3) continuing our efforts to keep our kupuna informed; (4) increasing investor education programs for our keiki; and (5) improving our website features and developing electronic media.

ACCOMPLISHMENTS

The staff continues to efficiently manage the volume of applications and renewals received each year and the number of pending applications for broker-dealers, sales agents, investment advisers and their representatives remains very low. The field examination program continues to provide examinations of broker-dealers and state-registered investment advisers in Hawaii. Examinations of broker-dealers and investment advisers located on all islands throughout the State are being conducted on a continuing basis to provide onsite review of compliance with Hawaii State law.

The branch is also continuing its comprehensive training program for professional development of its securities examiners staff. Currently, the branch is supporting training leading to the Certified Regulatory and Compliance Professional from the FINRA Institute at Wharton. The division currently has two certified examiners and one additional staff member preparing to be certified.

This year, the branch also developed the comprehensive State Investment Adviser Guide to help firms understand the state compliance requirements and the manner in which to prepare for a firm examination conducted by the state securities compliance branch. The guide was developed to help small firms with limited resources to better understand the compliance requirements. The guide has been produced with an interactive index and is placed on our website at <http://hawaii.gov/dcca/sec/iag>.

Investor education continues to be another important component to securities regulation, and substantial progress was made over the last year. The division completed **44** presentations in FY09, a 29% increase from FY08, and participated in **70** community events in FY09, a 55% increase from FY08, through which we reached an estimated **101,250** consumers in Hawaii in FY09, a 98% increase from FY08.

Our major project this year was the new union outreach program. This program was developed to combat investor affinity fraud perpetrated through unions. Affinity fraud that takes advantage of trusting relationships within tight knit groups has been increasing in Hawaii and throughout the nation. To combat this fraud within unions and to reach working families in unions, the branch developed investor education materials and presentations customized for union members. The branch actively sought to work with union leadership to bring the message to the membership. This program has been extremely successful with members and leadership alike. We attended 24 union events and gave 8 presentations, reaching over 7000 individuals. It has been so successful that the program has been replicated at the national level by the North American Securities Administrator's Association, the largest and oldest membership of securities regulators across North America.

The division also partnered extensively with the Hawaii Council on Economic Education (HCEE) to support financial literacy and investor education for our keiki. For the fifth year in a row, we have supported the **stock market simulation** program that trains teachers to incorporate multi-media interactive stock market software into their curriculum to help students learn sound investing principles. From Spring 2004 to Summer 2009, **776** teachers have participated in this program and the program has reached **26,180** students. This fiscal year alone, the program has reached **106** teachers and **6,191** students, 43% more students than in FY08 and an all-time high student participation rate for the program.

We have also supported two other HCEE programs. The first is **Na Wai Puapua'i** (Care for Our Future), a financial literacy and investor education curriculum that incorporates Native Hawaiian culture into the lesson plans. It includes traditional *ōlelo no'eau* into the course work and was developed to be compliant with the No Child Left Behind Act, making it easier for teachers to adopt the curriculum. This program has reached **75** teachers who reported their intent to use the lesson plans for **2,163** students, exceeding the original teacher goal by 25%.

The second HCEE program is the **Economic Cadre**, a statewide two-year program to train key teachers to advocate economic education by incorporating it into any subject matter and encouraging other teachers and students to become involved. FY09 was the second and final year of the program. The teachers were trained to assist schools within their complex areas to incorporate economics and personal finance in the classroom. The full two-year program reached approximately **1,166** students who are expected to show increased understanding of economic concepts.

Another priority of the investor education program is outreach to the Native Hawaiian community. In addition to **Na Wai Puapua'i**, our investor education specialist has worked with the Office of Hawaiian Affairs and the Department of Hawaiian Homelands to distribute materials. We have also exhibited materials at the Council on Native Hawaiian Advancement Conference and at the Department of Hawaiian Homelands. Outreaching to the Native Hawaiian community remains a priority for FY10 and we look forward to continue to build our relationships.

We hope to initiate several new programs in FY10, including partnerships with the medical and elder care communities to promote reporting of financial elder abuse and partnerships with law enforcement to help train and alert them to combating investment fraud, a white collar crime that is increasingly causing serious harm to victims in Hawaii.

The branch maintains nearly 70 handouts, brochures, booklets, CDs, DVDs, guides & mini-guides covering a wide range of investor education topics from how to select an investment professional to how to

avoid scams and fraud. We also have six investor protection presentations and 20 special large print handouts that have been notably popular with our seniors.

Securities Enforcement Branch

The Securities Enforcement Branch of the division is supervised by a Senior Enforcement Attorney who is responsible for the regulatory enforcement activities of four attorneys, one supervising investigator, six investigators, and five clerical staff. The difficult nature and complexity of the cases being handled by the branch is increasing every year. Cases involving multiple respondents, multiple complainants, and multiple bank accounts are occurring with much greater frequency today requiring extensive financial analysis.

The branch continues with the implementation of a comprehensive training program to improve the quality and efficiency of the securities enforcement work. The program consists of: (1) cross-training with registration clerks and securities examiners of the Securities Compliance branch, (2) in-house training with panels of regulatory enforcement and legal experts from other regulatory and law enforcement agencies, academia, and industry, and (3) outside training classes and conferences.

GOALS and OBJECTIVES

As mentioned above, the goal of the Securities Compliance Branch and Securities Enforcement Branch is to become one of the most effective state securities regulatory agencies in the country. To that end, the Securities Enforcement Branch's objectives are to: (1) investigate and prosecute state securities violations under the Uniform Securities Act; (2) intake complaints from the public and respond quickly and appropriately; (3) reduce case backlog; (4) inform consumers of enforcement matters and investment scams through participating in investor education; (5) develop and implement internal procedures that will improve the timely and effective resolution of cases, improving the branch's overall effectiveness; (6) attend and develop training to keep professional staff current on emerging investigative techniques, legal analysis and trends in securities fraud and other securities violations; (7) draft and assist in securities legislation; and (8) work with the media to raise public awareness.

ACCOMPLISHMENTS

As a result of the enforcement work of the branch in FY09, the division issued eight (8) preliminary orders to cease and desist with penalty recommendations of \$3,601,604, obtained four (4) final orders, and issued fifteen (15) consent agreements or orders, imposing \$3,364,940 in penalties. During the past fiscal year, the branch collected \$118,585 in fines and penalties.

The securities enforcement branch has been involved in the litigation and settlements of major banks over the freezing of the auction rate securities markets, a market estimated to be over \$300 billion. Hawaii has assisted the North American Securities Administrators' Association in the multi-state actions. Resolutions are pending.

The Securities Enforcement Branch has continued with the implementation of an extensive and comprehensive training program that includes: (1) outside training in the form of seminars and conferences specifically aimed at improving skills, staying up-to-date with the increasing complexity of cases and achieving more effective regulatory actions, and (2) frequent interaction with regulators in other states and, particularly in specific areas including franchises, investor education for youth and broker dealer

operations. The training and interaction have resulted in more focused enforcement, effective impact on the market and increased attention on the use of conduct remedies and monetary penalties. Currently, the branch is supporting training leading to the Certified Fraud Examiners designation for investigators (4 certified) and the Certified Regulatory and Compliance Professional from the FINRA Institute for Professional Development for attorneys (2 certified).

The CRF financial summary relating to BREG for FY 08-09 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,610,045	\$766,823	\$5,376,868	\$6,774,442

CONCLUSION

The Business Registration Division continues to receive business filings, requests to purchase business documents, business registration inquiries, securities and franchise registration filings, securities and franchise inquiries and securities and franchise complaints that indicate an enduring need for the essential government services involving the business registry, business action center, securities law enforcement, securities registration and investor education outreach. The demand for the division's services has necessitated improved information systems to handle the workload, more sophisticated online support, increased training to improve the quality of regulatory oversight, increased personnel and constant attention and commitment to the changing, increasingly complex needs for service.

CABLE TELEVISION DIVISION (CATV)

website: www.hawaii.gov/dcca/catv

e-mail address: cabletv@dcca.hawaii.gov

OVERVIEW

The Cable Television Division (CATV) supports the Director in the regulation of franchised cable television operators. CATV's primary function is to determine whether the initial issuance, renewal, or transfer of a cable franchise is in the public's best interest. This determination is made only after careful consideration by CATV of the public need for the proposed service, the adequacy, efficiency, and reliability of service, and the technical, financial, and operational ability of the franchisee.

Subsequent to the issuance of a franchise, CATV's role in protecting the public interest continues. Functionally, CATV acts to enforce obligations of the franchisee and ensure compliance with rules and regulations relating to operators' practices and procedures. CATV thereafter continues to monitor the franchisee to ensure that the operating system is reliable and responsive to the public. Such reliability and responsiveness to the public's interest may be indicated by operators providing the widest possible diversity of information sources and services and enhancing communication capabilities for its communities by supporting the interconnection of public facilities, public television, and public, educational and government access.

CATV is cognizant of the increasing importance of cable service to the people of Hawaii. With advanced technology, cable systems are becoming more than strictly a source of entertainment, and increasingly serve as a means of providing informational and educational programming. Therefore, the Division recognizes that the extension of cable service to all communities within the franchised areas should remain a high priority.

Included within the responsibility of overseeing all franchised wireline cable operators within the State, and as an integral part of the cable regulatory scheme, CATV responds to public inquiries, concerns, and complaints. Staff is trained to assist, provide answers, refer the complaint to the system operator governing the franchised area, or otherwise inform the general public of complaint-filing procedures. It is the division's mission to oversee that all complaints and concerns are researched and result in some form of resolution. In furtherance of this goal, CATV will continue to monitor how customer service concerns are being addressed and to examine the degree of customer satisfaction by reviewing surveys and reports. The division will continue to encourage operators to develop new, improved, or more effective utilization of cable communications services and facilities that enhance customer based services to the people of Hawaii.

In addition to overseeing system operators, CATV is also responsible for the expansion of the State's Institutional Network ("INET") in a manner that is efficient and effective for the State. The INET is constructed for two-way operation as part of the cable system and provides broadband telecommunications capabilities among government and educational organizations. The recent growth in information processing, storage, and retrieval by the State illustrates the increasing need for high transmission capacity with a more flexible network configuration which may be achieved through the INET.

In its franchise agreements with cable operators, the State requires that cable operators set aside a number of channels for public, educational and governmental access ("PEG") and provide a percentage of gross revenues for PEG use. The State has delegated oversight of the access channels and funds to non-profit groups, one in each of the four counties.

Composition

The staff of CATV currently consists of an administrator, attorney, program specialist, and secretary. The office is located on the first floor of the King Kalakaua Building at 335 Merchant Street. Mailing address: P.O. Box 541, Honolulu, HI 96809; phone number: 586-2620; internet address: www.hawaii.gov/dcca/catv.

GOALS and OBJECTIVES

CATV's performance measurements include various categories of information. Among others, CATV is involved with federal legislation and FCC rulemaking that impact Hawaii residents, Institutional Network ("INET") expansion and enhancement, PEG practices and policies, consumer / subscriber matters and complaints, and monitoring of non-cable technologies such as Direct Broadcast Satellite ("DBS") service. Only some of these activities of significant impact to Hawaii residents are easily measured. Some of these are described below in the Accomplishments section.

- 1) Ensure consistent cable television regulatory policies and practices
 - Continue with Cable Advisory Committee meetings
 - Procure PEG services, consistent with chapter 103D, HRS
 - Continue with scheduled franchise fee and PEG reviews
 - Continue to collaborate on INET deployment
- 2) Monitor and participate in federal telecommunications legislation and rulemaking.
 - Continue working with Hawaii's congressional delegation on federal legislation
 - Continue our working relationship with the FCC on DBS and other cable related matters
 - Continue to monitor federal issues that may have an impact to Hawaii cable television subscribers
- 3) Advocate for equivalent DBS, and other enhanced services.
 - Ensure that DirecTV and DishNetwork comply with FCC order regarding service to Hawaii
 - Monitor development and deployment of new advanced services
 - Ensure that Hawaii receives equivalent service as does the mainland

ACCOMPLISHMENTS

Hawaii Broadband Task Force – DCCA was selected as a representative on the Hawaii Broadband Task Force which was established through [Act 2 of the First Special Session of 2007](#). The working vision statement for the Task Force is: *"Hawaii understands that advanced broadband is essential infrastructure for the innovation economy and knowledge society of the 21st century. As a result of proactive policy initiatives, Hawaii residents and businesses throughout the State have access to advanced broadband services of the caliber and at the pricing available in the leading developed nations of the world."*

CATV actively participated in the development of the Task Force's report which was delivered to the 2009 Legislature. For additional information on the Task Force and its activities, please refer to its website at: www.hbtf.org.

House Bill 984 – Hawaii Broadband Commission – The 2009 Legislature considered various versions of bills relating to broadband services in Hawaii and the creation of the Hawaii Broadband Commission. The Governor’s office, State Senate and State House of Representatives submitted these bills relating to broadband based on objectives set forth by the Hawaii Broadband Task Force. HB 984 was the only bill active at the end of the 2009 legislative session and currently is assigned to Conference Committee. The Division is prepared to again actively participate in proceedings relating to broadband in the 2010 legislative session.

Request for Proposal (“RFP”) for PEG Access Services – The Department of the Attorney General and the State Procurement Office (“SPO”) informed the DCCA that its contracts with the PEG access organizations in each county must comply with the State procurement code. The SPO issued an RFP for PEG Services in July 2007. Since the issuance of the RFP, the SPO has received protests and complaints which are being addressed. Due to these protests and complaints, the SPO issued Addendum C on August 14, 2007 stating that no further action shall be taken. The status of this RFP has not changed since the issuance of Addendum C.

The DCCA’s current contracts with the various PEG access organizations have been exempted from the procurement code by the SPO until December 31, 2009. The DCCA will be requesting a further extension of the exemption from the SPO in order to comply with state procurement law and to continue working with the SPO in the RFP process.

Oceanic Time Warner Cable of Hawaii (“Oceanic”) – Oahu Franchise Renewal – CATV, along with its consultant Merina and Company, has held numerous meetings with various stakeholders and groups seeking comments regarding the renewal for Oceanic’s Oahu franchise which expires on December 31, 2009. In addition, three (3) public comment meetings in Honolulu, Kaneohe and Kapolei were held to ensure that ample opportunities were provided to the public for input into this renewal process. CATV is in the final stages of its review process which include: a technical / engineering review, community needs assessment, a compliance review and a financial review. The public again had an opportunity to comment on this renewal at a public hearing held on September 15, 2009 at McKinley High School. The Department plans to issue its decision and order by December 31, 2009.

Hawaiian Telcom (“Hawtel”) Application For a Cable Television Franchise – Hawtel submitted its application for a cable franchise on May 5, 2006 which was accepted by the DCCA on June 21, 2006. On May 14, 2009, Hawtel requested its twenty third (23) extension to the application review period, which currently expires on December 31, 2009. The DCCA continues to be ready, willing, and available to complete the application process that has been extended at the request(s) of Hawtel.

DTV Conversion – The DCCA assisted the Lt. Governor’s office in its successful activities with FCC personnel assigned to the Hawaii conversion, and with the Hawaii Association of Broadcasters. Hawaii’s conversion went smoothly with minimal impact to residents. Excerpts from the FCC website developed specifically for Hawaii can be found at www.dtv.gov/Hawaii/index.html.

The switch from analog to digital broadcast television is referred to as the digital TV (DTV) transition. In 1996, the U.S. Congress authorized the distribution of an additional broadcast channel to each broadcast TV station so that they could start a digital broadcast channel while simultaneously continuing their analog broadcast channel. Later, Congress mandated that February 17, 2009 would be the last day for full-power television stations to broadcast in analog. Broadcast stations in all U.S. markets are

currently broadcasting in both analog and digital. After February 17, 2009, full-power television stations will broadcast in digital only. Here in Hawai'i, all full-power stations made the DTV transition at noon on January 15, 2009.

Cable Advisory Committee (CAC) – The CAC was established by statute to advise the Director and cable operators, at their request, on cable matters. The Director of DCCA held CAC meetings on August 22, 2008 and October 28, 2008 to gather comments from members on various cable matters.

Consultant's Report on Franchise Fee Collection – DCCA has contracts with a certified public accounting firm to conduct reviews of the franchise fee payment process of the cable operators in each of the different franchise areas. The DCCA is continuing these reviews to ensure that the franchise fee collection process is being conducted accurately.

Review of Public, Educational and Governmental (PEG) access organizations – DCCA commenced an independent third party review of all PEGs during the fall of 2004. On-site reviews of each PEG by the independent consultant focused on contract compliance, by-law compliance, timely complaints resolution, financial management and accounting, and equipment use and maintenance. The consultant's reports have been posted to the DCCA website and current plans call for many of these recommendations to be incorporated into future contracts between the DCCA and PEG access organizations. CATV plans to continue with such reviews in the future. CATV and its consultant, Merina and Company, completed inventory reviews for all PEG access organizations in 2009. These inventory reviews are an example of on-going activities that ensure the safety of assets purchased with funds paid by cable subscribers.

Direct Broadcast Satellite (DBS) Service – CATV continues to advocate for equivalent DBS service for Hawaii and maintains its on-going efforts before the Federal Communications Commission ("FCC") to ensure that DBS service to Hawaii is equivalent in programming and pricing to the service found elsewhere in the continental United States. We will continue to lobby for and demand equal treatment by DBS providers such as DirecTV and DishNetwork.

Institutional Network ("INET") – CATV continues its leadership role in the development, expansion and enhancement of the INET. Working with the INET Partners [(1) the CATV Division, (2) the Information, Communications and Services Division ("ICSD") of the Department of Accounting and General Services, (3) the University of Hawaii ("UH") and (4) the Department of Education ("DOE")], CATV is actively participating in the upgrade and expansion of the INET that leverages current telecommunications technology. Continuing upgrades to the INET will dramatically improve its capacity and performance. The ability to efficiently and effectively provide broadband telecommunications services to government agencies will greatly improve the level of service to our residents. The interconnection of the islands of Oahu, Maui, Kauai and Hawaii via submarine fiber provides the INET Partners with seamless, broadband networking capabilities between these islands. The State, UH, and DOE now have access to a seamless, broadband telecommunications network that interconnects all our major islands. The State's INET is currently one of the most sophisticated networks in the nation.

As of the end of FY09 (June 30, 2009), TWE held approximately \$2.9M in an interest-bearing account on behalf of the DCCA for INET purposes. These funds are the result of an agreement between the DCCA and Olelo regarding cable tv franchise fees that are collected from Oahu cable tv subscribers.

Federal Telecommunications Legislation and FCC Rulemaking – CATV continues to monitor and participate in recent developments in Congress and at the FCC. Although proposed comprehensive telecommunications legislation, which would have replaced the Telecommunications Act of 1996, is no longer currently expected, CATV continues its on-going work with Hawaii’s congressional delegation and the FCC. The CATV division actively monitors these issues and participates in matters affecting cable television consumers in Hawaii.

The CRF financial summary relating to CATV for FY-09 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$401,077	\$605,448	\$1,006,525	\$1,408,650

CONCLUSION

The year 2009 was a remarkable year for CATV, due in part to the rapid development of advanced technology by cable companies. The continued enhancement of the fiber to node architecture provided increased bandwidth capacity for traditional services such as video programming as well as for new interactive and digital services. Thus, given the nascent nature of digital technology relative to cable, CATV had and presently has the continuing task of monitoring the public’s present needs and future interests.

Because of the rapid advancements in telecommunications, CATV seized the opportunity to provide a more uniform standard of practice within the State, offer improved services to meet the needs of the public, and provide greater reliability and responsiveness without financially impairing the system operators. CATV will strive to ensure fairness to the public in the provision of cable television services.

