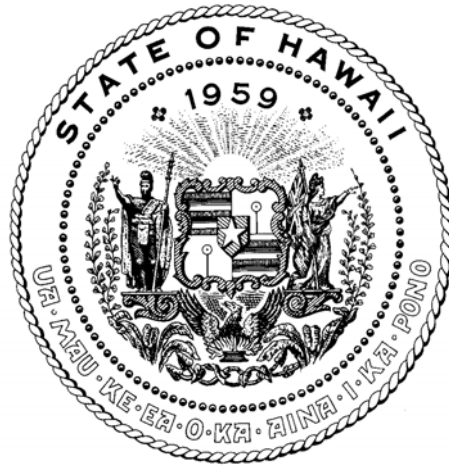


**2006 Annual  
Compliance Resolution Fund Report  
to the Legislature**



**DEPARTMENT OF COMMERCE  
AND CONSUMER AFFAIRS**

**STATE OF HAWAII**

**Table of Contents**

	<b>Page</b>
<b>INTRODUCTION</b>	<b>1</b>
<i>OVERVIEW</i>	
<i>GOALS and OBJECTIVES</i>	
<i>ACCOMPLISHMENTS</i>	
<i>CONCLUSION</i>	
<b>BUSINESS REGISTRATION DIVISION (BREG)</b>	<b>6</b>
<i>OVERVIEW</i>	
<i>GOALS, OBJECTIVES and ACCOMPLISHMENTS</i>	
<i>CONCLUSION</i>	
<b>CABLE TELEVISION DIVISION (CATV)</b>	<b>14</b>
<i>OVERVIEW</i>	
<i>GOALS and OBJECTIVES</i>	
<i>ACCOMPLISHMENTS</i>	
<i>CONCLUSION</i>	
<b>DIVISION OF CONSUMER ADVOCACY (DCA)</b>	<b>18</b>
<i>OVERVIEW</i>	
<i>GOALS and OBJECTIVES</i>	
<i>ACCOMPLISHMENTS</i>	
<i>CONCLUSION</i>	
<b>DIVISION OF FINANCIAL INSTITUTIONS (DFI)</b>	<b>29</b>
<i>OVERVIEW</i>	
<i>GOALS and OBJECTIVES</i>	
<i>ACCOMPLISHMENTS</i>	
<i>CONCLUSION</i>	
<b>INSURANCE DIVISION (INS)</b>	<b>35</b>
<i>OVERVIEW</i>	
<i>ACCOMPLISHMENTS</i>	
<i>GOALS, OBJECTIVES and POLICIES</i>	
<i>CONCLUSION</i>	

	<b>Page</b>
<b>OFFICE OF ADMINISTRATIVE HEARINGS (OAH)</b>	<b>44</b>
<i>OVERVIEW</i>	
<i>GOALS and OBJECTIVES</i>	
<i>ACCOMPLISHMENTS</i>	
<i>CONCLUSION</i>	
<b>OFFICE OF CONSUMER PROTECTION (OCP)</b>	<b>47</b>
<i>OVERVIEW</i>	
<i>GOALS and OBJECTIVES</i>	
<i>ACCOMPLISHMENTS</i>	
<i>LEGISLATION</i>	
<i>CONCLUSION</i>	
Table 1: Laws Enforced by OCP	
Table 2: OCP Information Requests	
Table 3: Number of OCP Complaints Filed	
Table 4: Numerical Breakdown of Dispositions of All OCP Cases	
Table 5: OCP Complaints by Subject Matter	
Table 6: OCP Neighbor Island Assistance FY 2006	
<b>PROFESSIONAL &amp; VOCATIONAL LICENSING DIVISION (PVL)</b>	<b>62</b>
<i>OVERVIEW</i>	
<i>GOALS, OBJECTIVES and ACCOMPLISHMENTS</i>	
<i>CONCLUSION</i>	
Table 1: PVL Statistical Overview	
Table 2: Total Number of Active and Current PVL Licensees	
Table 3: Total Number and (Percentage) of Licenses Renewed Online	
Table 4: Total Number of Website “Hits”	
Table 5: Total Number of Email Inquiries	
<b>REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)</b>	<b>76</b>
<i>OVERVIEW</i>	
<i>GOALS, OBJECTIVES and POLICIES</i>	
<i>ACCOMPLISHMENTS</i>	
<i>CONCLUSION</i>	
Table 1: RICO Consumer Resource Center	
Table 2: Complaints Filed With RICO (Sorted by Board, Commission or Program)	
Table 3: Assistance Provided to the Public for other DCCA divisions by Neighbor Island RICO Offices in FY 2006	
Table 4: RICO State Certified Arbitration Program (“SCAP”) Activity	

## INTRODUCTION

website: [www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

e-mail address: [dcca@dcca.hawaii.gov](mailto:dcca@dcca.hawaii.gov)

### 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 throughout 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 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<sup>1</sup>, Regulated Industries Complaint Office, Office of Consumer Protection, and the Director's Office with its supporting offices of Administrative Services, Information Systems and Communications, and Administrative Hearings (ISCO).<sup>2</sup> Act 129 SLH 1999,

---

<sup>1</sup> In addition, PVL administers a number of trust funds, such as the real estate education fund, real estate recovery fund, condominium management education fund, contractors' education fund, and contractors recovery fund. These funds are not included in the CRF.

<sup>2</sup> 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

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 the Insurance Regulation Fund, the primary funding source for the Insurance Division, into the CRF. Except for trust and special funds with dedicated purposes<sup>3</sup>, 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.	100% of all 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.	100% timely processing of payments.	Percentage of late payments processed.

programs and various attached boards and commissions, and also administers the Medical Claims and the Design Professional Conciliation Panels, and hears appeals of the State procurement code. The CRF financial summary for the Director's Office, Administrative Services, Information Systems and Communications, and Administrative Hearings for FY 05-06 is: Personnel Expenses \$3,088,762, Operating Expenses \$1,366,329, Total Expenses \$4,455,091, with Revenues Received of \$327,030.

<sup>3</sup> 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 Education, 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 is administratively attached to DCCA, and their Board of Directors (rather than the director of DCCA) manages and controls the Fund.

	Provide cashiering services for all payments and collections made to the department.		
Administrative Services Office	Provide timely clerical support to divisions regarding mail, duplication projects and word processing.	Timely collection and distribution of mail. Complete requests within deadline.	Percentage of requisitions completed in a timely 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.	Use DCCA IT staff to enhance DCCA's information systems. Increase IT staff efficiency. Train DCCA staff on IT systems. Improve web interfaces.	Reduce vendor supported projects by 50%. Reduce backlog of work orders to 250. Reduce number of work orders received by 5%. Change 4 online searches to look and operate in a similar manner.

**ACCOMPLISHMENTS**

The overall CRF financial summary for FY 05-06<sup>4</sup> is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$22,441,888	\$7,403,238	\$29,845,126	\$27,923,915

The department's financial strategy requires generally that revenue-generating divisions secure revenues to cover division expenses, and contribute equitably to non-revenue generating divisions, 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 was to implement this strategy and

<sup>4</sup> The CRF financial summary relating to ADMIN (director's office, personnel, administrative hearings, fiscal and administrative services offices and ISCO) for FY 05-06 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,088,762	\$1,366,329	\$4,455,091	\$327,030

as a result, we were very conservative in our spending and reduced expenses by the elimination of offices.<sup>5</sup> As a self-funded agency, DCCA makes no requests for general funds. 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, the major accomplishment this year was the enhancement of the Insurance division's computer system known as HIDS. HIDS was originally created in 1999 to manage Insurance's licensing branch's information. Since then it has undergone through 3 successive enhancements to add the management of information for five more branches. Although information management is of great importance to the Insurance division, the other key value of the HIDS enhancements is the integration of this information. The core of the HIDS is name and licensing information, with the other parts of the system sharing and integrating with this core. Also integrated to HIDS are the systems of the National Association of Insurance Commissioners (NAIC), allowing HIDS and NAIC information to flow automatically between the systems. Finally, HIDS is also integrated with the State's Web portal allowing information to be collected and distributed on-line via the Internet. This last enhancement project added the following major items: On-line/Internet (license applications; rate filings; premium tax filings; continuing education course schedules, exam results, and credits; and address changes); reporting (statistical, management, and operational); and fiscal (centralized accounting and electronic payments).