DIVISION OF CONSUMER ADVOCACY (DCA)

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OVERVIEW

The Division of Consumer Advocacy (“DCA”) represents, protects, and advances the interests of consumers of utility and transportation services before regulatory agencies, primarily the Hawaii Public Utilities Commission (“PUC”) and the Federal Communications Commission (“FCC”). The DCA reviews requests for rate and tariff changes, capital improvement projects, integrated resource plans, certificates for authority to operate, and other applications filed by public utility and transportation companies, in addition to other proceedings opened by regulatory agencies to investigate or review generic issues. In representing the consumer of utility and transportation services before the PUC, the DCA must analyze financial and statistical data, prior docketed material, industry standards, and the information provided by the utility and transportation companies to support their applications. After analyzing the information, DCA generally submits either written statements of position or testimonies explaining its analyses, findings, and recommendations to the PUC. Oral testimonies by DCA analysts, subject to utility company cross-examination, are required when an evidentiary hearing before the PUC is scheduled to resolve differences among the parties to a proceeding, including the DCA.

Composition

The DCA consists of 15 employees, ranging from an administrator, a secretary, a utilities/transportation officer, a utilities/transportation specialist, a tariff analyst, researchers, engineers, attorneys, and clerical support. The DCA is located on the third floor of the King Kalakaua Building, 335 Merchant Street. Its contact information is as follows: mailing address, P.O. Box 541, Honolulu, HI 96809; phone number, 586-2800; internet address, www.hawaii.gov/dcca/dca/.

The majority of the DCA’s professional staff is divided among the Rate Analysis Branch, the Engineering Branch, the Research Branch, and the Legal Branch.

The *Rate Analysis Branch* reviews and analyzes economic conditions, investor requirements and returns, and other aspects relating to the capital structure of regulated public utilities and transportation companies. In addition, the Branch evaluates and develops recommendations relating to rate schedules, effects of rates, sales levels, and other pertinent considerations in establishing rates.

The *Engineering Branch* analyzes and makes recommendations on technical matters such as production capacity and efficiency, depreciation allowances, maintenance cost factors, engineering safety standards, plans for capital improvements, purchased power agreements, and quality of service standards.

The *Research Branch* analyzes and advises on matters imposed by regulated public utility and transportation industries, provides services and advice relating to the current operations of and evolving changes to regulated public utilities and transportation industries, conducts special studies on the changes in various regulatory areas, including energy and telecommunications, and assists and participates with other units in developing data on matters under examination.

The *Legal Branch* provides legal representation before regulatory agencies. The branch also provides general clerical support by updating and maintaining the DCA's docket, general office, and electronic data base files, formatting draft documents prepared by the technical staff and attorneys for filing with regulatory agencies and utility companies, and maintaining the office library, among other things.

Although the DCA is authorized to have up to ten exempt positions, under HRS § 269-52(1), there presently is funding for only three exempt staff positions – the Education Specialist and two utility research analysts. The DCA also has a staff level position – the Public Utilities/Transportation Specialist – that assists the Public Utilities/Transportation Officer in managing the overall workload pertaining to matters filed before the regulatory agencies such as the PUC and FCC. In addition to providing analysis on docketed filings, the Education Specialist is responsible for consumer education and outreach, which is accomplished by attending various community events throughout the State to gain public input about specific issues affecting consumers and to provide information on utility services. The Education Specialist is also responsible for updating and maintaining the DCA's web site and publishing a quarterly newsletter.

Given the DCA's historical difficulty in attracting and retaining staff, in 2008 the DCA received authorization to reorganize, tailoring the position descriptions to that which are more aligned to the position duties and work of the DCA.

GOALS and OBJECTIVES

The DCA's goals and objectives can be categorized generally in three broad areas: consumer advocacy, policy advancement, and consumer education and outreach. These areas are not mutually exclusive and often overlap; however, for purposes of describing the DCA's goals and how the DCA will reach them, the goals will be described separately.

Consumer Advocacy

Goal

The DCA's goal may involve some balance. Ensuring that Hawaii's consumers receive fairly priced rates for safe and reliable services, while ensuring customer and environmental protections and renewable resource use, is the DCA's responsibility and primary goal.

Planned Approach/Methods

The DCA has and will continue to achieve this goal by advocating for consumers of regulated utility and transportation services wherever their interests are at stake. Typically, this occurs before the PUC, but may also be before other federal, State or local agencies and legislative bodies.

A majority of the DCA's resources will continue to be focused on PUC proceedings. These proceedings often may affect the rates and the reliability of utility and transportation systems and services. The DCA's participation in PUC proceedings will typically involve some or all of the following:

1. Review of applications to ensure compliance with regulations;
2. Participation at PUC public hearings;
3. Procurement of consultant services to manage workload and for complex cases;

4. Completion of discovery;
5. Analysis of applications and supporting documents to determine the accuracy and the reasonableness of the requests;
6. Provision of recommendations to the PUC on the merits of the applications through statements of position or direct testimonies; provision of oral testimonies, which are subject to cross-examination in proceedings where evidentiary hearings are necessary; and
7. Completion of related legal actions, such as filings of legal briefs, motions, appeals, etc., where necessary.

The DCA also will remain flexible and willing to work with parties to proceedings to negotiate and settle proceedings or particular issues when they are in the consumers' best interest.

Measures

To measure the DCA's performance in advocating consumer interests, the DCA will continue to track various categories of information. Among others, the DCA monitors consumer savings due to its participation in PUC proceedings, the percentage of PUC decisions that agree with the DCA's recommendations, the number of service quality investigations it participates in, and the number of filings before the PUC reviewed by the DCA.

Only some of the significant impact that the DCA's participation may have upon consumers is easily measured. Some of the impacts that are not easily measured will generally be discussed below in the DCA's explanation of its policy advancement objectives.

Policy Advancement

Goal

The DCA will remain active in promoting policies to protect and advance the interests of utility and transportation consumers on the local, State, and national levels.

Planned Approach/Methods

In PUC generic, investigative, or policy proceedings, the DCA follows a similar approach to its review and analysis of applications. A typical investigative proceeding may involve the following steps:

- After the DCA and other parties to the proceeding state their initial positions on the issues, discovery and analyses are done to determine the reasonableness of the other parties' positions;
- Technical meetings between the parties are often held to discuss and educate each other on the issues and positions taken, and to determine where possible agreement may be reached; and
- The DCA then provides the PUC with a recommendation that it believes is in the best interest of consumers.

- Evidentiary or panel hearings are held by the PUC to take evidence provided orally by DCA witnesses or consultants hired by DCA to provide expert testimonies on specific technical issues.

Specific ongoing investigative dockets are discussed later in this report.

The DCA has monitored and will continue to monitor Congressional activity in the energy and telecommunications areas. The DCA will continue to maintain contact with Hawaii's Congressional delegation, particularly those members sitting on committees that deal with energy and telecommunications, and will continue to provide input where appropriate.

The DCA will also continue to be actively involved and advocate for Hawaii consumers, through its membership in the National Association of State Utility Consumer Advocates ("NASUCA"). NASUCA is active before the FCC, Congress, and the federal courts in advancing consumer interests on national issues that impact consumers locally.

The DCA will also remain actively involved with the State Legislature, which sets policy at the State level. The DCA advised legislators through testimonies that detailed consumer benefits or detriments of specific proposals the legislators were considering. The DCA has attempted to take a more proactive approach by working with legislators and policy groups on the development of proposals, while maintaining a consistent policy position as advocated by the Governor's office.

Measures

Measuring performance of efforts to promote policy objectives is inexact. While the DCA tracks the percentage of its positions with which the PUC ultimately agrees, the measure does not capture the efforts throughout proceedings to educate and work with other parties to come to agreement on issues. The DCA can develop similar measures (e.g., whether its recommendations are ultimately agreed with by those setting the policy) for the State and federal agency and legislative bodies, but similar challenges with the imprecise nature of the measurement will result.

Education & Outreach

Goal

The DCA's goal is to encourage the public to be wiser consumers of public utility services by, among other things, emphasizing the possible effects that their consumption habits may have on utility rates and the environment. It is through the education and outreach process that the DCA aims to gather consumer input on utility issues and to encourage consumers to be more involved in utility proceedings.

Planned Approach/Methods

The DCA can accomplish its goal of positively affecting the habits of consumers on a statewide basis through the use of its web site and public outreach activities. The DCA established the following action plan to accomplish its goals and objectives:

1. update and improve its website with consumer-friendly and useful content;

2. establish information booths and provide presentations at community events, such as home shows and public fairs throughout the State and build positive relationships with both business and individual community members;
3. improve communications with consumers and the public through expanded distribution and publication of its newsletter; and
4. hold informational seminars or use public service announcements to highlight different utility issues and topics.

Measures

To measure the DCA's performance and progress of its education and outreach activities, it will track the number of people reached through education and outreach events, newsletters and other publications distributed, and consumers assisted with complaints and other issues.

ACCOMPLISHMENTS

In 2009, results of the DCA's efforts to protect and advance the interests of consumers were seen through its work on behalf of individual communities, as well as major utility issues that will have far-reaching impacts on people throughout the State. Several of these efforts are described below.

Rate Cases

The Gas Company, LLC's ("TGC") 2009 Test Year Rate Case

On April 30, 2008, TGC filed an application for approval to increase its rates (by approximately \$12,510,047 or 8.46% increase over revenue at present rates), establish a new commercial rate on the island of Kauai, restructure certain of its rates and schedules, and revise or update certain of its rules. In fiscal year 2008-2009, the DCA, among other things, participated in public hearings held statewide, conducted inspections and witness interviews, developed testimonies, engaged in a negotiation process with TGC to resolve the outstanding issues of this proceeding, and answered numerous information requests of the PUC. On June 4, 2009, the PUC issued an Interim Decision and Order approving, on an interim basis, an increase in revenues over present rates of \$9,519,293 or approximately 11.03% for TGC. In so doing, the PUC approved the Parties' Joint Statement of Probable Entitlement in Support of Interim Rates, filed on May 22, 2009, as supplemented. The parties are awaiting a final decision in this proceeding.

Hawaiian Electric Company, Inc.'s ("HECO") 2009 Test Year Rate Case

On July 3, 2008, HECO filed an application for approval to increase its rates (by approximately \$97,011,000, or 5.2%, over revenues at current effective rates) and to amend its rules. In fiscal year 2008-2009, the DCA, among other things, participated in a public hearing, conducted inspections and witness interviews, developed testimonies, and engaged in a negotiation process with HECO and the Department of the Navy to resolve most of the outstanding issues of this proceeding (two outstanding issues – Informational Advertising Expense and the Overall Rate of Return – were argued at an evidentiary hearing held during the last week of October and the first week of November 2009). On August 3, 2009, the PUC rendered an interim decision, approving approximately \$61,098,000 in additional revenues, or a 4.71% increase over revenues at current effective rates for a normalized 2009 test year. Transcripts of the evidentiary hearing were filed with the PUC on November 23, 2009, establishing the date for the first

post-hearing brief as December 21, 2009 and the second post-hearing brief as January 11, 2010. Thereafter, the proceeding will be ready for final decision making.

Young Brothers, Limited's ("YB") 2009 Test Year Rate Case

On December 19, 2008, YB filed an application for general rate increase (by \$10,458,000 or 17.91%, over revenues at current rates) and certain other changes in its Local Freight Tariff No. 5-A. During fiscal year 2008–2009, the DCA participated in public hearings held statewide, participated in conferences with witnesses, developed testimonies, and engaged in a negotiation process with YB to resolve the outstanding issues in the proceeding. The PUC issued a decision and order on July 29, 2009, providing the company with an increase in intrastate freight revenues, effective on August 3, 2009, of \$7,554,000, or approximately 13.46 percent over intrastate revenues at present rates.

Molokai Public Utilities, Inc.'s ("MPUI") and Waiola O Molokai, Inc.'s ("WOMI") Rate Cases

On June 16, 2008, the PUC issued an order opening a proceeding to provide temporary rate relief to MPUI and WOMI, responding to the announcement in late March 2008 by Molokai Properties, Limited, pursuant to its announcement to cease all current business operations on Molokai, that it would no longer be able to subsidize its utility companies, and it was planning for their disposal within six months. During the fiscal year, the DCA participated in public hearings and meetings, interviewed customers, conducted analysis of the limited financial information available from the companies, and provided the PUC with a statement of position reluctantly stating non-opposition of the rate increases. On August 14, 2008, the PUC approved rate increases for the companies, effective on September 1, 2008. The PUC's Decision and Order required MPUI and WOMI to file rate increase applications within six months of the date of the Decision and Order if a third party was not found to take over the utilities.

On March 2, 2009, MPUI and WOMI filed rate increase applications with the PUC, requesting revenue increases of \$562,550 and \$308,781 over revenues at present rates for MPUI and WOMI, respectively. The DCA objected via statements regarding completeness of applications to MPUI's and WOMI's requests to waive the requirement to file audited financial statements in compliance with the PUC's rules. On April 2, 2009, the PUC denied MPUI's and WOMI's requests to file unaudited financial statements, requiring the companies to obtain independently audited financial statements and to file amended applications reflecting such audited financials.

On June 29, 2009, MPUI and WOMI filed amended applications for rate increase with the PUC, seeking net revenue increases of \$886,259 and \$473,431 for MPUI and WOMI, respectively, using the pro forma revenue amounts at present rates for the 2009-2010 test year. Based on the temporary rates authorized in the Temporary Rate Order, MPUI's proposed net revenue increase amounts to \$565,939, which is an approximate 74.6% increase from the pro forma revenue amount of \$758,958 at the temporary rate for the 2009-2010 test year. Based on the temporary rates authorized in the Temporary Rate Order, WOMI's proposed net revenue increase amounts to \$308,431, which is an approximate 106.96% increase from the pro forma revenue amount of \$288,360 at the temporary rate for the 2009-2010 test year. During the 2008-2009 fiscal year, the DCA evaluated the applications for compliance with the PUC's rules. As of the end of November, the DCA has participated in public hearings and customer meetings, and issued information requests to further clarify the positions of the companies. The DCA will file direct written

testimonies, participate in an evidentiary hearing, if established by the PUC, and file post-hearing briefs. Thereafter, the proceedings will be ready for decision making.

Kauai Island Utility Cooperative (“KIUC”) 2010 Test Year Rate Case

On June 30, 2009, KIUC filed an application for general rate increase (by \$12,991,558 or 10.45% over revenues at present rates) and revised rate schedules and rules. During fiscal year 2008-2009, the DCA performed an initial review of the application and submitted a preliminary statement of position as to the completeness of the application. As of the end of November 2009, the DCA participated in a public hearing, conducted inspections and witness interviews, and issued numerous information requests in preparation for the development of written direct testimonies to be filed with the PUC. Before the proceeding is ready for decision making, additional steps will occur, including the filing of written direct testimonies, response to information requests, participation in negotiation conferences and an evidentiary hearing, and the filing of post-hearing briefs.

Small water and wastewater rate cases

In addition to the rate cases listed above, the DCA provided analysis and recommendations to the PUC for several public utility rate cases during the fiscal year 2008-2009, each of which involves analysis and preparation that spans six to eleven months:

Wailuku Water Company;
Hone Heke Corporation, dba Expeditions;
Sea Link of Hawaii, Inc.;
Olowalu Water Company, Inc.;
Waimea Wastewater Company, Inc.;
KRWK Corporation, dba Kohala Ranch Water Company; and
Kapalua Water Company, Ltd.;

Generic and Other Proceedings

Solar Water Heater System Standards

On September 26, 2008, the commission initiated an investigation to examine the issues and requirements of adopting or establishing standards for solar water heater systems as mandated by Act 204, Session Laws of Hawaii (2008), Section 3. During fiscal year 2008-2009, the DCA participated in numerous technical meetings with the parties to the proceeding, assisted in developing an agreement that was filed in lieu of final statements of position, joint comments in response to input from interested stakeholders, and other filings providing recommendations and guidance to the PUC. On July 1, 2009 and modified and affirmed by a Decision and Order filed on October 29, 2009, the PUC rendered a decision to adopt the September 19, 2007 version of the Residential Solar Water Heater Standards utilized by HECO, Hawaiian Electric Light Company, Inc. (“HELCO”), and Maui Electric Company, Limited (“MECO”) (HECO, HELCO, and MECO are collectively referred to as the “HECO Companies”), with modifications.

Feed-in Tariff Investigative Proceeding

On October 24, 2008, the PUC initiated an investigation of the implementation of feed-in tariffs for the HECO Companies. Included in the Energy Agreement signed by the Governor, the Department of Business, Economic Development, and Tourism, the HECO Companies, and the DCA on October 20, 2008, is a commitment by the HECO Companies to implement feed-in tariffs "to dramatically accelerate the addition of renewable energy from new sources" and to "encourage increased development of alternative energy projects." (Energy Agreement, summary, at 3.) To expedite the process, the PUC directed the HECO Companies and the DCA to submit to the PUC a joint proposal on feed-in tariffs that addresses all of the factors identified in the Energy Agreement within sixty days of the date of this Order. During the fiscal year 2008-2009, the DCA filed a Joint Proposal on Feed-in Tariffs, issued and responded to numerous information requests, prepared and filed a statement of position, participated in technical meetings and an evidentiary hearing, and prepared and filed post-hearing briefs. On September 25, 2009, the PUC issued a Decision and Order in the proceeding, establishing several policy principles to further guide the development of a set of feed-in tariffs. As of the end of November, the DCA is participating in technical meetings to further clarify the parties' positions before positions can be taken on the issues of pricing, interconnection and queuing, and reliability standards.

Decoupling Investigative Proceeding

On October 24, 2008, the PUC initiated a proceeding to investigate the implementation of a decoupling mechanism for the HECO Companies, pursuant to the recommendation of the signatories to the Energy Agreement. Generally, decoupling is a regulatory tool designed to separate a utility's revenue from changes in energy sales. During the fiscal year 2008-2009, the DCA developed an initial decoupling proposal, filed a joint proposal with the HECO Companies, issued and responded to numerous information requests, and participated in technical meetings and an evidentiary hearing. As of the end of November, the DCA also prepared and filed post-hearing briefs and responded to the PUC's information requests. The parties are awaiting final decision making on this proceeding.

HECO's Outage Proceeding

On Friday, December 26, 2008, an island-wide power outage occurred on Oahu. By Order filed on January 12, 2009, the PUC initiated an investigative proceeding to, among other things, examine the performance of HECO before, during, and after the power outage. During the fiscal year 2008-2009, the DCA and its engineering experts participated in technical meetings with HECO and its expert consultants and reviewed the reports and data supplied by HECO and its consultants. As of the end of November 2009, the DCA attended additional technical meetings with HECO and its experts and issued information requests to further understand the technical details of the generating units and the procedures used to operate the system before, during, and after the power outage. Before this proceeding is ready for decision making by the PUC, additional steps will occur, including the filing of a statement of position by the DCA, issuance of and responses to information requests by the company, and a final statement of position by the company. Thereafter, the proceeding will be ready for decision making.

Advocacy through Participation on Committees and Boards

Enhanced Wireless 911 Services

The DCA has been an active participant in the State's implementation of an order issued by the FCC mandating that enhanced 911 ("E-911") services be provided by wireless telecommunication carriers.

The passage of Act 159 in 2004 provided the framework to implement the State's wireless E-911 system to route emergency calls to emergency responders along with the wireless callers' identification and location. Act 159 also established a Wireless Enhanced 911 Board that oversees the collection and distribution of money collected by the E-911 special fund. As a member of the board, the Executive Director of the DCA has continued to be an active participant in the implementation of this system which is critical to the public safety of both Hawaii residents and visitors.

One Call Center Advisory Committee

The Executive Director of the DCA is also a member of the One Call Center Advisory Committee, which makes recommendations to the PUC regarding the implementation of Chapter 269E, Hawaii Revised Statutes (Act 141, SLH 2004). This advisory committee was integral in developing the request for proposals for a vendor to operate this "call-before-you-dig" system. The system, which was operational on January 1, 2006, will reduce the risk of critical services being disrupted because utility systems were inadvertently damaged due to excavation work conducted in areas where the systems are placed in underground facilities. This will ensure greater public health and safety, and ultimately save excavators time and money.