Other major accomplishments include: (1) a small separate system was also created this year for the Insurance division to manage applications for the hurricane retrofit program, a limited grant program for homeowners to install wind resistive devices in their homes; (2) the Professional and Vocational Licensing surety submittals that has allowed for contractors to renew on-line; (3) a revision of the department's automated phone response system to provide basic information and other information to customers outside normal work hours; (4) in conjunction with other departments, enhancements to the Data Mart system that allows State administrators to better manage the finances of their organizations; and (5) the addition of the Business Action Center to the departments computer network and redesign of their web page to integrate with DCCA's pages.

Improvements underway at this time, include: (1) the creation of a system for the Division of Financial Institutions to manage there information; three projects for the Business Registration division; (2) one to more efficiently use information from on-line filings; (3) a second to make registration documents available on-line; (4) changes to systems to handle changes in the General Partner/Limited Liability Partner statutes; and (5) enhancements are underway to the department's complaint system to provide better complaint history information to the public.

Internally, the there has been a greater focus on security this year, especially in the transmission of information via electronic means and in the use of portable laptops. Enhancements have been added to protect data along with the institution of polices to provide guidance to staff.

---

<sup>5</sup> 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.

**CONCLUSION**

The department continues to make a concerted effort to expand and improve its use and operation of information technology as a means to improve efficiency and effectiveness of our programs. Although this effort has been focused for the past five years on creating new and better services for our customers, there is a strengthening parallel effort to make ISCO into a strong and resilient organization that can sustain this growth, while effectively maintaining and ensuring the integrity and reliability of the systems it is responsible for.



## BUSINESS REGISTRATION DIVISION (BREG)

website: [www.BusinessRegistrations.com](http://www.BusinessRegistrations.com)

e-mail address: [breg@dcca.hawaii.gov](mailto:breg@dcca.hawaii.gov)

### **OVERVIEW**

The Business Registration Division (BREG) has three primary functions. Its ministerial duties include the processing and maintaining for public access registrations of corporations, general and limited partnerships, limited liability partnerships, limited liability law partnerships, limited liability companies, trade names, trademarks and service marks. Its personalized business assistance function 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) licensing and registration of broker-dealers, securities salespersons, investment advisors, investment advisor representatives, securities and franchises offered for sale in the State, (2) examination of the books and records of broker-dealers, securities salespersons, investment advisors, investment advisor representatives, (3) examination of securities and franchises offered 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 floors. It also occupies two Business Action Center (BAC) offices: one at 1130 North Nimitz Highway, Second Level, Suite A-220 Honolulu, HI 96817 and one at 70 E. Kaahumanu Ave., Unit 8-9, Kahului, HI 96732.

In order to carry out the division's primary missions, the division is segregated into four separate branches: (1) the Documents Registration Branch, (2) the Business Action Center Branch, (3) the Securities Compliance Branch, and (4) the Securities Enforcement Branch. These branches are supported by a fifth branch, the Office Services Branch. The division's staff includes attorneys, investigators, securities examiners, an auditor, a business center specialist, a securities investor education specialist, business registration assistants and clerk-typists, legal stenographers, licensing clerical staff, clerical support staff and administrative staff.

The **Documents Registration Branch** maintains the business registry for all corporations, limited liability companies, general partnerships, limited partnerships, limited liability law partnerships and limited liability partnerships conducting business activities in the State. In addition, the registry contains trade names, trademarks and service marks. This branch consists of the Documents Information Section, the Documents Processing Section and the Records Section.

The **Business Action Center Branch** runs business centers on Oahu and on Maui 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 State and Federal laws and rules, county ordinances and financial 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 and licensing activities for the securities industry operating in the State. This includes the licensing of securities broker-dealers, securities salespersons, investment advisers, investment adviser representatives, the registration of securities offerings, and the filing of franchise offering circulars in the State. The branch is also responsible for conducting field examinations of the books and records of securities broker-dealers and their salespersons, investment advisers and their representatives licensed by the State.