Hawaii Energy Policy Forum

The University of Hawaii convened the Hawaii Energy Policy Forum in 2002 to help develop and promote a vision for Hawaii's energy future. It is a collaborative effort that brings together interested stakeholders including representatives of electric utilities; oil and synthetic natural gas suppliers; environmental groups; the renewable energy industry; State legislature; federal, State, and county government agencies; the business community; and other major energy consumers. The Forum's efforts focus on many different energy related issues, including social and cultural issues, energy conservation and efficiency, and regulatory reform. The DCA believes that as a participant in the forum it has and will continue to effectively represent consumers' views as major policy issues are discussed and as proposals are developed and implemented.

Hawaii Clean Energy Initiative

On January 31, 2008, the State of Hawaii and the United States Department of Energy ("U.S. DOE") launched the Hawaii Clean Energy Initiative, an agreement, which among other things, established for the State a goal of 70% clean energy resource use by 2030. The State and the U.S. DOE formed various committees designed to examine differing aspects of the State's energy use – transportation, electricity, energy efficiency, etc. The DCA is participating in the HCEI's Integration Committee, which, with the aid of U.S. DOE experts, seeks to consolidate the themes and suggestions put forth by the remaining committees.

Education and Outreach

During the past year the DCA has focused a considerable amount of time and effort on expanding its education and outreach activities. This has allowed the DCA to increase its ability to educate consumers and extend its reach into communities throughout the State.

The DCA continued distributing its newsletter at public fairs and festivals throughout the State, and has vastly increased its electronic distribution list during the 2008–2009 fiscal year. DCA targets those events most likely to produce consumers interested in utility and conservation matters, increasing the

overall number of consumers reached. The DCA also used other communications tools such as press releases, its web site, and other in-house produced publications to reach the public. These tools were used to highlight various utility issues and to encourage greater participation in PUC public hearings, energy conservation and efficiency efforts, and to help consumers make wise choices when purchasing telecommunications services.

Document Management System

The DCA, in partnership with the PUC, developed a new docket and document management system to improve internal efficiencies and to make documents filed with the PUC available to the public in electronic format. This new system may be found at: <http://dms.puc.hawaii.gov/dms/>.

Financial Summary

The CRF financial summary relating to DCA for fiscal year 2008-2009 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,129,986	\$1,429,366	\$2,559,352	\$2,794,579

CONCLUSION

The DCA will continue to prioritize its caseload to target projects and consumer issues that have the greatest impact on the ratepayers of utility and transportation services in Hawaii. In addition, the DCA is expanding its education and outreach efforts. Together, this places the program in a better position to take a more proactive approach to address specific consumer issues and to gain greater public participation in decisions that affect their public utility and transportation services.

DIVISION OF FINANCIAL INSTITUTIONS (DFI)

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OVERVIEW

The Division of Financial Institutions' (DFI) Mission: To ensure the safety and soundness of state-chartered financial institutions by fairly administering applicable statutes and rules in order to protect the rights and funds of depositors, borrowers, consumers and other members of the community.

DFI is charged with the supervision and regulation of all Hawaii State-chartered and State-licensed financial institutions, including banks, foreign banking agencies and representative offices, savings and loan associations, trust companies, financial services loan companies (both depository and non-depository), and credit unions. DFI also licenses and regulates escrow depositories and money transmitters. In supervising financial institutions authorized to take deposits, DFI works closely with the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve Bank of San Francisco, the Office of Thrift Supervision, and the National Credit Union Administration.

DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and re-accredited in 1995, 2000, and 2005. The CSBS accreditation program sets high standards for state banking regulators nationwide. DFI's status as a fully accredited agency is currently under review by CSBS due to the recently implemented employee furlough days and the restrictions on out-of-state travel for training purposes.

DFI is located at 335 Merchant Street, Room 221, Honolulu, Hawaii 96813. The public may call DFI at (808) 586-2820 or send e-mail to dfi@dcca.hawaii.gov.

Composition

DFI is headed by the Commissioner of Financial Institutions, assisted by an *Administrative Section* consisting of the Deputy Commissioner, a specialist, a regulation analyst, and a secretarial staff headed by the Secretary of the Division. This section coordinates and facilitates activities within DFI, with other divisions, and with other state and federal agencies regarding regulatory and supervisory issues.

Within DFI, there are two branches: (1) the Field Examination Branch and (2) the Licensing and Regulatory Analysis Branch, each composed of financial institution examiners and headed by its own Branch Manager. The *Field Examination Branch* is responsible for the on-site examination of financial institutions. Examinations, unlike accounting audits, are forward-looking reviews of factors underlying the safety and soundness of the financial institutions. For example, examiners not only evaluate existing and projected financial information, but also assess the effectiveness of management, its policies, and implementation of those policies in administering the institution's risk management programs and practices. The *Licensing and Regulatory Analysis Branch* is responsible for licensing activities and other regulatory approvals, the off-site monitoring program, and responding to complaints and inquiries. The Licensing and Regulatory Analysis Branch Manager also assists the Deputy Commissioner in administrative matters such as legislation, training, and budgetary items.

GOALS and OBJECTIVES

Division Goals. DFI's goals center on the orientation, training, and effective deployment of its Examiners. Federal programs administered by the FDIC and the Federal Reserve are regularly used for this purpose as are web-based programs provided by CSBS and the Risk Management Association. On-the-job training is also a valuable component of the training plan. DFI's goals also focus on the recruitment of new staff that will be able to effectively work within the framework defining the future financial services industry. New financial service products (e.g., sub-prime mortgages, reverse mortgages, negative equity automobile loans, etc.), delivery channels (e.g., gift cards), providers (e.g., Wal-Mart) and the attendant opportunities and risks associated with these developments, create a radically expanded regulatory environment in which the use of new experiences and skills (in addition to those currently required) will be necessary to successfully accomplish DFI's mission.

Objectives and Policies. As a part of the CSBS accreditation process, DFI is required to establish a strategic plan and develop policies and operating guidelines to achieve plan objectives. DFI's strategic plan calls for the Division to:

- Recognize the Continuing Need for Dramatic Change
- Broaden Division Focus
- Expand Skill Sets
- Identify the Client
- Become Totally Client Centric
- Improve the Speed of the Organization

DFI's objectives are defined by its strategic plan and the policies to accomplish those objectives are imbedded within the Division's policy and operating manuals.

Action Plan. DFI's action plan is built around its strategic plan. The timetable calls for realization of short term training related goals in a one to two year time frame with longer range goals relating to experience and recruitment in a five year time frame.

Performance Measurement. DFI currently measures performance in two ways. The first is empirical – that is, absolute measurements based on the fiscal health and regulatory compliance of the State's DFI regulated institutions using both regular financial and examination based measurements. The second is the measurement of throughput at the Division – that is, how many complaints have been answered, how many applications processed, etc. The first measurement - empirical - is critical, especially in the current climate of global turmoil in the financial services industry, and demonstrates performance in DFI's key area of responsibility - to ensure the safety and soundness of Hawaii-chartered financial institutions. The second measurement, while informative, is less useful, and in many ways does not accurately reflect either effort or results as it does not measure the complexity and changing nature of the work. It continues to be under review for possible modification or replacement.

ACCOMPLISHMENTS

Stability of the Banking Industry in Hawaii. The national mortgage crisis that began in 2007 evolved into a full-scale financial crisis in 2008 which continued into 2009. Unprecedented economic disruptions both nationally and globally resulted in the failure, government take-over, government-assisted acquisition, or government assistance of some of the world's largest financial companies ranging from the government-sponsored enterprises Federal National Mortgage Association and Federal Home Loan Mortgage Corporation; AIG, the nation's largest insurance company; the investment banks Bear Stearns and Lehman Brothers; to a large number of depository institutions including IndyMac Bank and Washington Mutual. Despite sweeping federal legislation and regulatory actions to restore liquidity and stability to the U.S. financial system, the number of bank failures in the U.S. in 2009 was at its highest level since 1992. Problems in the banking industry are expected to continue through 2010. While Hawaii-chartered financial institutions were not immediately impacted by the national financial market disruptions, the increasing rate of residential mortgage loan foreclosures, disappointing business conditions sparked by precipitous declines in visitor arrivals, and falls in stock and other monetary asset values resulted in deteriorating balance sheets at a number of Hawaii financial institutions. In 2009, DFI monitored the impact of the disruptions and of numerous federal initiatives on the overall industry and on individual institutions, and actively worked with the individual institutions and the federal banking regulators to proactively address emerging issues. Heightened supervisory oversight will continue through 2010.

Implementation of New Federal Laws Continues to Expand DFI's Regulatory Role. As previously reported, Congress continues to enact laws that significantly impact the financial services industry. Laws such as the Gramm-Leach-Bliley Act, the USA Patriot Act, the Bank Secrecy Act, and the Sarbanes-Oxley Act are significant federal statutes which have an ongoing impact on the financial services industry. DFI manages its programs and trains its staff to ensure compliance with these federal laws relating to money laundering, privacy for consumer financial information, and corporate governance. The evolution of the industry, and the regular impact of key drivers such as corporate governance concerns, advances in financial service products, delivery channels, providers, and the attendant opportunities and risks associated with these developments, mandate that DFI's regulatory and supervisory roles must constantly adapt to meet the new regulatory challenges associated with the changing conditions.

Supervision of the Money Transmitter Industry in Hawaii. As noted in previous reports, with the passage of Act 153 of the 2006 Session Laws of Hawaii (SLH), money transmitters were required to be licensed by DFI on or before July 1, 2007.

There are currently 37 money transmitters, operating from over 1,200 locations, licensed to do business in Hawaii. This is a far larger and more diverse population than that contemplated during the passage of Act 153, attesting to the impact of this segment of the financial services industry on Hawaii's consumers. DFI completed a projected requirements staffing plan for the appropriate supervision and regulation of this important industry, and was successful in obtaining the necessary additional budget appropriation (including staffing) to implement the money transmitter program beginning in fiscal year 2009. However, due to the delayed effective date of Act 195, 2008 SLH, which was intended to provide the necessary revenues for the program, DFI has had to delay the hiring of additional examiners, and has only been able to partially implement the program using existing staff as and if available. In 2009, DFI Field Examination Branch staff performed examinations of three money transmitters that included brief reviews of their largest-producing authorized delegates and also did outreach to one locally-based money transmitter to briefly review its program, policies and procedures, to discuss the scope of future

examinations, and to answer any questions. Until the increased revenues generated by Act 195 are realized and additional examiners are hired, further money transmitter examinations will only be conducted as and if existing staff is available.

Mortgage Broker Regulation. DFI, like many other states, has long recognized the significant impact the mortgage broker industry was having on Hawaii consumers and the local economy and has advocated for the adoption of a law to actively regulate and supervise mortgage brokers and solicitors (aka mortgage loan originators) through the formation of a Mortgage Broker Task Force comprised of individuals representing the mortgage industry and various consumer organizations, and the introduction of bills in the 2005, 2006, 2007 and 2008 legislative sessions which were not passed by the Legislature. Subsequent to the 2008 legislative session, the federal *S.A.F.E Mortgage Licensing Act of 2008 (SAFE Act)* was enacted on July 30, 2008. The *SAFE Act* calls for many of the positive regulatory provisions advocated by DFI and the Mortgage Broker Task Force over the previous years (e.g., background checks, pre-licensing testing, periodic field examinations, continuing education) and provides that the Department of Housing and Urban Development (HUD) will license mortgage loan originators in states which do not establish a regulatory program which meets the *SAFE Act* standards. For these reasons, and because of the lengthy time needed for DFI to develop and implement a *SAFE Act*-compliant program and to spare the State the significant costs associated with the development, implementation and administration of a State program, it was DFI's position during the 2009 legislative session that the State should defer the regulation of mortgage loan originators to HUD. However, the Legislature overrode the Governor's veto with the enactment of Act 32, 2009 SSLH (Act 32) which calls for the establishment of extensive State *SAFE Act*-compliant program.

DFI has begun its efforts to implement Act 32 within the tight time frames established by Act 32, but is significantly challenged by the lack of adequate start-up funding and the lack of any provision for program staffing. Other hurdles to the full and timely implementation of Act 32 include the uncertain timing of DFI's access to the Nationwide Mortgage Licensing System (NMLS) as mandated by the *SAFE Act* and Act 32, unknown and potentially significant development costs, and technical flaws in provisions and language of Act 32.

DFI has explored and will continue to explore creative measures to try to bridge the resources gap, and in that regard has enlisted the assistance of the mortgage broker industry to draft administrative rules and proposed legislation to address flaws in Act 32. Additionally DFI and the mortgage broker industry will address administrative tasks related to application processing, background checks, pre-licensing testing, continuing education and the establishment and maintenance of an ongoing interface with the NMLS. DFI has implemented the collection of the special \$100 surcharge due from all currently licensed mortgage brokers and solicitors by December 31, 2009 - it will be used to fund a small portion of the initial start-up costs of the program. DFI will continue its efforts in 2010 to implement Act 32 with all available resources.

Mortgage Servicer Regulation. DFI introduced a bill in the 2009 legislative session to regulate servicers of residential mortgage loans secured by real property located in Hawaii to ensure that the servicers conduct those activities responsibly and with the requisite accountability to borrowers. Regulation of this industry was viewed to be necessary in light of the present wave of foreclosures impacting homeowners in Hawaii, The bill was signed into law as Act 106, 2009 SLH however the Legislature established a delayed effective date of July 1, 2010.

Continued Development of DFI's Emergency Preparedness Program. DFI continues to develop, implement, and rehearse multiple level Emergency Preparedness contingency plans. Maintaining and safeguarding the adequate supply of currency to the public as well as efficient access to deposit accounts is the main objective of these plans. As the overall State of Hawaii coordinator for financial institutions operating in Hawaii, DFI is a strategic partner in HawaiiFIRST, a financial industry business continuity planning coalition established to address Homeland Security issues affecting the local financial industry, develop and maintain relationships with city, county, State and federal agencies, and private industries which have an impact on the local business community, and to enhance the financial industry's capability to respond to and recover from disasters. DFI, together with HawaiiFIRST, also continues to maintain and periodically test a statewide emergency communications plan which includes all Hawaii financial institutions, with particular emphasis on the depository companies.

To ensure that DFI's staff has the ability to work remotely during emergencies, including an H1N1 pandemic, DFI has replaced most of its desktop computers with laptops. The laptops, coupled with VPN access to the Department's computer systems via a browser and the use of broadband aircards and a multi-user modem provide for relatively speedy establishment of remote work sites and/or telecommuting operations in the event of an emergency, permitting the continuation of secure communication with city, county, State and federal agencies, and the private sector to facilitate the financial industry's ability to respond to and recover from disastrous situations.

DFI will continue to work with the State's financial institutions (primarily as a strategic partner with HawaiiFIRST), State Civil Defense, federal regulators, the Federal Aviation Administration, the Hawaii Bankers Association, the Hawaii Credit Union League, and others to ensure that robust and comprehensive emergency preparedness plans are developed, implemented and maintained going forward.

Reaccreditation. DFI is accredited by the Conference of State Bank Supervisors (CSBS), the industry association for all state financial service regulatory agencies in the United States. CSBS administers its national accreditation program for state financial service regulatory agencies to ensure that the management and staff of these agencies are knowledgeable, appropriately organized, staffed, funded and trained to carry out their responsibilities, which include the authorizing, regulating and supervising of state-chartered financial institutions. DFI was originally accredited by CSBS in 1990. Each year thereafter, DFI has been required to file a comprehensive report on the Division's activities, which is evaluated by CSBS, to retain the Division's accredited status for another year. Every 5 years the CSBS staff visits DFI on site in Honolulu to conduct an exhaustive review of every facet of the Division's operations; interview managers, supervisors and staff; and evaluate the overall effectiveness of the program. DFI underwent such an examination in March of 2005, and received reaccreditation in late 2005. In preparation for its reaccreditation review which is scheduled for December 2010, DFI has begun efforts to streamline, enhance and document many of its internal processes. Initial plans are to intensify these efforts in 2010. However, DFI will also be working with CSBS to determine whether the employee furloughs and other spending restrictions will result in possible DFI accreditation probation, suspension or revocation, and what the impact any of these actions would have on the scheduled December 2010 reaccreditation review.

Bank, Financial Services Loan Company, and Escrow Depository Examination Programs. Until the furloughs that were imposed in the final quarter of 2009, DFI continued to expand its role in conducting examinations of banks and depository financial services loan companies. This expanded role not only was necessitated by cutbacks in federal agency examination staffing and the addition of new State-chartered and intra-Pacific banks to the Hawaii market, but is also a critical element in the CSBS reaccreditation review.

Until the furlough schedule was implemented, DFI examiners took many lead roles during safety and soundness examinations, but it is unlikely that assuming such roles will be feasible until the furloughs end. DFI continued to work closely with the Federal Reserve Bank of San Francisco and with the FDIC in developing and coordinating the year-round examination program for Hawaii’s two largest banks. In addition, DFI not only continued its efforts to participate in consumer compliance examinations conducted by the Federal Reserve Bank of San Francisco, but also participated for the first time in a major consumer compliance examination with the FDIC. DFI also independently conducted numerous escrow depository compliance examinations and nondepository financial services loan company compliance examinations, as well as investigations arising out of complaints. Largely due to the economic stresses affecting the local economy and the financial industry, DFI was involved jointly with the federal agencies in taking formal and informal supervisory actions against various regulated institutions in 2009.

The CRF financial summary relating to DFI for FY 09 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$2,174,258	\$247,441	\$2,421,699	\$2,599,918

CONCLUSION

During 2009, while DFI maintained its established regulatory, supervisory, and licensing programs, and developed and implemented new programs to respond to changes in federal legislation impacting regulated industries, increasing emphasis was directed towards responses to continued deterioration across all aspects of the global financial services sector.

The impact of the “sub-prime mortgage crisis” followed by the “credit market crisis”, with its attendant disruption of the normal pattern of deposit taking and lending prevailing over past years, has now affected both our local economy and the financial institutions operating in the State. All of these factors now require DFI to increase its efforts to aggressively and effectively respond to rapidly changing global and local economic conditions in the pursuit of the active regulation and supervision of our Hawaii-chartered financial institutions to preserve their safety and soundness and protect the rights of depositors, borrowers, consumers and other members of the community. The DFI staff looks forward to the challenge.

INSURANCE DIVISION (ID)

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e-mail address: insurance@dcca.hawaii.gov

OVERVIEW

Insurance Division's (ID) goal and mission is to ensure that commercial and individual consumers are provided with insurance services meeting acceptable standards of quality, equity, and dependability at fair rates by establishing and enforcing appropriate service standards and fairly administering the Insurance Code.

The primary goals are for all insurance licensees to comply with the letter and spirit of the law through appropriate oversight and to maintain insurers' solvency by monitoring their financial condition.

The following were the number of active insurance licensees at the end of the last two fiscal years.

Type of License	Licenses as of June 30, 2009	Licenses as of June 30, 2008
Adjuster	901	746
Captives	163	165
Certificate of Authority (Insurer)	997	973
Fraternal Benefit Society	7	6
HMO (Health Maintenance Organizations)	2	2
Independent Bill Reviewer	17	15
Life Settlement Broker*	88	—
Life Settlement Provider*	51	—
Limited Lines Motor Vehicle Rental Company Producer	28	29
Limited Lines Producers	900	842
Managing General Agent	14	13
Mutual Benefit Society	6	6
Nonresident Producers	30,761	28,148
Producers	6,416	6,083
Reinsurance Intermediary Broker	16	4
Reinsurance Intermediary Manager	0	0
Service Contract Provider Registration	122	116
Surplus Lines Broker	1,144	1,006
Vehicle Protection Product Warrantor Registration	13	10
TOTAL:	41,646	38,164

* Act 177, SLH 2008.

ID administers chapters 431, 431K, 431L, 431M, 431P, 432, 432C, 432D, 432E, 435C, 435E, 448D, 481R, 481X, and 488, Hawaii Revised Statutes, relating to licensing, supervision, and regulation of all insurance transacted in the state by all insurance entities.

ID is located at 335 Merchant Street, Room 213, Honolulu, Hawaii 96813. The public can call ID at (808) 586-2790, and send e-mail to insurance@dcca.hawaii.gov.

Composition

The Insurance Commissioner heads the ID and is assisted by the Chief Deputy Insurance Commissioner and the Branch Chiefs. The branches of the ID are:

Captive Insurance Branch. The Captive Insurance Branch (CIB) is currently led by the Deputy Commissioner and Captive Insurance Administrator and includes a secretary and seven captive insurance examiners. The CIB reports directly to the Insurance Commissioner and is responsible for all aspects of licensing, regulating, and developing the captive insurance industry for the State of Hawaii. The size and scope of Hawaii's captive insurance industry surpasses the size and scope of Hawaii's domestic insurance companies.

The captive program cost is not funded from the CRF. Pursuant to Act 1, SSLH 2005, funds expended for the ID's captive insurance program are defrayed from the Captive Insurance Administrative Fund.

Compliance and Enforcement Branch. When a complaint is filed with the ID, the Compliance and Enforcement Branch (C&E) conducts an investigation to assure compliance with the applicable statutes and rules. Appropriate disciplinary actions are taken by the C&E when necessary. In addition, the C&E is responsible for processing administrative hearing requests, qualifying applicants to the Hawaii Joint Underwriting Plan Assigned Claims program, qualifying no-fault challenges on medical care and treatments to peer review organizations, and coordinating and qualifying Applications for Written Consent received by the Commissioner pursuant to 18 U.S.C. § 1033 and HRS § 431:2-201.3. The C&E is comprised of a chief investigator and three investigators.

Financial Surveillance and Examination Branch. The Financial Surveillance and Examination Branch (FS&E) conducts a continuous program of financial analysis and examination of Hawaii-domiciled insurance companies, including captive risk retention groups and mutual benefit societies, to assure compliance with laws, regulations and financial solvency in an effort to safeguard consumer interests and maintain integrity in the industry. The work of the FS&E is subject to review by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Program (Accreditation Program). The NAIC Accreditation Program requires that insurance departments have adequate statutory and administrative authority to regulate an insurer's corporate and financial affairs, and that they have the necessary resources to carry out that authority. Accredited insurance departments undergo a comprehensive review every five years by an independent review team to ensure they continue to meet NAIC standards. The Hawaii ID was first accredited by the NAIC in 1996 and re-accredited in 2001 and 2006. The FS&E is comprised of a manager, nine examiners, a certification specialist, and an office assistant.

In addition to financial surveillance, FS&E also licenses or registers foreign insurers, risk purchasing groups, foreign risk retention groups and self insurers; reviews mergers, acquisitions and service contract provider submissions; reviews and maintains applications and filings by reinsurers; conducts agency financial examinations; reviews more than 6,000 quarterly and annual premium tax returns; and collects and processes more than \$100 million in premium taxes.

Health Insurance Branch. The Health Insurance Branch (HI) is responsible for regulating health insurers, including health maintenance organizations and mutual benefit societies. The HI's primary responsibilities are: to receive inquiries and complaints pertaining to health insurance, including long-term care insurance; to receive requests from consumers for external reviews of a health plan's coverage decisions under the Hawaii Patients' Bill of Rights and Responsibilities Act and to administer the external review process; and to conduct financial surveillance of health insurers. The HI also reviews advertising materials of long term care insurers. The HI is headed by the Program Administrator and has eight other authorized positions.

Insurance Fraud Investigations Branch. The Insurance Fraud Investigations Branch (IFIB) conducts a statewide program for the prevention, investigation, and prosecution of motor vehicle insurance fraud cases and complaints relating to motor vehicle insurance fraud. The IFIB reviews referrals submitted by the insurance industry, other agencies, and members of the public and initiates an investigation in all cases where there is reason to believe that a crime may have been or is currently being committed. State law requires any insurer or insurer's employee or agent who believes that a fraudulent claim is being made to refer the case to the IFIB within 60 days.

The IFIB consists of an administrator, a staff attorney, five investigators, two forensic investigators, and a legal clerk. The IFIB also employs two contract attorneys to assist in criminal prosecutions. The administrator, the staff attorney, and the contract attorneys are designated as Special Deputy Attorneys General and are responsible for initiating criminal prosecutions. By employing deputies who are trained in insurance fraud, all cases receive prompt attention and representation in the criminal justice system.

Legal Branch. The Legal Branch advises the Commissioner, the Chief Deputy, the Branch Chiefs, and the ID on all legal matters and is the interface between the ID and the Department of the Attorney General. The Legal Branch function includes serving as hearings officers for administrative hearings as assigned by the Commissioner; researches insurance issues, provides interpretations of the laws and rules, and reviews and analyzes administrative decisions and rulings; prepares legislative bills, legislative testimonies, administrative rules, and requests for formal and informal legal opinions; assists the branches in enforcing compliance provisions within Title 24, HRS; and provides assistance to the Financial Surveillance and Examination, Health Insurance, and Captive Insurance branches in regards to supervision, rehabilitation, and liquidation proceedings. The Legal Branch is comprised of a supervising attorney, three staff attorneys, and a legal assistant.

Licensing Branch. The Licensing Branch (LB) oversees the examination process and issues licenses to qualified applicants for various insurance licensees. The major license types are producer, nonresident producer, and adjuster licenses; the LB maintains records of these licensees. The LB is responsible for continuing education deficiency notices, license renewal notifications, processing of remittance checks, and confirmation and cancellation of these insurance licenses. The LB also works with the Commissioner's advisory board on continuing education requirements for producers. The LB is comprised of a licensing assistant, seven licensing clerks, and an office assistant.

Office Services Branch. The Office Services Branch (OS) provides general reception; answers and screens telephone calls; and provides clerical, stenographic, typing, duplicating and other administrative services for the ID. OS also maintains the ID's central administrative files, including ID's memorandum, newspaper articles, documents, reports, etc.; orders office supplies and equipment for the ID, and maintains

its inventory; and handles the receiving and distribution of ID's general mail. The OS is comprised of a clerical supervisor, a clerk-steno, and four office assistants.

Rate and Policy Analysis Branch. The Rate and Policy Analysis Branch (RPA) provides systems and procedures for the conduct and analyses of rate and policy filings of domestic, foreign and alien insurance companies for compliance with State insurance laws. The RPA analyzes and approves or disapproves rate filings for casualty, property, motor vehicle, inland marine, surety, credit life and disability, and medicare supplement insurance. The RPA also reviews policy form filings for workers' compensation, motor vehicle, credit life and disability, long-term care, medicare supplement, temporary disability, and title insurance. The RPA is comprised of a manager and nine rate and policy analysts.

ACCOMPLISHMENTS

Compliance and Enforcement Branch. During 2008, consumers and the insurance industry saved or recovered \$1,213,153.60 from insurers and insurance producers with the assistance of the ID. A total of 507 complaints were received for the following classes of insurance:

Motor Vehicle Insurance: Received the largest number of complaints with 215 or 42% of the total. Of this amount, complaints involving no-fault coverage for medical and other related benefits accounted for 96 cases. Ninety-one cases involved claims handling in the following categories: 19 for material damage claims, 28 for claim payment or settlement/resolution delays, 12 concerning coverage and liability disputes, and 32 for claim denials and other miscellaneous claim issues. Complaints other than claims total 28 in the following categories: 8 in the area of premiums and underwriting, 5 for policy cancellations or non-renewals, and 15 miscellaneous ones. Two hundred and three cases were resolved or referred to the appropriate agency for resolution. Twelve cases remain pending.

Life/Annuity Insurance: There were 74 complaints received or 15% of the total. Of this amount, 15 involved misrepresentations, 36 involved policy servicing, 8 involved claims handling, 3 involved underwriting issues, 1 involved surrender values and 11 involved the inappropriate replacement of existing policies. Fifty-seven cases were resolved or referred to the appropriate agency for resolution. Seventeen cases remain pending.

Workers' Compensation: There were 29 complaints received or 6% of the total. Of this amount, 24 involved claim handling and payment delays and 5 involved underwriting or premium billings. Twenty-seven cases were resolved or referred to the appropriate agency for resolution. Two cases remain pending.

Fire/Homeowners Insurance: There were 40 complaints received or 8% of the total. Of this amount, 15 involved underwriting, rating, cancellations, or nonrenewals, 10 involved policyholder service and sales, and 15 involved claims. Thirty-nine cases were resolved or referred to the appropriate agency for resolution. One case remains pending.

General Liability: There were 10 complaints received or 2% of the total. Of this amount, 2 involved claims. The remaining 8 involved underwriting and policyholder service. Nine cases were resolved or referred to the appropriate agency for resolution. One case remains pending.

Miscellaneous: In addition to the above categories, there were 139 complaints received or 27% of the total, relating to other classes of insurance (disability, marine, surety, and miscellaneous). One hundred

twenty four cases were resolved or referred to the appropriate agency for resolution. Fifteen cases remain pending.

Assigned Claims Program: There were 80 applications for benefits under the assigned claims program that were received and reviewed. Of this amount, 59 applications were assigned to servicing carriers for further handling; 16 applicants did not meet eligibility requirements. Four applications remain under review and 1 application was withdrawn.

Review of Licensee’s Criminal and Regulatory History: A total of 2,072 applications and renewal applications for Producer Licenses were reviewed by the Compliance and Enforcement Branch to screen for felony convictions or administrative action histories.

Disciplinary Action: There were 89 formal actions involving the Compliance and Enforcement Branch. Of this amount 18 were letters of caution, 4 were certificate of authority suspensions, 10 were license revocations, 56 were consent orders, and 1 was a cease and desist order. A total of \$54,225 was levied in fines.

Financial Surveillance and Examination Branch. To protect policyholders, domestic insurance organizations, including insurers and captive risk retention groups, are regularly examined for solvency and compliance with the Hawaii Revised Statutes.

Financial statements and reports submitted by 21 domestic insurers, 15 captive risk retention groups, and two mutual benefit societies are subject to in-depth analytical procedures on a quarterly basis and financial examinations are conducted at least once every five years. Analytical procedures and examinations provide a means to detect early warning signs of financial difficulty and allow for the introduction of remedial measures and prevention of future insolvencies. Analytical and examination procedures are subject to accreditation review by the NAIC.

The following is a summary of other activities of FS&E during 2008 and 2007 (dollar amounts are rounded to the nearest thousand):

	2008*	2007*
Number of Active Licensees	990	966
Direct Premiums Written in Hawaii**	\$4,610,997,000	\$4,562,850,000
Surplus Lines Premiums Written in Hawaii	\$ 266,611,000	\$ 311,707,000
Premium Tax Returns Processed	7,000+	6,400+
Premium Taxes & Levies Collected***	\$ 103,419,000	\$ 105,675,000
Total Hawaii Investments by:		
Domestic Insurers****	\$ 309,427,000	\$ 248,911,000
Foreign & Alien Insurers****	\$5,377,079,000	\$5,702,566,000

* Includes domestic, foreign, alien, and surplus lines companies.

** Includes annuities.

*** Net of credits.

**** Includes bank balances.

Health Insurance Branch. The Health Insurance Branch receives inquires and complaints pertaining to federal and state laws governing health insurance and long-term care insurance. From July 1, 2008 to June 30, 2009, 195 complaints were received. Of the 195 complaints, 125 were resolved and 50 are still pending. Of the remaining 20 complaints, the Health Insurance Branch had no jurisdiction for 13 complaints, 4 were referred for a formal resolution, 2 were referred to the appropriate agency for resolution, and 1 was withdrawn. Of the total complaints, 39 involved claims appeals; 38 involved reimbursement timeliness; 15 involved denial of coverage; 14 involved rate increases; 12 involved policy coverage; 12 involved termination of coverage; and the remaining 65 involved miscellaneous issues.

To protect the policyholders, domestic insurers, including mutual benefit societies and health maintenance organizations, are regularly examined for solvency and compliance with the Hawaii Revised Statutes. For the period July 1, 2008 through June 30, 2009, a report has been filed for the examination of AlohaCare.

In addition, the Health Insurance Branch reviews premium rate filings of managed care plans pursuant to HRS Chapter 431, Article 14G. The Health Insurance Branch received 25 rate filings during the period July 1, 2008 through June 30, 2009. This resulted in consumer savings of over \$11,425,000, by denying rate increases requested by health insurers which would have been implemented without rate review.

The Health Insurance Branch also reviews long-term care advertising issued by long-term care insurers licensed in the state. The filings are reviewed for compliance with HRS § 431:10H (Long-Term Care Insurance). The Health Insurance Branch received and reviewed 99 long-term care advertising filings during the period July 1, 2008 through June 30, 2009.

The Health Insurance Branch also conducts independent external reviews of managed care plan coverage decisions that are appealed by the plan member pursuant to Chapter 432E, HRS. From July 1, 2008 to June 30, 2009, 11 requests for external review were received.

Insurance Fraud Investigations Branch. The Insurance Fraud Investigations Unit conducts a statewide program for the prevention, investigation, and prosecution of motor vehicle insurance fraud cases and complaints relating to motor vehicle insurance fraud. The Fraud Unit reviews referrals submitted by the insurance industry, other agencies, and members of the public and initiates an investigation in all cases where there is reason to believe that a crime may have been or is currently being committed. State law requires any insurer or insurer's employee or agent who believes that a fraudulent claim is being made to refer the case to the Fraud Unit within 60 days.

The Fraud Unit employs special deputy attorneys general to initiate criminal prosecutions. By employing deputies who are trained in criminal prosecution, all cases receive prompt attention and representation in the criminal justice system.

During the fiscal year 2008-2009, the Fraud Unit received 297 referrals, reflecting an increase of 39% from the previous year. Of the referrals accepted for prosecution, criminal indictments were obtained against 30 individuals. There was an increase in fraud amount from the previous year totaling \$252,879. The Fraud Unit obtained restitution orders totaling \$85,634 for the cases that reached final disposition. In addition, the Fraud Unit obtained fines payable to the State of Hawaii totaling \$2,750, payments in the

amount of \$6,025 to the Crime Victim Compensation Fund, probation services fees in the amount of \$1,500, and community service totaling 2,950 hours.

The Fraud Unit endeavored to meet its statutory mandate to prevent insurance fraud by making available copies of its informational brochure on the topic of auto insurance fraud to the public. Several Fraud Unit investigators also interacted with the public by participating at Chaminade University's annual Criminal Justice Expo. In the area of training, the investigators attended seminars hosted by the National Insurance Crime Bureau, the National Health Care Anti-Fraud Association, the Public Agency Training Counsel, the Reid Technique of Interviewing and Interrogation, the Western States Auto Theft Investigators Association, and the International Association of Special Investigator Units.

Rate and Policy Analysis Branch. During fiscal year 2008-2009, 3,860 rate filings and 4,093 policy filings were reviewed; in the preceding year (fiscal year 2007-2008), 3,720 rate filings and 4,553 policy filings were reviewed. The Rate and Policy Analysis Branch also reviewed and analyzed approximately 7,900 motor vehicle insurer reports and other insurer certifications or statements.

Hawaii participates in the NAIC's filing process known as SERFF or the System for Electronic Rate and Form Filing. Hawaii began accepting life insurance products via SERFF in 2001, limited property and casualty lines in 2007, and all lines in 2008. A total of 1,892 electronic filings were processed through SERFF during the fiscal year.

During the fiscal year, the rating organizations and insurers participating in the ID E-Transmittal filing system submitted 99 filings for approval or acceptance.

Act 104, SLH 2004, established Article 30, HRS chapter 431, which permits Hawaii to join with other states to regulate designated insurance products through an interstate insurance product regulation compact ("IIPRC"). The Commission for the IIPRC became effective May 2006 when 26 states representing a total exceeding forty percent of the premium volume for life, annuities, disability income and long-term care insurance products established similar statutes; 36 jurisdictions are currently members of IIPRC. Bylaws, operating procedures, and 54 product standards on life and annuity products have since been adopted and the IIPRC approved 122 filings this fiscal year.

Article 14, HRS chapter 431, as amended in 1990, permits rating organizations to develop advisory prospective loss. Member insurers of a rating organization must determine the appropriateness of the loss costs to their insured policyholders and file the final rates it will use as a result of its own independent company decision-making process.

The significant filings approved or impacting the rates or the policies issued during the fiscal year were as follows:

Long-Term Care Insurance: Pursuant to Act 233, SLH 2007, insurers transacting long-term care insurance business on or after January 1, 2008 were required to comply with new and amended disclosure standards and actuarial ratemaking standards. Two new insurers filed to transact long term-care insurance business. There are 97 insurers with rates and forms on file in Hawaii; however, some insurers may not be issuing new policies.

Medicare Supplement Insurance: Pursuant to the Medicare Prescription Drug, Improvement and Modernization Act (“MMA”) of 2003, enacted December 8, 2003, Medicare supplement plans no longer offer prescription drug coverage. As of January 2006, Medicare eligibles were able to enroll in federal Medicare Part D. Pursuant to the Medicare Improvement for Patients and Providers Act (“MIPPA”) of 2008, revised standardized benefit plans will be in effect June 1, 2010. There are 21 licensed issuers of Medicare supplement insurance in Hawaii with one or more approved standardized plans.

Commercial Multiperil: Hawaii Insurance Bureau, Inc. introduced multiperil policies tailored to specific business classes, pet services, home improvement stores, and auto service risks which were approved March 10, 2009 and amended the farmowners program as approved April 27, 2009.

Commercial Property: On September 8, 2008, Hawaii Insurance Bureau, Inc.’s advisory loss costs for class-rated and specifically-rated properties were approved with an overall impact of -4.6%. The filing was based on AIR-Worldwide Corporations’ Hawaii Tropical Cyclone Model.

Crime: On July 23 2008, American Association Insurance Services’ revised advisory crime loss costs were approved with an overall impact of -14.8%. On June 30, 2009, Hawaii Insurance Bureau, Inc.’s revised rating algorithms and rating factors for crime and fidelity loss costs were approved with no overall impact and with a transition rule to limit the annual impact to individual policyholders not to exceed a 25% increase or decrease.

Employment Related Practices Liability (ERPL): On October 17, 2009, Hawaii Insurance Bureau, Inc.’s amended filing methodology to develop loss costs of their ERPL program was approved, resulting in an overall statewide impact of -25%.

Equipment Breakdown (fka Boiler and Machinery): On May 12, 2009, Hawaii Insurance Bureau, Inc.’s revised multistate loss costs were approved with an overall decrease of -25%.

General Liability: Revisions to Insurance Services Office’s management executive liability program to add Side A policies with loss costs and increased limit rating factors were approved on November 25, 2008. Insurance Services Office introduction of e-commerce policies tailored to information security protection was approved January 21, 2009. Hawaii Insurance Bureau, Inc. revised general liability increased limit rating factors were approved on February 17, 2009 with an overall impact of +0.8%. On April 17, 2009, revisions to Hawaii Insurance Bureau, Inc. commercial general liability loss costs for premises and for products were approved with impacts of -8.8% and -8.2%, respectively. On April 7, 2009, revisions to American Association of Insurance Services’ commercial liability program adding classifications, revising loss costs and revising increased limits factors were approved with overall statewide impact of 0.0%.

Homeowners: On February 20, 2009, revisions to Hawaii Insurance Bureau Inc.’s homeowners loss costs excluding the peril of hurricane were approved with an overall impact of +9.7%. The Hawaii Property Insurance Association amended the maximum limit of insurance available for dwellings from \$250,000 to \$350,000 in response to the rising values of insured property. Based on reinsurance costs for such property exposures, HPIA homeowner rates were approved effective April 1, 2009 with an overall impact of +17.1%. HPIA dwelling only rates were also approved effective April 1, 2009 with an overall impact of +16.9%.

Inland Marine: American Association of Insurance Services' amended multistate boatowners base loss costs and territorial relativities were approved September 8, 2008 and amended rating rules were approved March 23, 2009 with no overall statewide impact. On July 11, 2008, revisions to Insurance Services Office, Inc.'s personal inland marine loss costs were approved with an overall impact of +0.4%.

Medical Malpractice: Nationwide, the number of insurers specializing in writing medical malpractice insurance for physicians and surgeons remains limited. During the fiscal year, two insurers initiated and received approval for other allied healthcare specialty classification overall rate decreases. On February 18, 2009, revisions to Hawaii Insurance Bureau, Inc.'s medical malpractice increased limit rating factors were approved with overall impact of -2.6%.

Property – Dwellings: On July 11, 2008, Hawaii Insurance Bureau Inc.'s revised non-hurricane loss costs for dwellings were approved with an overall impact +4.6%. And on May 29, 2009, revised non-hurricane loss costs were approved with an overall impact of +1.1%.

Workers' Compensation: On September 19, 2008, revisions to the National Council on Compensation Insurance, Inc.'s workers' compensation loss costs, to reflect experience and statutory benefits as of January 1, 2009, were approved with an overall impact of -11.6%. This was the sixth consecutive year that advisory loss costs decreased based on Hawaii employers claims experience.

Motor Vehicle: On January 5, 2009, Hawaii Insurance Bureau, Inc.'s revised **personal auto advisory** loss costs were approved with an overall impact of -11.5%. However, increased limits rating factors were simultaneously adjusted with an overall impact of +8.7%.

Eleven insurance companies write more than 95% of the **private passenger** insurance market. During this fiscal period, six major insurers filed and received approvals for overall rate revisions ranging from -16.8% to +0.46%. Most of these **private passenger** automobile insurers have introduced alternate rating systems that take into consideration anticipated losses for mandatory coverages: bodily injury liability, property damage liability and personal injury protection based on vehicle make and model.

During the fiscal year, 17 insurers' revised rates, based on the 2008 **commercial automobile** loss costs filed by Hawaii Insurance Bureau, Inc., were approved. Three new insurers filed to transact commercial auto insurance and several insurers introduced enhancements to coverages for specialty classifications.

GOALS, OBJECTIVES, and POLICIES

ID's goal is to ensure that consumers are provided with insurance services meeting acceptable standards of quality, equity, and dependability at fair rates by establishing and enforcing appropriate service standards and fairly administering the Insurance Code.

Short and Long Term Goals of the Division: (1) Meet its statutorily mandated requirement; (2) Retain the ID's accreditation by the NAIC; (3) Protect policyholders by examining insurers/captive insurers to ensure financial compliance with statutory requirements and strive for early detection of any potentially hazardous financial conditions to preserve the assets of the insurer; (4) Increase the efficiency of the ID's operations. (5) Address national insurance issues by working with other state regulators and the NAIC; and (6) Provide and improve Internet access by the public for insurance licensees' public data and provide

on-line processing, rate and policy form filings, information on licensing and filing requirements, electronic payments of fees and premium taxes, and forms for licensees.

Objectives and Policies Setting Forth How Goals Can and Will be Accomplished.

1. The ID will strive to meet the mandated statutory requirements for the Insurance Code through proper personnel and case load management.

2. This accreditation of state insurance regulators is administered by the NAIC and requires state insurance departments/divisions to have and maintain adequate statutory and administrative authority as well as sufficient resources to effectively regulate the financial solvency of insurance companies. In order to maintain the accreditation, the ID will ensure the required level of funding in the budget for its financial surveillance resources. Also, introduce legislation for the adoption of NAIC model laws required for accreditation.

3. Protect policyholders from insolvent insurers by continuing the timely review and detailed analysis of financial statements filed by insurers to assure their compliance with the statutory financial requirements. Perform on site financial examination at least once every five years or more frequently as necessary as required by statute. Incorporate risk assessment methodology into the examiner's financial analysis work product.

4. To increase efficiency of operations, the ID has moved to computerization and the use of the Internet. The ID developed a database named the Hawaii Insurance Division System (HIDS), which is an integrated system with the licensing module at its core and subsystems to support the other functions of the ID. HIDS provides better management of the large volume of transactions handled by the ID. It has greatly reduced the manual processes and has allowed for the dissemination of information to the public through the Internet. The ID has completed its HIDS enhancement project which modified existing applications and developed an Examination application. The Examination application allows for the electronic submittal and collection of premium tax returns and payments. With these modifications to HIDS, continued interfaces with the NAIC and the Hawaii Information Consortium (they provide the Internet portal for the State of Hawaii's web site), databases can be built. These interfaces will continue to improve the efficiency of the ID and provide better services and information via the web to consumers and insurance licensees.

5. The ID participates in the proceedings of the NAIC by attending its meetings to address regulatory, market place, and national issues. The members of NAIC are all of the state insurance regulators. The ID is actively involved with NAIC by its membership on various committees and currently is vice chair of a committee.

6. The ID's web site allows the public to access general information on insurance, information on licensees, comparative auto and homeowners premiums, and information on how to file a complaint. Producers can now apply for a license, renew their licenses and submit appointments on-line. The ID has several projects which have created additional interfaces from HIDS to the NAIC and the Hawaii Information Consortium databases. The current interface enhancement projects include allowing producers to update contact information, continuing education providers can submit completed course credits on-line and course schedules, time and locations will be able to be found on the website. The ID is working with the NAIC to implement additional lines of filing through SERFF.

Financial Summary

The CRF financial summary relating to INS for FY09 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,148,211	\$2,222,535	\$7,370,746	\$9,591,489

CONCLUSION

The ID has met and continues to meet its mission and goals to maintain a secure and competitive insurance market place for consumers.

OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

website: www.hawaii.gov/dcca/oah/

e-mail address: OAH@dcca.hawaii.gov

OVERVIEW

As a support office under the Director's Office, the Office of Administrative Hearings (OAH) is responsible for conducting administrative hearings and issuing recommended decisions, for all divisions within DCCA that are required by law to provide contested case hearings under the provisions of HRS Chapter 91. The primary CRF caseload of OAH is composed of cases originating from: 1) the Regulated Industries Complaints Office (RICO) and boards, commissions, and programs attached to the Professional and Vocational Licensing Division (PVL) on licensee disciplinary action and declaratory relief petitions; 2) citations issued to persons or businesses engaged in unlicensed activities; 3) trade name/trademark revocation and securities cases from the Business Registration Division (BREG); 4) denials of no-fault and personal injury protection benefits; and 5) other matters from other divisions.

OAH also is responsible for conducting non-CRF administrative hearings for a) procurement cases from all agencies and divisions of the State and the four counties that arise under the State's procurement code, HRS Chapter 103D; and b) due process hearings from the Special Education Program of the Department of Education under a memorandum of agreement with the Department of Education.

Lastly, OAH also provides administrative support to the Medical Claims Conciliation Panel (MCCP) and the Design Claims Conciliation Panel. The MCCP program is responsible for conducting informal conciliation hearings on claims against health care providers before such claims can be filed as lawsuits. Similarly, the DCCP program is responsible for conducting informal conciliation hearings on claims against design professionals (engineers, architects, surveyors, and landscape architects) before such claims can be filed as lawsuits. The decisions of the MCCP and DCCP panels are advisory in nature and are not binding on the parties, in the event that any party still wishes to pursue the matter via the courts. An annual report is separately produced of MCCP and DCCP activities.

Composition

The OAH staff responsible for CRF related activities are: Senior Hearings Officer, division secretary, two hearings officers and three legal stenos. The office is physically located in the King Kalakaua Building, 335 Merchant Street, Suite 100. The OAH mailing address is: Office of Administrative Hearings, 335 Merchant Street, Suite 100, Honolulu, Hawai'i 96813; phone number: 586-2828; fax number: 586-3097; internet address: www.hawaii.gov/dcca/oah/; and e-mail address: oah@dcca.hawaii.gov.

ACCOMPLISHMENTS

The following table summarizes the CRF-related activities conducted by OAH for the period of January 1, 2009 up to November 1, 2009:

Type of Proceeding Conducted	Number
Pre-hearing conferences	149
Status conference	45
Motions	42
Hearings	117
Oral arguments on written exceptions	22

The following table summarizes the number of cases and the relative percentage of CRF-related activities conducted by OAH for the 2008-2009 fiscal year, by referring Division of OAH

DCCA Divisions Referring Matters to OAH	Cases Filed	%
Insurance Division (denial of personal injury protection benefits)	122	43%
Regulated Industries Complaints Office (disciplinary proceedings and citations for unlicensed activities)	88	31%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, violations of securities laws)	12	4%
Professional and Vocational Licensing (license denials)	11	4%
Office of Administrative Hearings (condominium disputes)	10	4%
Office of Administrative Hearings (procurement protests)	33	12%
Other CRF-related hearings	8	2%

Additional statistical data pertaining to CRF-related activities conducted by OAH can be found in the statistical tables presented by the Regulated Industries Complaints Office.

GOALS and OBJECTIVES

The primary goal and objective of the Office of Administrative Hearings has always been to conduct contested case hearings and issue recommended decisions, in a fair and impartial manner, as expeditiously as possible.

In order to track the processing of cases from the date of filing to the issuance of a final order, pursuant to directives from the Director’s Office, as of July 1, 2005, the Office of Administrative Hearings has implemented additional processes and procedures to ensure that all cases are timely processed:

1. Revising the Office of Administrative Hearings data base to include additional data fields so that all pending cases can be tracked for timeliness throughout the entire hearings process;
2. Physical inventories of all Office of Administrative Hearings cases in February and July of each year;

3. Specific procedures for the disposition of cases in which no action has been taken by the parties; and
4. Monthly reports to the Director of all cases pending the issuance of decisions.

The secondary goal and objective of the Office of Administrative Hearings is to make all of the decisions issued by the Boards, Commissions, Programs, and Divisions that are part of the CRF, available to the public. To accomplish this objective, since January 2005, the Office of Administrative Hearings has posted redacted decisions online on the DCCA/Office of Administrative Hearings web site: www.hawaii.gov/dcca/oah/oah_decisions/

CONCLUSION

The Office of Administrative Hearings will continue to work closely with all of the Boards, Commissions, and Programs that are part of the CRF, as well as with the other DCCA divisions that are also integral parts of the professional and vocational licensing system, to ensure that cases are processed as expeditiously as possible, and that all participating entities will have access to the OAH case data base and archives of past decisions.

OFFICE OF CONSUMER PROTECTION (OCP)

website: www.hawaii.gov/dcca/ocp

e-mail address: ocp@dcca.hawaii.gov

OVERVIEW

The Office of Consumer Protection (OCP) is the primary governmental agency in the State of Hawaii responsible for reviewing and investigating allegations of unfair or deceptive trade practices in consumer transactions.

OCP is empowered by statute to enforce the state's consumer protection laws. Functionally, this means that OCP has jurisdiction over a wide range of businesses and activities, including both regulated and unregulated industries. OCP handles many different types of complaints, such as those involving: advertising violations, door-to-door sales, solar energy devices, gift certificates, offers of gifts and prizes, going out of business sales, charitable solicitations, refunds and exchanges, collection practices, credit sales, health clubs, towing, fine prints and motor vehicle rentals. See Table 1, Laws Enforced by OCP. OCP also provides extensive information on the Landlord-Tenant Code.

OCP has adopted a number of different strategies to ensure that its mission is achieved in a meaningful and cost-effective manner. First, the staff tries to prioritize cases according to the seriousness of the violation. To help achieve this goal, investigations of actions that present significant consumer harm are "fast-tracked" for immediate legal intervention. Second, in an effort to proactively address perceived consumer problems, the office initiates investigations of problematic commercial practices. Third, staff persons attempt to provide as much assistance by telephone as possible, enabling a consumer to resolve their concern(s) without government intervention. Fourth, emphasis is placed on consumer and business education, through public service announcements, Consumer Dial messages, public informational forums, speaking engagements, media releases, and the dissemination of brochures. Finally, OCP partners with numerous public and private agencies to promote consumer protection throughout the State of Hawaii. In view of the successful implementation of these goals during the past few years, OCP will continue to focus on them throughout the foreseeable future, including during the next five years.

OCP's main office is in Honolulu at the Leiopapa A Kamehameha Building (State Office Tower), 235 South Beretania Street, Suite 801, Honolulu, Hawaii 96813. It shares offices with the Regulated Industries Complaints Office (RICO) in Wailuku, Maui at 1063 Lower Main Street, Suite C-216 and in Hilo, Hawaii at 345 Kekuanaoa Street, Suite 12. OCP's website address is www.hawaii.gov/dcca/ocp. Its functions are divided into four basic sections: intake, investigation, landlord-tenant, and legal.

Composition

The Consumer Resource Center Intake Section - phone: (808) 587-3222

The Consumer Resource Center (CRC) handles the intake of complaints for OCP. CRC is staffed by investigators who answer consumers' questions, distribute OCP complaint forms to consumers, receive written consumer complaints, and forward cases to OCP for review, closing or further investigation. In addition, a division within CRC answers telephonic requests for prior complaint history. If circumstances permit, consumers also have the opportunity to visit OCP's Honolulu office to view the actual case files.

Prior to the release of any file, OCP's staff reviews its contents to ensure that legally protected private information is not disclosed. See Table 2, statistics on OCP Information Requests.

The Investigation Section - phone: (808) 586-2630

OCP's investigation section receives cases from CRC and gathers evidence to determine whether violations of consumer laws have occurred. Investigators' tasks include site inspections, witness interviews, document collection, evidentiary analysis, report writing and the service of subpoenas. See Table 3, Number of OCP Complaints Filed; Table 4, Numerical Breakdown of Dispositions of All OCP Cases; and Table 5, OCP Complaints by Subject Matter for FY 08-09 statistics.

The Landlord-Tenant Section - phone: (808) 586-2634; Consumer Dial (808) 587-1234; website www.hawaii.gov/dcca/ocp

OCP operates the Landlord-Tenant Volunteer Center. The Center is supervised by an investigator and is staffed by investigators who answer questions about landlord-tenant issues. The Landlord-Tenant Volunteer Center does not represent landlords or tenants in court or provide legal advice; its role is limited to providing information regarding the particular laws relating to landlords and tenants. The office supplements this function by making available additional information on the department's 24-hour Consumer Dial Information Service, and on its website. The office also disseminates information to interested parties through its very popular landlord-tenant handbook, of which thousands are distributed each year.

The Legal Section - phone: (808) 586-2636

The Legal Section consists of staff attorneys who file civil actions against consumer law violators. Attorneys also engage in informal and formal resolution of cases prior to filing lawsuits.

OCP also provides the following services:

Consumer Education

In an effort to enhance consumer awareness of various consumer problems, OCP continuously strives to promote consumer education. The office issues press releases on a variety of consumer topics, and prepares and distributes written materials to provide specific consumer information. OCP also offers a series of Consumer Dial messages dealing with a variety of landlord-tenant and general consumer protection issues. Interested parties can call 24 hours a day and receive information on a variety of topics. In addition, OCP staff has participated in numerous educational forums in which hundreds of consumers and business persons have received extensive information about consumer protection in Hawaii.

Neighbor Island Assistance Requests

OCP staff offers assistance to neighbor islanders in DCCA related matters or other areas, as is reflected in the attached Table 6.

In addition, the office's neighbor island staffs have been trained in the technical operation of the state's Video Conference Center equipment and provide technical assistance to the department's hearings office so that neighbor island administrative hearings can be conducted through video conferencing.

GOALS AND OBJECTIVES

During the next five years, OCP will strive to fulfill its statutory mandate by fostering a fair and safe marketplace for consumers and businesses alike. In this regard, it will continue to investigate allegations relating to unfair or deceptive trade practices, enforce Hawaii's consumer laws, and educate consumers and businesses on their respective rights and responsibilities. The specific goals and objectives will include:

- Maintain fiscal responsibility on behalf of DCCA/OCP;
- Support innovative legislation designed to protect the citizens of the State of Hawaii;
- Proactively initiate cases against problematic business practices before there is widespread consumer harm;
- Disseminate consumer education to the largest possible populace;
- Facilitate the exchange of information to a wide array of law enforcement;
- Develop access to investigative data bases; and
- Provide in-house training to OCP investigators and attorneys.

ACCOMPLISHMENTS

Consumer Education

During the past year, OCP has educated thousands of citizens by conducting workshops for senior care providers, speaking to business leaders and consumers regarding consumer protection and training Hawaii attorneys and military legal assistance personnel on consumer protection law.

In particular, OCP focused on the growing problem of identity theft and mortgage fraud in which it provided important information to thousands of Hawaii residents regarding how to avoid being victimized.

Cases

OCP handled significant cases in 2009 involving nearly every area of consumer protection. It filed and resolved numerous cases relating to alleged violations of Hawaii's laws governing mortgage fraud, unaccredited degree granting institutions, identity theft, gift certificates, car rentals, credit practices, marketing protection, living trusts, door-to-door sales, refund and exchanges, and unfair or deceptive trade practices. OCP's involvement successfully resulted in recovering approximately 1.4 million dollars from respondents for having engaged in alleged unfair or deceptive trade practices and hundred of thousands of dollars in restitution for Hawaii consumers as well as obtaining injunctive relief and fines against violators.

LEGISLATION

OCP successfully lobbied for an amendment to the Mortgage Rescue Fraud Prevention Act, intended to facilitate the disposition of real estate short sales.

Additionally, OCP testified and provided input on virtually every measure relating to consumer protection at the Hawaii Legislature.

The CRF financial summary relating to OCP for FY 09 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,240,004	\$176,172	\$1,416,176	\$1,417,494

CONCLUSION

OCP continues to receive a large number of requests for assistance. Consumer complaints are diverse in nature and range from an isolated case to problems that affect every Hawaii citizen. Through regular training and information exchange, OCP's staff attempts to keep abreast of the latest consumer problems and "rip-offs," in order to prevent them from occurring and to limit their impact. Through its efforts in taking proactive measures to prevent wide-scale consumer problems before they occur, and through its enforcement actions and consumer and business education, OCP strives to meet the consumer protection needs of this community, and fulfill its mission.

Table 1: Laws Enforced by OCP

HRS §209-9	Price Gouging
HRS §290-11	Towing
HRS §437	Motor Vehicle Sales – Spot Delivery
HRS Chapter 437D	Motor Vehicle Rental
HRS Chapter 446	Debt Adjusting
HRS Chapter 446E	Unaccredited Degree Granting Institutions
HRS Chapter 457G	Occupational Therapists
HRS Chapter 467B	Charitable Solicitations
HRS Chapter 476	Credit Sales ⁵
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices ⁶
HRS Chapter 480D	Collection Practices ⁷
HRS Chapter 480E	Mortgage Rescue Fraud Prevention Act
HRS Chapter 480F	Check Cashing
HRS Chapter 481A	Uniform Deceptive Trade Practice Act
HRS Chapter 481B	Unfair and Deceptive Practices, including Unsolicited Goods; Commercial Mail Order Buying Clubs; Offers of Gifts or Prizes; Aid to Handicapped; Refunds and Exchanges; Solar Energy Devices; Sales of Computers; Sensitivity Awareness Group Seminar; Credit Repair Organizations; Gift Certificates; Ticket Sales
HRS Chapter 481C	Door-to-door Sales
HRS Chapter 481D	Going Out of Business Sales
HRS Chapter 481F	Sale of Fine Prints
HRS Chapter 481H	Water Treatment Units
HRS Chapter 481K	Assistive Technology Warranty Act
HRS Chapter 481L	Motor Vehicle Lease Transactions
HRS Chapter 481M	Rent-to-Own
HRS Chapter 481P	Telemarketing Fraud Prevention Act
HRS Chapter 481 X	Service Contracts
HRS Chapter 486N	Health Clubs
HRS §487-5	Laws Enacted and Rules Adopted for the purpose of consumer protection ⁸
HRS Chapter 487A	Plain Language Law
HRS 487J	Social Security Number Protection

⁵ HRS §476-31. OCP has also filed cases based upon the Federal Truth in Lending Act and the State's usury statute, HRS Chapter 478.

⁶ OCP also has enforcement power over certain Lemon Law agreements (HRS §481I-4), and has filed lawsuits based upon HRS §486-119, "Made in Hawai'i" law. Also HRS Chapter 514E sets forth a comprehensive regulatory scheme for time-share development, sales and maintenance. However, there is a section which makes thirteen specific types of conduct *per se* violations of HRS §480-2. Under HRS §490:2A-104, UCC leases are explicitly subject to state consumer protection statutes and case law.

⁷ See also, Collection Agencies HRS §443B-20.

⁸ E.g. Motor vehicle advertising, HRS §437-4.

HRS 487H Notification of Security Breaches
HRS 487R Destruction of Personal Information Records
HRS Chapter 506 Reverse Mortgage Loan
HRS Chapter 521 Landlord Tenant Code⁹

Table 2: OCP Information Requests

REQUEST AND INQUIRIES	FY 06-07	FY 07-08	FY 08-09
Requests for Prior Complaint History	4,649	5,494	5,183
Requests for Landlord/Tenant Information	8,710	7,722	7,783
Complaint Inquiries	12,020	10,833	15,897
Requests for Records Review	11	12	8
TOTAL	25,390	24,061	28,871

Table 3: Number of OCP Complaints Filed

COMPLAINANT	FY 06-07	FY 07-08	FY 08-09
Public	1,830	1,479	1,773
OCP	25	76	67
TOTAL	1,855	1,555	1,840

Table 4: Numerical Breakdown of Dispositions of All OCP Cases

DISPOSITIONS	FY 06-07	FY 07-08	FY 08-09
Complaint Withdrawn	2	10	8
Legal Action & Referrals to Legal	301	372	292
Advisory Contact	38	18	38
Civil Dispute/Personal Matter	50	38	52
Monetary Threshold	0	0	1
Complainant Uncooperative	20	38	17
Consumer Complaint Resolved	98	92	47
Respondent Died or Bankrupt	34	61	44

⁹ HRS §521-74.5 provides that a landlord who recovers possession of a dwelling unit by willful interruption of utilities or other essential services violates HRS §480-2. In addition, HRS §521-77 provides that OCP may receive, investigate and attempt to resolve any dispute arising under HRS Chapter 521.

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DISPOSITIONS	FY 06-07	FY 07-08	FY 08-09
Business vs. Business	40	28	42
No Jurisdiction	11	12	18
Refer to Investigation	192	260	396
Other	30	2	0
Warning Letter	54	38	48
Insufficient Evidence	373	434	378
Transferred to Other Gov't. Agency	695	481	709
No Violation	20	26	14
Information Only/Inquiry	131	118	130
Total	2,089	2,028	2,234

Table 5: OCP Complaints by Subject Matter

A complaint may cover multiple subject matters

SUBJECT	FY 06-07	FY 07-08	FY 08-09
Animals	7	3	4
Breeders	3	1	1
Pet Grooming	1	0	1
Pet Shops	1	1	3
Kennels/Boarding	1	0	0
Refund Law – Refunds/Exchanges/Merchandise Credit	26	40	39
Gift Certificates	29	189	26
Rebate	1	10	5
Apparel/Accessories	6	9	17
Laundry/Dry Cleaning/Laundromats	1	6	2
Dressmaker/Tailors	1	0	1
Fabric/Notions/Etc.	1	1	1
Shoes/Etc.	1	2	5
Clothes	5	5	10
Appliances	11	8	8
Refrigerator/Freezer/Stove/Range	10	11	25
Water Heaters/Air Conditioners	3	1	0
Washer/Dryer	4	5	14

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SUBJECT	FY 06-07	FY 07-08	FY 08-09
Radio/Stereo/Tape Deck/CD Player	5	1	5
TV/VCR	6	13	7
Sewing Machine	0	0	0
Vacuum Cleaner	21	8	6
CB Radios	0	0	0
Computers/Software	26	19	24
Health Services/Products	19	19	12
Exercise Devices	6	2	1
Exercise/Health Clubs/Clinics	31	19	10
Health Foods	0	1	2
Weight Reduction	0	0	3
Cosmetics/Beauty Products	8	5	3
Wigs/Hairpieces	1	2	0
Entertainment/Music	4	5	6
Concerts/Events	4	6	1
Ticket Sellers/Promoters	1	4	2
Theaters	0	1	1
Night Clubs/Discotheques	0	0	0
Musical Instruments/Lessons	2	2	4
Audio Records/Tapes/CD/Etc.	0	0	1
Buying Clubs - Record/Tape/CD/Video	2	0	0
Video Records/Tapes/CD/Etc.	4	3	5
Florists/Nurseries	5	2	2
Food/Drink	13	17	16
Food Stores/Markets	4	7	10
Drive Inns	0	1	1
Caterers/Deli	0	1	0
Bakery	0	0	0
Restaurants	14	12	12
Banquet Halls	0	2	0
Bars/Cocktail Lounges	0	1	0
Energy/Fuels	2	0	0
Solar Energy	0	1	0

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SUBJECT	FY 06-07	FY 07-08	FY 08-09
Gas, Propane, Etc.	3	2	5
Energy Saving Devices	0	0	0
Identity Theft	9	8	24
Identity Theft – Security Breach Notification	8	42	36
Identity Theft – Social Security Theft	0	1	2
Identity Theft – Destruction of Personal Information/Records	1	2	4
Identity Theft – Security Freeze	1	0	2
House Materials/Goods/Services	20	17	8
Beds & Mattresses	4	9	6
Furniture	136	25	9
Cookware	1	0	1
Drapery	1	0	0
Carpet/Rugs	1	1	4
Clocks	1	0	1
House Hardware/Fixtures	10	12	9
Woodwork/Metal craft/Glass/Etc.	3	5	6
Interior Decorators	2	3	1
Lawn Care Products/Yard Service	5	3	2
Upholsters	2	1	0
Water Purifiers/Filters	2	1	26
Cleaning Services	6	6	8
House Construction/Remodeling	5	4	1
Vermin/Bug Extermination	0	0	2
Tools	0	3	0
Insurance	11	17	18
Extended Warranties	14	30	16
Service Agreements/Contracts	22	57	44
Jewelry	18	11	16
Precious Stone & Metals	0	0	4
Watches	3	1	2
Medical	8	8	9
Hospitals/Clinics	3	14	13
Pharmacies	2	0	2

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SUBJECT	FY 06-07	FY 07-08	FY 08-09
Convalescent/Nursing Homes	0	1	0
Medical Equipment	4	3	4
Medical Service Companies	0	0	5
Medical Laboratories	1	1	2
Home Care Facilities	2	1	0
Psychiatric Counseling/Group Therapy	2	1	0
Other Counseling/Group Therapy	0	2	0
Occupational Therapists (457G)	1	0	0
Morticians, Cemeteries & Other	0	1	0
Moving & Storage	12	4	8
Private Storage Company	0	0	0
Bill of Lading	1	0	0
In-transit Storage	0	0	0
Delivery Service	2	4	218
Air Cargo Service	1	0	1
Multi-Product Retailer/Wholesalers	4	4	15
Buying Clubs	4	0	0
Department Stores	1	1	2
Photography	3	2	2
Photo Studios	0	0	0
Film Processing	0	0	0
Camera/Equipment	5	0	1
Photographic Services	5	1	2
Professional Services	10	1	6
Attorneys/Legal Services	3	2	4
Accountants/Bookkeeping	0	0	2
Tax Services	3	5	3
Medical Professional	4	1	3
Adoption Agencies	0	0	0
Printers	4	1	2
Regulated Services (Trade & VO Caption)	4	5	13
Protection Devices	1	0	3
Fire/Burglar Alarms	1	1	1

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SUBJECT	FY 06-07	FY 07-08	FY 08-09
Heat/Smoke Detectors	0	0	0
Locks (Windows, Doors, Etc.)	2	2	2
Fire Extinguisher	0	0	0
Recreation/Toys/Game/Etc.	5	6	9
Arts & Crafts	2	1	6
Boats & Airplanes	6	12	2
Toys	3	0	9
Surfboards	2	1	0
Video Games	3	1	7
Camping Equipment	0	0	0
Sporting Goods	6	0	3
Recreational Rentals	4	5	0
Transportation	3	4	1
Cabs	2	1	1
Moving Companies/Storage	3	2	3
Pedi-Cabs	0	0	0
Tour Buses and Limos	1	1	0
Automobiles	18	19	29
Car/Truck Rental	32	37	18
Car/Truck Lease	0	1	1
Moped Rentals	5	2	1
Other Transportation Rentals	0	1	0
Towing	24	28	27
Parking	7	5	10
Body/Paint Shops	5	9	4
Auto Parts/Repair	17	16	17
Rust proofing/Undercoating	0	0	0
Glass Tinting	2	1	1
Vehicle (Incl Mopeds) New & Used Sales	4	4	22
Warranties	6	32	21
Travel/Vacations	11	7	40
Air Travel Services (Airlines, Etc.)	18	35	19
Ocean Travel Services (Cruises & Ships)	10	6	3

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SUBJECT	FY 06-07	FY 07-08	FY 08-09
Discounted Tickets - Travel/Entertainment	2	1	5
Hotels & Motels	15	16	13
Bed & Breakfast	4	5	6
Tour Services	5	7	7
Travel Clubs	0	0	0
Passports & Visas	1	0	0
Utilities	1	3	0
Gas Provider	3	2	2
Electric	4	2	1
Telephone/Cellular/Pagers	124	70	56
Water	1	2	3
Cable	5	4	1
Telecommunications/Electronic Devices	7	8	8
Dating Services	6	2	4
Investment/Financial	15	11	5
Chain Letter	0	0	0
Consumer Credit	7	5	9
Credit Card	49	34	56
Checking Accounts	5	1	7
Debit Accounts	1	1	3
Promissory Notes	0	2	0
Buying on Account	0	0	1
Information to Obtain Credit/Credit Cards	0	0	1
Discount Coupons/Books	6	2	3
Financial Institutions	8	1	5
Credit Reporting Agency	1	1	4
Credit Repair	2	2	3
Collection of Debts	9	5	22
Advance Fee Loans	4	0	3
Bank/Savings & Loan/Industrial Loan Companies	4	2	3
Escrow Services	1	0	2
Loan/Mortgages	12	52	31
Investment/Opportunity Scheme	6	7	14

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SUBJECT	FY 06-07	FY 07-08	FY 08-09
MLM/Pyramids/Endless Chain Schemes	1	4	1
Referral Sales	0	0	1
Get Rich Programs	0	3	1
Work-at-Home Programs	3	1	0
Coins/Currency	5	5	4
Stocks & Bonds	0	3	0
Oil/Gas Lottery	0	0	0
Art	3	2	6
Securities	0	2	2
Tax Planning/Devices	0	0	0
Contract Sellers	1	0	0
Pawn Shops	1	3	0
Auctioneers	1	1	1
Second Hand Dealers	0	0	1
Real Estate	7	11	39
Sweepstakes/Lottery/Games of Chance	68	31	26
Contests	1	1	1
Gambling	0	0	0
Education/Information	4	2	3
Schools (Elementary, High)	2	0	1
Degree Granting Schools	6	54	2
Unaccredited Degree Schools	88	9	8
Trade/Vocational Schools	2	3	28
Home Study	0	0	0
Correspondence Schools	0	0	0
Dance Schools	0	0	0
Modeling Schools	2	6	1
Day Care Centers	1	0	1
Employment	2	9	6
Resume Preparation	0	0	0
Modeling Agency	3	1	0
Regular Periodic Information Service	0	1	0
Magazine	13	9	9

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SUBJECT	FY 06-07	FY 07-08	FY 08-09
Subscription Services	18	13	12
Newspaper	4	1	1
TV Broadcasting	2	0	1
Radio Broadcasting	1	0	0
Computer Information Services	10	10	2
Internet Transactions	427	173	257
Internet Fraud Complaint Center	432	143	358
Books/Encyclopedia	4	2	2
Self-Improvement Seminars	1	1	2
Encounter Group Therapy	0	0	0
Charitable Solicitations	7	3	2
Environmental Claims	1	0	1
Religious	0	1	0
Emergency: Prize/Freeze/Gouging/Rent Termination	1	0	0
Rent to Own	0	1	1
Elderly Issues	10	34	13
Civil Procedures/Statutory Constructions	0	0	1
Multistate Projects	6	16	11
Spamming	3	0	0
MS – Newspaper Advertisement	5	6	7
MS – Other Regular Printed Media Ad (Magazine, Etc.)	10	9	4
MS – Television/Cable	3	0	4
MS – Info Commercial	3	3	1
MS – Telemarketing	15	8	13
MS - 1-900 Numbers	0	0	0
MS – Direct Mail	4	3	5
MS – Information Brochure	0	0	1
MS – Response Card/Letter	1	0	1
MS – Home Presentation (Door-to-Door)	2	0	2
MS – Radio	0	0	0
MS – Product Show	0	0	1
MS – Information/"How To" Seminar	2	0	1
MS – Mail Order	15	10	4

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SUBJECT	FY 06-07	FY 07-08	FY 08-09
TOTAL COUNT	2,380	1,856	2,258

Table 6: OCP Neighbor Island Assistance FY 08-09

DIVISION	HILO	MAUI	TOTAL
Division of Financial Institutions	6	0	6
Business Registration	18	26	44
Cable Television	0	2	2
Insurance Division	14	3	17
Division of Consumer Advocacy	0	0	0
Professional & Vocational Licensing	22	30	52
Regulated Industries Complaints Office	87	51	138
Non-Departmental Related	154	131	285
Other DCCA Divisions	2	2	4
TOTAL	303	245	548

PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)

website: hawaii.gov/dcca/pvl

e-mail address: pvl@dcca.hawaii.gov

OVERVIEW

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations for forty-seven (47) different professions and vocations. Twenty-five (25) licensing regulatory boards and commissions are administratively attached to DCCA/PVL, as well as twenty-two (22) licensing programs (those without a board or commission). The division provides staff support to the licensing regulatory boards, handles applications, licenses, reviews and processes renewals, and maintains license records. The division provides guidance for proper implementation of the licensing laws and administrative rules for the forty-seven (47) licensing areas. Additionally, PVL responds to phone inquiries on whether a person or entity is properly licensed. This is a service that can assist consumers in making a decision on whether or not to utilize the services of the person or entity.

PVL's projects to promote accessibility for licensing information on the Internet are very user friendly. PVL continues to explore ways to enhance public accessibility to licensing information, the licensing process, and the licensee roster. PVL's web page, a site that provides general licensing information for all 47 licensing areas, features downloadable license applications, publications, links to Hawaii Revised Statutes and Hawaii Administrative Rules, as well as a means to request an application or contact the board or program staff via e-mail. The website address is <http://hawaii.gov/dcca/pvl>. The website also includes a Geographical Report of current licensees by licensee type, by island, and by type of entity. It is updated regularly to reflect the number of current licensees who have been issued licenses by PVL. It is a useful tool for those who are interested in the breakdown of licensees by their professions and their geographic locations.

Public accessibility to licensee information is enhanced by the PVL's License Search and List Builder sites, both of which are fully interactive sites. The License Search site enables the public to obtain basic information about businesses and individuals that hold professional and vocational licenses issued by PVL including license ID number, whether the license is active or inactive, current status, original date of licensure, expiration date of licensure, current and former persons/businesses/tradenames, information on "conditional license" codes and descriptions, and any formal disciplinary action information against the licensee. The List Builder site enables the public to access and order a licensee roster online. The roster may be ordered by license number, license name, and other identifying public information. Lists are available for download within twenty-four (24) hours of making the request. Updates to the online information to both sites occur within thirty (30) minutes of the update to the PVL licensing database. Feedback received on these sites indicates that the sites benefit a wide range of users, including consumers, licensees, employers, and government agencies, both in Hawaii and out-of-state. Links to other DCCA sites provide easy access to additional useful consumer information, such as a licensee's complaints history. The website address for PVL's Online Services is http://hawaii.gov/dcca/pvl/e_services.

This is the ninth year that online renewals are being made available to licensees. This entirely paperless process enables licensees to complete, file, and pay for their license renewal electronically. A fair share of renewals were still mailed in by licensees and manually processed by PVL, but by far, a

majority of the renewals were done online. Online renewals are available at http://hawaii.gov/dcca/pvl/e_services.

Finally, with regard to fiscal matters, PVL's goal is to maintain the division as a special-funded and entirely self-sufficient program. Through careful budgeting of PVL revenues and expenditures, PVL endeavors to maintain self-sufficiency, while expanding and improving services to the public. Internally, PVL continues to evaluate and reengineer its processes for efficiency and streamlining, and to develop alternative means of delivery of licensing information to the public.

PVL is located at 335 Merchant Street, on the third floor of the King Kalakaua Building, Honolulu, Hawaii 96813.

Composition

PVL is divided into four branches: **Licensing Branch (Phone 586-3000)** is comprised of the Applications Section and the Records Section. The Applications Section reviews, processes, and issues all applications for licensure and maintains records of licensing applications. The Applications Section staff conducts highly intensive reviews of all initial licensing applications, determines the status of such applications, and makes the final determination to either issue or deny licenses. The Records Section is responsible for renewing licenses and maintaining records of all licensees. The Records Section staff is also involved with performing customer service duties by assisting the public with licensing information at the walk-in counter and over the telephone. Further, the Licensing Branch accesses the computerized licensing database to provide immediate information. Inquirers may obtain information on whether a person or entity is licensed, the original date of licensure, the current status of licensure, the expiration date of the license, Hawaii disciplinary sanctions imposed on the licensee, and, if applicable, whether mandatory insurance (e.g., workers compensation, liability insurance) is current and in effect.

Examination Branch (Phone 586-2711) arranges for the administration of all the licensing examinations, confirms the validity and reliability of exams, revises board constructed examinations to ensure their continued validity and reliability, and advises boards, when necessary, on the technical aspects of examinations. In addition, the Examination Branch transmits and verifies to various testing organizations the eligibility information of applicants seeking licensure in Hawaii who have been deemed approved to sit for the examination. The Examination Branch also oversees that the approved applicants are provided the necessary pre-examination information and generates and provides the applicants their post-examination score reports. Moreover, the Examination Branch reviews and processes requests by applicants for special examination accommodations with regard to the Americans with Disabilities Act.

Administration Branch (Phone 586-2690) serves as the liaison between the director of the department and the twenty-five (25) boards, commissions, and twenty-two (22) regulatory programs administratively attached to DCCA. On a daily basis, the Administration Branch (comprised of a professional staff of Executive Officers, Program Specialists, and Secretaries) handles board affairs such as the coordinating, preparing, facilitating, and recording of board meetings; ensuring board compliance with applicable laws that guide and direct their conduct; and implementing board decisions on applications, policies and procedures, and disciplinary actions. The Administration Branch also responds to requests for interpretation of the licensing laws and rules; oversees licensing and examination activity; and guides and assists with regulatory compliance issues. The same activities are done for the twenty-two (22) programs

(absent the necessity of board meetings) on behalf of the director of the department. There are also substantial coordination and facilitation activities performed by the Administration Branch with other state, county, and federal agencies involved with licensing and regulatory issues.

Real Estate Branch (Phone 586-2643) serves as the liaison between the director of the department and the Real Estate Commission, and performs the same functions as the Administration Branch for real estate licensing and regulation and condominium property regimes. With the largest volume of applicants, licensees, and registrations, the Branch (comprised of a professional staff of a Supervising Executive Officer, an Executive Officer, Real Estate Specialists, Condominium Specialists, Secretarial and Clerical staff) administers the Real Estate Recovery Fund, Real Estate Education Trust Fund, and the Condominium Education Trust Fund. The Branch also administers education and research programs in the field of real estate and condominiums. Information on the programs, financial reports, and the Commission's annual report may be reviewed at the Branch's website: <http://hawaii.gov/dcca/real>.

In summary, all Branches within PVL work toward efficient and expedient processing of applications, licenses, and renewals to ensure the public has choices amongst competent and licensed practitioners. For a statistical summary of PVL key activities, see Table 1: PVL Statistical Overview; Table 2: Total number of Current PVL Licensees; Table 3: Total Number and (Percentage) of Licenses Renewed Online; and Table 4: Total Number of Email Inquiries.

Accomplishments and Performance Measures

This year additional improvements were made to existing PVL online systems and its website as follows:

New license types were added to the online renewal system which include (for December 2008 online renewals) Electrologist Inactive, Occupational Therapist Inactive, Physical Therapist Inactive; (for June 2009 online renewals) Journeyman Plumber Inactive and Master Plumber Inactive.

An enhancement to the FY 09 online renewals for real estate broker (entity) licenses was added where all licenses required to have a principal employee could view a list of their principals on record. Notice was also provided to licensees that their license renewal was dependent on the renewal of their principal's license.

Another online renewal enhancement for real estate broker (principal) and real estate sales licenses was added where all licenses required to have an employer were able to view their employer on record. Notice was also provided to licensees that their license renewal was dependent on the renewal of their employer's license.

An enhancement for plumbers online renewals was done based on a partnership with the University of Hawaii – Honolulu Community College (HCC) to provide PVL with an electronic file of continuing education (CE) compliance data for the plumber's renewals. (Pursuant to Act 127, SLH 2004, effective with the June 2009 renewal and every triennial renewal thereafter, plumbers are required to comply with CE requirements in order to renew their licenses.)

Another online system enhancement included revising "Conditional License" codes and descriptions so that PVL's Licensing Search online system could provide more information to the public on a licensee that has a conditional license to practice and under what terms, conditions, and limitations the licensee must practice.

Also, a new webpage for the newly established Mixed Martial Arts (MMA) Program was added to PVL division's webpage, effective July 1, 2009. The webpage includes contact information, lists the various license categories, and provides information on renewals. The various application forms may also be downloaded from the MMA website.

Significant Online User Activities

In pursuing the division's objective of improving and expanding customer online services, PVL saw the number of online renewals increase for businesses and professionals. The September 2008 online renewal user rate was 58.85%, while the prior corresponding September 2006 biennial online user rate was 34.55%, resulting in a 24.30% increase for those who renewed online. The December 2008 online renewal user rate was 94.10%, while the corresponding December 2006 biennial online renewal user rate was 80.56%, resulting in a 13.55% increase for those who renewed online. Also, the June 2009 online renewal user rate was 79.03%, while the prior corresponding June 2007 biennial online renewal user rate was 67.47%, resulting in an 11.56% increase for those who renewed online. Overall, the FY 09 online renewal user rate was 81.29%, while the corresponding FY 07 biennial renewal user rate was 67.71%, resulting in a 13.58% increase in the user rate.

PVL continued its Customer Appreciation Credit (CAC) by offering licensees a 25% CAC discount through FY 09 online renewals. The CAC savings to licensees jumped significantly in FY 09, as this was the second year of a two year program where we offered a 25% CAC discount for online renewals. At the end of FY 09, total savings to licensees was \$553,440. During the corresponding odd numbered renewal of FY 07, total savings to licensees was \$109,024 (with a 10% CAC in place). At the end of FY 08, total savings to licensees was \$689,983. At the end of the corresponding even numbered renewal of FY 06, total savings to licensees was \$188,140 (also with a 10% CAC in place). Since the inception of the CAC in FY 06 through FY 09, total savings for licensees that renewed online amounted to \$1,550,216. The CAC discount was designed to serve as an appreciation to PVL licensees who used the online system and as an incentive for more licensees to adopt the online renewal process. The performance of this project will continue to be measured by the ability to afford the CAC discount to all licensees and by seeing an increase in our online renewal user rate.

PVL continued to absorb transaction fees that otherwise would have been passed on to licensees who used the online renewal system. With the online system, licensees were provided the ability to pay by Echeck and by credit card, all of which were related service fee items charged by our online system provider. However, instead of charging our licensees these transaction fees, PVL continued to bear the costs by using our online renewal revenue to pay the online vendor. For FY 09, PVL bore a \$259,719 transaction fee cost. Total to-date transaction fee costs borne by PVL since the inception of the online renewal system (FY 01) is \$1,368,807.

For PVL's License Search online system, there were 34,507,917 "hits" during FY 09 as compared to 20,486,470 during FY 08. This service is a very popular, valuable, and useful tool for those who want

information on licensees. For example, the public can check to see if a licensee is currently licensed and if there are any formal disciplinary actions against the licensee, in addition to other pertinent information.

Significant Branch Activities

The Examination Branch worked with numerous testing organizations and national board associations on the review and processing of requests for special testing arrangements regarding the Americans with Disabilities Act. There is a high level of sensitivity in efforts to balance the needs of the applicant and the need to protect the integrity of the examinations. In addition, several testing agencies developed new processing procedures that, in turn, impacted the Examination Branch's procedures. Internal procedures and instructions were modified accordingly with close coordination with other PVL staff such as the Executive Officers and Licensing Branch so all changes and transitions were as smooth and seamless as possible. Moreover, the examination results for the various licensure examinations continued to be processed and provided to applicants in a timely manner (some as quickly as within 24 hours of testing) which supported applicants in obtaining licensure.

For the Licensing Branch, we were able to remain constant at the high percentage rate of 92% for the timely processing of new licenses. On the other hand, however, our timely processing time for licenses renewed dropped to 64% from 98%, a 34% decrease from the previous fiscal year. This is attributed to the severe staff shortage in the Records Section.

For the Real Estate Branch (REB), and in line with PVL's objectives of improving and expanding the division's online services, REB implemented an online continuing education (CE) system which provided real estate licensees the ability to view the number of CE hours required and earned for the current licensing period, their CE history, and the ability to search for future CE courses being offered by approved CE providers. Real estate licensees could also access and print their own course completion certificates for the current and previous bienniums, whereas in the past this was done by the CE providers. Additionally, real estate principal brokers and brokers-in-charge could monitor and view the current CE hours, CE history, and license status of all licensees associated with the brokerage. The system is updated daily and is simple to use.

REB also expanded its efforts this year to improve the user rate for the online biennial registration of condominium associations. REB registers over 1,600 condominium associations on a biennial basis. While online condominium association registration has been available for a few years, a property management company found it difficult to manage a large amount of registrations and payments online. In FY 07 the user rate was 42%. However, with more outreach efforts and enhancing the user friendliness of the system the FY 09 user rate greatly improved with a 72% user rate. REB will continue to work with property management companies to increase the user rate as the online registration system allows for a more efficient registration process for the registrants and REB. Additionally, registrants have instant assurance of a completed application in that the online registration program accepts the application immediately.

Also, the Real Estate Commission (REC) concluded its meetings with the Consumer-Broker Relationships Ad Hoc Committee (CBRAHC) that had convened to review and study Hawaii's current laws and rules. A report is being drafted by the CBRAHC of its findings and recommendations for potential rule amendments.

This fiscal year the REB/REC, and with participation from industry representatives, began to review and study the potential impact on mandatory criminal history and background checks for licensure and renewal. Further, the REB/REC is continuing to dialogue with industry representatives to study the possibilities of increasing the continuing education requirement and also, an additional requirement for broker post licensing education. For a comprehensive report on the FY 09 matters addressed by the Real Estate Commission and the Real Estate Branch, please refer to <http://hawaii.gov/dcca/real/main/reports> to view their annual Report for fiscal year ending June 30, 2009.

Significant Legislative Activities

PVL had a productive 2009 Legislative Session. Although we did not introduce any administration bills, we did monitor and testify on numerous bills that impacted PVL. Such bills were relating to dental licensing, telemedicine for physicians, remote dispensing pharmacies, nurse aides, condominiums, contractors, physician assistants, advanced practice registered nurses, public accountancy, physician workforce assessment and planning, naturopathic medicine, and mortgage brokers and solicitors.

Act 11, SLH 2009, relating to dentists, amended Chapter 448, HRS, to authorize the board of dental examiners to sanction licensees for false or misleading advertising. Act 11 took effect on June 18, 2009.

Act 20, SLH 2009, relating to health, amended Chapter 453, HRS, to clarify the expanded use of new technology in telemedicine; to clarify that telehealth is within the scope of a physician 's practice; and to clarify that a provider-patient relationship may be established through telehealth where the provider is licensed to practice in the State. Act 20 took effect on April 29, 2009.

Act 36, SLH 2009, relating to temporary licensure of dentists, amended Chapter 448, HRS, to clarify that the board of dental examiners may issue a community service license to a person to practice dentistry while in the employment of the Department of Health. The Act also clarified that the board may issue a temporary license to a person to practice dentistry while the person is contracted by the Department of Health to conduct dental education and training. Act 36 took effect on April 30, 2009.

Act 37, SLH 2009, relating to dentistry, amended Chapter 448, HRS, to allow a dentist who is enrolled in an American Dental Association Commission on Dental Accreditation accredited dental residency program to be granted a temporary license as a dentist for the duration of the residency program. Act 37 took effect on April 30, 2009.

Act 96, SLH 2009, relating to remote dispensing, amended Chapter 461, HRS, to additionally authorize remote dispensing pharmacies to provide medications to patients with health insurance coverage and allow remote dispensing pharmacies to dispense controlled substances. The Act also extended the repeal date of authorizing remote dispensing pharmacies, from January 2, 2013 to January 2, 2014. Act 96 took effect on June 8, 2009.

Act 108, SLH 2009, relating to nurse aides, amended Chapter 457A, HRS, to specify the renewal period for recertification of nurse aides and the number of continuing education hours required for recertification. Act 108 took effect on July 1, 2009.

Act 129, SLH 2009, relating to condominiums, amended Chapters 514A and 514B, HRS, to merge the condominium management education fund and the condominium education trust fund into one fund in Chapter 514B; to transfer all unexpended and unencumbered balances remaining in the condominium management education fund to the credit of the condominium education trust; to clarify the allocation of future payments due to the credit of the condominium education trust fund; and to change all statutory references to refer to the condominium education trust fund. Act 129 took effect on July 1, 2009.

Act 145, SLH 2009, relating to contractors, amended Chapter 444, HRS, to authorize the contractors license board to suspend, revoke, or refuse to renew a contractor's license for employing a worker on a public works project who is ineligible under federal law to work in the United States. Act 145 took effect on July 1, 2009.

Act 151, SLH 2009, relating to physician assistants, amended Chapter 453, HRS, to authorize physician assistants to sign certain documents and to improve patient access to medical care by clarifying the procedure and circumstances under which licensed physician assistants may provide services. Act 151 took effect on June 25, 2009.

Act 169, SLH 2009, relating to advanced practice registered nurses, amended Chapter 457, HRS, to recognize advanced practice registered nurses as participating primary health care providers for insurance coverage purposes; to permit advanced practice registered nurses to sign documents relating to health care for their patients; to increase educational and other requirements for advanced practice registered nurses; and to update the authority for advanced practice registered nurses with prescriptive authority to write prescriptions for medical equipment and therapeutic regimens in accordance with their scope of practice, and subject to adoption of administrative rules by the board of nursing, to write prescriptions for controlled substances. Act 169 took effect on July 2, 2009.

Act 172, SLH 2009, relating to public accountancy, amended Chapter 466, HRS, to repeal the permit requirement for accounting firms to engage in public accountancy. However, the Act also provides that 180 days after administrative rules have been adopted by the board of public accountancy on the requirements for a firm to obtain a permit, the firm permit requirement shall be reenacted and in force. The Act also requires notice to the legislature on the progression of the rule-making process. Act 172 took effect on July 6, 2009.

Act 18, Special SLH 2009, relating to physician workforce assessment and planning, amended Chapter 453, HRS, to assess a fee of \$60 to each physician or surgeon and each osteopathic physician or surgeon when a license is renewed. The funds are to be deposited into the University of Hawaii John A. Burns School of Medicine special fund to support ongoing assessment and planning of the physician workforce in Hawaii. Act 18 took effect on July 1, 2009, with a repeal date of June 30, 2012 of the \$60 assessment.

Act 22, Special SLH 2009, relating to naturopathic medicine, amended Chapter 455, HRS, to expand the scope of practice of naturopathic physicians by authorizing licensed naturopaths to administer injections; perform minor surgeries in an office setting; prescribe medicines and non-controlled substances; and to authorize the issuance of temporary licenses for out of state naturopathic physicians in times of emergency. Act 22 took effect on July 15, 2009, provided that the authority to expand the scope of practice for a naturopathic physician to administer injections and perform minor surgeries shall not take effect until

after administrative rules setting forth requirements and standards, are adopted by the board of naturopathic medicine. Effective January 1, 2010, the naturopathic physicians prescriptive authority will be expanded to include medicines and non-controlled substances that are in the naturopathic formulary established by the board.

While PVL is not the lead it will be impacted by the passage of Act 32, Special SLH 2009, relating to mortgage loan originators. This Act created a new chapter to be included in the Hawaii Revised Statutes, to allow the DCCA Commissioner of Financial Institutions to regulate, license, examine, and enforce laws relating to mortgage loan originators. Mortgage loan originators licensed currently as mortgage solicitors under Chapter 454, HRS, relating to mortgage brokers and solicitors, will be subject to licensure by the Division of Financial Institutions (DFI). Act 32 took effect on July 1, 2009, stipulating that the licensure of mortgage loan originators by DFI will take effect on July 1, 2010.

Hawaii Administrative Rules Activities

In FY 09, amendments to the following rules were adopted: HAR Chapter 89A, relating to Nurse Aides and HAR Chapter 114, relating to Real Estate Appraisers.

Significant Division Activity

PVL implemented its scanning and imaging project to convert existing licensing document files into electronic format. As of April 30, 2009, which concluded the first year of the two year project to scan licensee files, approximately 3,503,450 documents were scanned. It is estimated that an additional 105,302 documents were scanned up to June 30, 2009. The conversion of the documents into electronic format protects and preserves historical documentation from damage or destruction. The conversion also has allowed staff to retrieve and review documents in a more expeditious manner at their desk thereby eliminating the time delay that comes with physically pulling files. This subsequently provides for more effective and timely service to our clients.

Financial Overview

The CRF financial summary relating to PVL for FY 08-09 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,689,120	\$863,427	\$4,552,547	\$5,022,965

GOALS AND OBJECTIVES (Action Plan) for FY 2010

PVL will continue to be fiscally conscious and protect our special fund so that it remains solvent to provide efficient and timely services.

PVL will continue to look for other ways to enhance and improve its online systems for renewals, License Search, List Builder and PVL's webpage to be more user friendly, informative, and efficient.

PVL will continue the scanning and imaging of licensee files so that new documents for a current licensee file are added and new licensee files are scanned. This will make scanned files up to date and complete.

The Real Estate Branch (REB) will continue to improve the offering and delivery of real estate prelicensing and continuing education courses. For the condominium program, REB will work to enhance online public access to condominium projects and AOA registrations. REB will also solicit proposed rule amendments for HRS 514B from stakeholders in the condominium community. The program of work for the Real Estate Commission and the REB also includes the development and implementation of a new registration program for condominium projects and a comprehensive education program for the condominium community and developers through the production and distribution of two new educational brochures regarding the condominium owner's rights and responsibilities and condominium board members' powers and duties. For a comprehensive report on the FY 2010 goals and objectives of the Real Estate Branch and the Real Estate Commission, please refer to <http://hawaii.gov/dcca//real/main/reports> to view their Annual Report for fiscal year ending June 30, 2009.

PVL will conclude the design phase for a new online surety system that will allow insurance companies the ability to submit liability and worker's compensation insurance updates for contractor and pest control licensees. This has been a difficult project to move forward due to the complexity of designing a system that in the front end, will verify the surety is licensed to do business in this State and is authorized to write these lines of insurance. Integration with the DCCA Insurance Division license provider database appears to provide a solution. Also, dedication of resources to this project has been strained because of the need to attend to other online priorities. The staff of DAGS/ICSD, who are critical to the design and subsequent development phase, face similar strain on their resources and the likelihood of reduced staffing. We remain committed however, to forge ahead.

PVL will also pursue several rule amendment initiatives through the formal rule adoption process including amendments to HAR Chapter 53, relating to Fees; amendments to HAR Chapter 92, relating to Optometrists; amendments to HAR Chapter 110, relating to Physical Therapists; amendments to HAR Chapter 99, relating to Real Estate Brokers and Salespersons; proposed new rules for Mixed Martial Arts; the adoption of amended rules for HAR Chapter 97, relating to Private Detectives and Guards; the adoption of amended rules for HAR Chapter 71, relating to Public Accountancy; and the adoption of amended rules for HAR Chapter 88, relating to Naturopaths.

PVL will also be exploring avenues to streamline the Licensing Branch and the Examination Branch functions and services for improved operational efficiency.

Finally, we are also hopeful we will be able to fill the numerous vacancies we have in the Records Section of the Licensing Branch so that we can significantly improve our processing time for renewals so that performance is at prior levels which were in the middle to high ninetieth percentile. The Applications Section will continue as well, to strive to attain a higher processing time percentile for new licenses.

CONCLUSION

PVL continues to move ahead with its initiatives to improve accessibility to licensing services and information, and to streamline the licensing process without compromising consumer protection. PVL is

Professional and Vocational Licensing Division (PVL)

committed to working with licensees and the public to achieve the optimum balance between thoughtful and fair regulation, and consumer protection. PVL is mindful of the strain on Hawaii's businesses and seeks to integrate licensing measures and procedures that will facilitate business. Ultimately, PVL's objective is to achieve and facilitate a fair marketplace for the State of Hawaii.

The PVL staff and the regulatory licensing boards of PVL continue to maintain high performance standards, uphold consumer protection, work well as a team, and be responsive to increased demands.

Table 1: PVL Statistical Overview

	FY 07-08	FY 08-09
No. of applications received	14,503	13,310
No. of applicants licensed	13,083	10,097
No. of licenses renewed	56,128	68,782
No. of changes processed	203,463	222,350
No. of calls received by Licensing Branch	76,255	101,161
No. of current licensees	126,222	128,895
Total licensee population (all statuses - i.e. Current, forfeited, delinquent)	315,630	326,222

Table 2: Total Number of Current PVL Licensees

Boards and Commissions (shown by asterisk *), and Programs	FY 07-08	FY 08-09
Accountants*	2,582	2,714
Activity Desks	704	775
Acupuncturists*	610	632
Barbering and Cosmetology*		
Barbers	1,234	1,310
Barber Shops	184	189
Beauty Operator*	7,455	8,106
Beauty Instructor	83	95
Beauty School	13	12
Beauty Shops	1,173	1,287
Boxing (all categories)*	28	103
Cemeteries and Pre-Need Funeral Authorities	27	27
Chiropractors*	593	622
Collection Agencies	580	568
Contractors*	12,222	12,255
Dentists*	1,457	1,499
Dental Hygienists	851	912
Dispensing Opticians	179	186
Electricians (all categories)*	2,774	2,676
Plumbers (all categories)*	1,082	1,190
Electrologists	18	19
Elevator Mechanics*	217	203
Employment Agencies	112	56
Engineers, Architects, Surveyors, and Landscape Architects:*		
Engineers	5,146	5,553
Architects	2,070	2,277
Surveyors	200	210
Landscape Architects	148	156
Hearing Aid Dealers & Fitters	99	107
Marriage and Family Therapists	160	193

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Massage Therapists*	7,324	7,143
Massage Establishments	808	752
Medical and Osteopathy*		
Physicians	7,737	8,441
Podiatrists	72	75
Osteopaths	609	655
Physician Assistants	145	176
Emergency Medical Technicians	534	620
Mobile Intensive Care Technicians	401	450
Mental Health Counselors	184	187
Mortgage Brokers	684	702
Mortgage Broker Branch Offices	116	121
Mortgage Solicitors	6,030	5,804
Motor Vehicle Dealers*	304	270
Motor Vehicle Salespersons	1,842	1,554
Motor Vehicle Repair Dealers*	859	920
Motor Vehicle Mechanics	1,961	2,095
Naturopaths*	91	100
Nursing*		
Registered Nurses (RN)	18,149	20,626
Licensed Practical Nurses (LPN)	2,682	3,038
Advanced Practice Registered Nurse (APRN)	867	966
APRN with Prescriptive Authority	168	199
Nurse Aides	7,605	6,805
Nursing Home Administrators	130	138
Occupational Therapists	573	524
Optometrists*	354	377
Pest Control Operators*	199	186
Pest Control Field Representatives	234	212
Pharmacists*	1,827	1,992
Pharmacies	239	296
Wholesale Prescription Drug Distributors	59	66
Miscellaneous Permit	266	311
Physical Therapists*	1,235	1,218
Port Pilots	10	10
Private Detective Agencies*	43	38
Private Detectives	116	111
Guard Agencies	78	74
Guards	97	93
Psychologists*	799	844
Real Estate Appraisers	544	589
Real Estate Brokers*	6,429	6,184
Real Estate Salespersons	15,326	12,436
Real Estate Branch Offices	113	87
Condominium Hotel Operators	24	22
Social Workers	1,450	1,591
Speech Pathologists*	472	527
Audiologists	63	65
Travel Agencies	1,277	1,381
Uniform Athlete Agents		1
Veterinarians*	418	410
TOTAL	133,548	135,414

Table 3: Total Number and (Percentage) of Licenses Renewed Online

License Types	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Accountant	1,755 (75.1%)		2,029 (84.8%)	

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Activity Desk	60 (26.3%)		129 (69.5%)	
Acupuncturist		309 (58.97%)		478 (86.59%)
Architect	1,778 (93.73%)		1,888 (95.98%)	
Audiologist	23 (46%)		50 (83.3%)	
Barber	341 (32.1%)		627 (55.5%)	
Barber Shop	45 (25.1%)		87 (52.1%)	
Beauty Operator	2,697 (46%)		4,198 (64.2%)	
Beauty Instructor	42 (60.9%)		62 (91.2%)	
Beauty Shop	401 (40.8%)		599 (63.3%)	
Chiropractor	279 (54.6%)		407 (75.9%)	
Contractor		3,003 (34.55%)		5,927 (58.85%)
Dental Hygienist	507 (70.2%)		635 (81.5%)	
Dentist	828 (62.5%)		1,090 (79%)	
Dispensing Optician	86 (60.14%)		133 (83.65%)	
Electrologist		6 (54.55%)		10 (62.50%)
Elevator Mechanic	70 (38.67%)		128 (72.32%)	
Emergency Medical Technician (basic)	356 (86.2%)		414 (90.2%)	
Emergency Medical Technician (paramedic)	271 (79.2%)		319 (83.7%)	
Hearing Aid Dealer and Fitter	29 (37.7%)		70 (84.3%)	
Landscape Architect	122 (92.42%)		135 (94.41%)	
Land Surveyor	170 (94.97%)		180 (96.77%)	
Marriage and Family Therapist			120 (83.9%)	
Massage Establishment	323 (59.48%)		442 (77%)	
Massage Therapist	3,581 (65.86%)		4,943 (80.24%)	
Mental Health Counselor			133 (88.67%)	
Mortgage Branch Office		35 (39.33%)		38 (74.51%)
Mortgage Broker		284 (60.17%)		355 (89.42%)
Mortgage Solicitor		1,853 (67.88%)		1,840 (89.41%)
Motor Vehicle Auction			2 (66.67%)	
Motor Vehicle Broker			1 (100%)	
Motor Vehicle Branch			30 (85.71%)	
Motor Vehicle Consumer Consultant	1 (20%)		5 (71.43%)	
Motor Vehicle Dealer			150 (73.89%)	
Motor Vehicle Salesperson	590 (44.56%)		1,049 (81.57%)	
Naturopath	62 (83.8%)		71 (85.5%)	
Nurse, Advanced Practice Registered (APRN)		455 (63.02%)		596 (73.22%)
Nurse, Licensed Practical (LPN)		1,330 (60.37%)		1,588 (70.52%)
Nurse, Registered (RN)		10,440 (70.28%)		13,267 (80.49%)
Nursing Home Administrator	53 (45.69%)		94 (78.33%)	
Occupational Therapist		204 (54.69%)		349 (81.54%)
Osteopath	307 (73.44%)		418 (83.1%)	
Pest Control Field Representative	106 (72.6%)		123 (86.62%)	
Pest Control Operator (inactive status only)	1 (12.5%)		6 (75%)	
Pharmacist	1,296 (79.7%)		1,540 (88.8%)	
Pharmacy	109 (50.9%)		166 (73.1%)	
Pharmacy – Misc. Permit	57 (30.2%)		149(63.4%)	
Pharmacy – Wholesale Prescription Drug Dist.	21 (40.4%)		34 (72.3%)	
Physical Therapist		569 (59.02%)		854 (80.41%)
Physician	4,130 (64%)		5,191 (76.6%)	
Plumber	239 (26.41%)			703 (73.60%)
Podiatrist	33 (46.5%)		41 (63.1%)	
Professional Engineer	4,276 (94.64%)		4,751 (96.33%)	
Psychologist	312 (46.49%)		608 (82.14%)	
Real Estate Branch Office		85 (80.95%)		57 (73.08%)
Real Estate Broker		4,626 (81.47%)		5,519 (94.89%)

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Professional and Vocational Licensing Division (PVL)

Real Estate Salesperson		10,695 (86.49%)		11,057 (96.73%)
Social Worker		658 (52.68%)		
Speech Pathologist	137 (38.1%)		340 (79.8%)	
Veterinarian	228 (68.06%)		312 (82.32%)	
TOTAL	25,722 (64.1%)	34,552 (67.71%)	34,160 (79.27%)	42,638 (81.29%)

Table 4: Total Number of Email Inquiries

Boards and Programs	FY 07-08	FY 08-09
Accountancy	518	695
Activity Desk	39	74
Acupuncture	152	120
Barbering and Cosmetology	442	627
Boxing	0	0
Cemetery and Pre-Need Funeral Authority	45	131
Chiropractor	161	175
Collection Agency	385	495
Contractor	972	984
Dentist and Dental Hygienist	259	333
Dispensing Optician	11	29
Electrician and Plumber	150	167
Electrologist	4	1
Elevator Mechanic	2	5
Employment Agency	9	14
Engineer, Architect, Surveyor, and Landscape Architect	637	789
Exam Branch	34	48
Hearing Aid Dealer and Fitter	22	17
Marriage and Family Therapist	196	175
Massage Therapy	831	849
Medical and Osteopathy	1,008	1,301
Mental Health Counselor	239	282
Mortgage Broker and Solicitor	825	935
Motor Vehicle Industry	148	210
Motor Vehicle Repair	73	69
Naturopathy	114	144
Nurse Aide	47	75
Nursing	1,547	1,594
Nursing Home Administrator	9	24
Occupational Therapist	92	135
Optometry	453	462
Pest Control	19	32
Pharmacy and Pharmacist	1,070	1,605
Physical Therapy	548	923
Private Detective and Guard	55	62
Psychology	289	244
Professional Vocational Licensing (PVL)	342	1008
Real Estate	9,016	5,229
Real Estate Appraiser	622	518
Social Worker	222	188
Speech Pathology and Audiology	93	136
Time Share	473	435
Travel Agency	117	107
Veterinary	68	128
TOTAL	22,358	21,574

REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)

website: www.hawaii.gov/dcca/rico

e-mail address: rico@dcca.hawaii.gov

OVERVIEW

The Regulated Industries Complaints Office (RICO) assists the public through education, complaints processing, and the enforcement of licensing laws.

As the enforcement arm of the Department's professional and vocational boards, commissions and programs, RICO handles complaints, investigations and prosecutions of forty-six (46) different professions and vocations. In addition, the office administers the state's State Certified Arbitration Program, commonly referred to as "lemon law" by providing an arbitration forum for consumers with warranty-related disputes with motor vehicle manufacturers.

RICO's main office is located on Oahu at the Leiopapa A Kamehameha Building (State Office Tower), 235 South Beretania Street (8th and 9th Floors), Honolulu, Hawaii 96813. The division operates four neighbor island offices at Hilo, Kona, Wailuku and Lihue.

RICO's functions can be divided into two main categories: (1) education, information, complaint intake and alternative dispute resolution functions are performed by the division's Consumer Resource Center, and (2) investigation and prosecution functions for the licensing boards, commissions and programs within the Professional and Vocational Licensing Division which are performed by the division's field investigation and legal branches.¹⁰ RICO staff consists of intake investigators, field investigators, attorneys and support staff. Approximately one-fifth of RICO's full-time positions are located in the four neighbor island offices. The primary functions of the RICO branches are generally described as follows:

Consumer Resource Center (Education, Information, and Intake)

The Consumer Resource Center ("CRC") handles all intake functions for RICO and the Office of Consumer Protection ("OCP"). With the easy to remember 587-3222 telephone number, CRC provides an efficient means for the public to make complaint-related inquiries and submit formal complaints. Information and assistance to the public is available through telephone, facsimile and walk in contact, and through the RICO website at www.hawaii.gov/dcca/rico. CRC investigators spend much of their time answering questions and educating the public about governmental services, RICO's and OCP's jurisdictional areas, and RICO's and OCP's complaint processes. CRC staff also conducts preliminary investigations and forwards only those cases appropriate for further investigations or prosecution to the other sections of RICO.

Consumer-initiated complaints comprise the majority of RICO's cases. Upon receipt of a complaint, CRC will determine whether an actionable violation is involved. If so, the complaint is handled through mediation, further investigation or prosecution, or other resolution.

Another important aspect of CRC's work is the service provided by CRC's Licensing & Business Information Section (LBIS). The LBIS is a consolidated service operated by RICO for the Office of Consumer Protection, the Business Registration Division, the Professional and Vocational Licensing

¹⁰ See, Section 26-9, and 26H-4, Hawaii Revised Statutes.

Division, and RICO. The service allows callers to use just one telephone number (587-3222) to find out (1) basic business registration information; (2) whether a business holds a professional license; and (3) complaints history on file with RICO and OCP. Through LBIS' service, callers are able to gather important information about a particular licensee or business without having to call multiple state offices.

Public access to complaints information has been significantly enhanced with the availability of the interactive Business and Licensee Complaints History search site at www.businesscheck.hawaii.gov. Consumers and businesses now have 24-hour access to current information about an individual's or business' complaints history. The site provides information about complaints that were filed as well as administrative or civil legal actions that were taken. The site is widely used by consumers, businesses, licensees, and credentialing organizations in Hawaii as well as in other states, and is designed to provide the inquirer with a printable complaints history report.

See Table 1 for more specific information about the Consumer Resource Center.

Field Investigation Branch

The Investigation Branch, consisting of field investigators and clerical support staff, contains the largest concentration of RICO personnel statewide. With enforcement responsibility over the licensing laws of 46 different boards, commissions and programs, investigators evaluate a wide range of licensing violations within a diverse population of licensees. See Table 2 for an overview of the number of cases by board, commission or program. In addition, both CRC and Field staff investigate many tips, anonymous reports and other complaints from consumers, businesses and other interested parties.

Field investigators are responsible for gathering evidence in RICO cases to determine whether licensing law violations have occurred. RICO's investigators also take an active part in resolving cases, and in issuing administrative citations where unlicensed activity is observed.

In many cases, field investigators will seek an independent evaluation of the case by appointed member of a board's advisory committee. Advisory committee members provide opinions about the particular practice being investigated and are helpful in determining industry standards. Once the field investigator has gathered the evidence in a particular case, the case may be referred to the Legal Section for evaluation and disposition.

In addition to handling RICO complaints, the neighbor island offices within RICO's investigative section serve as liaison for the Department of Commerce and Consumer Affairs. This responsibility requires the neighbor island staff members to know a little bit about everything concerning the department. As illustrated in Table 3, neighbor island RICO offices provide the most information in areas concerning the Professional and Vocational Licensing Division and the Business Registration Division. Neighbor island staff provides information, forms, educational brochures, technical assistance for hearings, and assistance in the facilitation of professional and vocational licensing examinations.

Legal Branch

The Legal Branch has the principal responsibility of taking disciplinary or civil action against violators of the statutes and rules within RICO's jurisdiction.

Upon receipt of a case, the Legal Branch will determine the appropriate course of action based upon the information contained in the investigative file. Formal action may be taken by either the filing of a Petition for Disciplinary Action with the Office of Administrative Hearings (for cases involving licensees), a hearing related to the issuance of a citation, or a Complaint for Injunctive and Other Relief in circuit court (for cases involving unlicensed activity).

State Certified Arbitration Program The State Certified Arbitration Program (SCAP), more commonly known as the lemon law program, provides an arbitration forum for a consumer to resolve a warranty-related dispute with a motor vehicle manufacturer without having to hire an attorney.

RICO's Legal Branch handles the administration of the State's lemon law program. Staff is actively involved in arbitrator training and in overseeing the actual arbitrations, and provides educational information to the public about the lemon law and the arbitration process. The SCAP administrator is also actively involved in representing Hawaii in the International Association of Lemon Law Administrators.

See Table 4 for more specific information about SCAP case outcomes.

GOALS, OBJECTIVES & POLICIES

RICO has three main operational goals: to uphold a fair and safe marketplace, to provide excellent customer service, and to optimize operational efficiency.

In upholding a fair and safe marketplace, RICO activities are directed toward addressing license violations and complaints and inquiries through appropriate referral, investigation, resolution and/or prosecution and toward making regulation more effective. The division is doing this proactively through sweeps, stings and compliance checks. The division gauges performance by, among other things, the number of enforcement actions it brings and the number it completes.

In providing excellent customer service, RICO activities are directed toward enabling members of the public to become knowledgeable participants in transactions with licensed professionals, fostering an awareness of the importance of licensure, and providing meaningful assistance and support to the public in a user-friendly manner. The division is doing this through participation in relevant consumer fairs and shows, especially on the neighbor islands, and through additional information available online. The division gauges performance by, among other things, the amount of consumer outreach conducted (educational, fairs, neighbor island assistance, speaking engagements and telephone assistance) and by the amount of Internet usage on its website.

In optimizing operational efficiency, RICO activities are directed toward promoting internal case handling systems and related tools and systems that aid in fair, timely and effective enforcement, and enabling (training) and assisting staff in fulfilling RICO objectives and policies. The division is doing this through training for staff, adequate staffing, database enhancements, and streamlined report writing. The division evaluates performance by monitoring the amount of time a case is handled by each branch.

ACCOMPLISHMENTS

Legislation: Act 195 (SB 203 SD2, HD1 CD1) amends the penalties for unlicensed activity contractor violations by increasing the first offense fine from \$500 to \$2500, and the second offense fine

from \$1000 to \$2500. The legislation marked the successful conclusion of several years of discussion with stakeholders.

Increased Medical Enforcement. RICO continued to focus on bringing legal actions involving medical licensees, resulting in Hawaii being ranked 13th in the nation in terms of number of serious disciplinary actions taken, and is listed among the five boards with the largest increase in ranking.

Consumer and Licensee Outreach: RICO continues to work with the building industry to provide contracting law information to consumers as part of a series of Building Industry Association presentations about remodeling issues and has participated in a number of home shows and industry group presentations. At the same time, in response to questions from the public, RICO prepared and placed online detailed tips on what information to provide when reporting unlicensed activity and has placed its Quarterly List of Unlicensed Activity Judgments online. In addition, RICO's website now includes a link to the Department's monthly press release of professional disciplinary orders.

Enforcement Action:

RICO Proceedings Filed FY 09	
Petitions for Disciplinary Action	88
Settlement Agreement and Order	92
Citations (Unlicensed Activity)	59
Complaints (Unlicensed Activity)	82
Consent Judgments (Unlicensed Activity)	61
Assurance of Voluntary Compliance	15
Total	397

RICO Proceedings Outcomes FY 09		
Board Orders (total)		164
Revocation Orders	30	
Suspension Orders	9	
Assurance of Voluntary Compliance		17
Unlicensed Activity Judgments and Orders		226
Fines Assessed	\$1,527,000	
Restitution Assessed	\$922,443	
Total Proceeding Outcomes		407

The CRF financial summary relating to RICO for FY 09 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,304,472	\$561,693	\$4,866,165	\$6,014,689

CONCLUSION

With responsibility for the enforcement of the licensing laws of over 46 boards, commissions and programs, RICO continues to receive a large number of inquiries, complaints and other requests for assistance. Rapid changes and increased complexity in the way many of the licensed professionals conduct business, as well as changes in state law have spawned new enforcement issues and new challenges for

RICO. Through strategic initiatives, enhanced training, and a commitment to continual improvement, the division will continue its efforts to provide a fair and safe marketplace for the consumers, businesses and professionals it serves.

Table 1: RICO Consumer Resource Center

	2007	2008	2009
Telephone Requests for Complaints History	75,931	60,473	54,950*
Complaint Inquiries & Forms issued by CRC	14,363	11,926	10,916*
TOTAL	104,657	72,399	65,866*

*Reflects continuing efforts to shift information requests to the RICO website.

Table 2: Complaints Filed With RICO (Sorted by Board, Commission or Program)

	2007FY	2008FY	2009FY
Accountants	20	8	5
Activity Desks	83	23	21
Acupuncturists	2	3	4
Barbers & Cosmetologists	74	72	44
Boxing	0	0	1
Cemeteries and Pre-Need Funeral Authorities	4	1	3
Chiropractors	3	4	3
Collection Agencies	17	14	23
Contractors	387	366	397
Dentists and Dental Hygienists	14	21	18
Dispensing Opticians	2	0	2
Electricians & Plumbers	13	21	21
Electrologists	0	0	0
Elevator Mechanics	0	0	0
Employment Agencies	0	1	0
Engineers, Architects, Surveyors and Landscape Architects	12	15	26
Hearing Aid Dealers & Fitters	3	0	0
Marriage and Family Therapists	1	0	0
Massage Therapists	78	84	72
Medical (including Osteopathy)	87	63	80
Mental Health Counselors	0	1	0
Mortgage Brokers & Solicitors	36	43	24

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Regulated Industries Complaints Office (RICO)

Motor Vehicle Industry	59	23	47
Motor Vehicle Repair	55	45	51
Naturopaths	4	1	4
Nursing	19	39	30
Nursing Home Administrators	1	1	1
Occupational Therapist	0	0	0
Optometrists	4	2	3
Pest Control	10	8	4
Pharmacy	5	25	15
Physical Therapists	3	2	2
Pilotage	0	0	0
Private Detectives & Guards	2	3	1
Psychologists	9	5	8
Real Estate Appraisers	4	3	4
Real Estate (including Condominiums)	142	123	181
Social Workers	3	3	8
Speech Pathologists & Audiologists	0	0	0
Subdivision	0	0	0
Time Share	3	1	18
Travel Agencies	11	13	89
No Rules Combat (Chapter 440D repealed 7/1/09)	29	40	33**
Uniform Athlete Agents (effective 7/1/08)	0	0	0
Veterinarians	5	3	7
	1202*	1080*	1,244*

*Does not include investigations closed or referred at intake level. **Includes compliance checks.

Table 3: Assistance by Neighbor Island RICO Offices in FY 09

AGENCY	HILO	KAUAI	KONA	MAUI	TOTAL
Division of Financial Institutions	1	0	0	2	3
Business Registration	43	574	697	246	1,560
Cable Television	0	0	0	0	0
Insurance Division	6	12	19	2	39
Division of Consumer Advocacy	10	3	2	1	16
Professional & Vocational Licensing	0	369	594	449	1412

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Regulated Industries Complaints Office (RICO)

Office of Consumer Protection	19	445	82	244	790
Non-Department Related	19	669	300	207	1195
Totals	98	2,072	1,694	1,151	5,015

Table 4: RICO State Certified Arbitration Program (“SCAP”) Activity

TOTAL NO. OF COMPLAINTS January-December 2009	
CHRYSLER	7
Chrysler	2
Dodge	3
Jeep	2
FORD	3
GM	5
Chevrolet	1
GMC	3
Buick	1
HONDA	2
HYUNDAI	3
KIA	2
MAZDA	1
NISSAN	3
TOYOTA	5
Toyota	1
Lexus	4
VOLSWAGEN	1
TOTALS	32
Cases arbitrated	13
Cases settled	9
Cases withdrawn/dismissed	10
*Approximately \$161,000 was recovered by consumers.	

*Of the cases arbitrated, 8 arbitrations were in favor of the manufacturer and 5 were in favor of the consumer.