The **Securities Enforcement Branch** enforces the uniform securities act in the State by taking action against those persons and/or firms both licensed and unlicensed who violate securities laws or purposely evade them. The branch has also worked in conjunction with other government agencies such as the Office of Consumer Protection and the Regulated Industries Complaints Office in DCCA, the Honolulu Police Department's White Collar Crime Unit, the County Prosecutors' 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 the business community often relies 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 approximately 100,000 documents this year and maintains the public registry of over 100,000 active business entities. 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 the computerized information systems so we can process and record documents with enhanced speed and accuracy. We have also been working to increase and improve online services including currently developing a system to permit the public to review and retrieve filed documents online. This is a major undertaking that we expect to be substantially completed by the end of next year.

#### ***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 uniform or model law, in particular, updating limited liability partnership requirements; and (3) enhance the information systems to improve retrieval, processing and recording of filings and provide the public easy access to records and services online, in particular to have documents online for retrieval by the end of next year.

### ***Accomplishments***

Legislation in FY06 has streamlined filing requirements for limited liability partnerships and their related general partnerships. The branch is working to modify the current computer system to accommodate the legislative change. This legislative change along with legislative changes implemented in FY03 and FY04 have resulted in the most modern business law in the history of the State.

The branch has also actively looked to improve and automate online services for the public. This year, the branch added 5 additional forms that can be filed online and now accepts a total of 18 different online filings. We are working to add more online filing of forms in the upcoming year. The branch has also entered into a partnership with software vendors to develop a system that will give the public the ability to view and retrieve filed documents online. This project requires extensive manual data entry to input the previously filed documents into the database and the staff has already begun this substantial undertaking.

Additionally, all forms that the branch generates are now available online for the public to download. Name searches, certificates of good standing requests and filing of annual reports and annual statements can all be done online. The branch also maintains its Hawaii Business Express website where customers can file once through the internet portal and register their business entity with the Department of Commerce and Consumer Affairs, obtain a general excise tax number with the Department of Taxation and an identification number with the Department of Labor and Industrial Relations.

The branch is also working on an ongoing project that will improve the use of information entered online, reduce manual data entry and improve retrieval. This system upgrade is expected to improve processing times of annuals filings and may also slightly improve standard processing times for new registrations.

The branch continues to upgrade its website that can be found at [www.BusinessRegistrations.com](http://www.BusinessRegistrations.com). We were one of the first business registries in the country with the technological and legal infrastructure in place that allows both online incorporation and annual filing and we continue to be one of the most efficient and technologically advanced.

### ***Business Action Center Branch***

The BAC was transferred from the Department of Business, Economic Development and Tourism to become a branch of BREG at DCCA at the beginning of FY06. The BAC branch is supervised by a business center specialist who is responsible for four business registration assistants. The BAC runs business centers that 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 while completing necessary business license and registration applications. Customers can also submit applications instantly, receive certain temporary tax licenses and pay fees at the center. 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, as well as e-mail, fax and phone support for HBE or any other filers.

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 technical assistance organizations which assist new and existing businesses with counseling, and business seminars and other training or entrepreneurial education programs.

The BAC branch assisted nearly 18,000 customers over the counter or via phone, e-mail, fax, and Live Chat in FY06. It helped process approximately 15,000 filings. Through 20 outreach sessions that included presentations on filing and licensing requirements for start-up businesses and entrepreneurs on Oahu and Maui, we spoke to approximately 300 new businesses owners.

### ***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 has begun expansion plans to Maui and other counties and objectives for the fiscal year ending June 30, 2007, will be: (1) to establish a permanent presence in Maui County; (2) to implement a training program for new staff and to establish procedures for accepting business, employer, and state tax registration filings from the Maui site; (3) to continue seeking ways to reach communities in need of business registration assistance; (4) to continue working closely with other state agencies (including cross-training) to implement law changes that affect businesses to help increase compliance (for instance, the new retail tobacco tax permits); and (5) to continue to work with others in the business community to market the BAC's services.

### ***Accomplishments***

The BAC transferred to BREG at the beginning of FY06 and over the last year, we have worked to overhaul and integrate the BAC's information systems with BREG. The software scripts of BAC have been evaluated and modified to reflect BAC's relationship with BREG. In addition, the branch fully supports online webusers of HBE.

As a new branch of the BREG Division of DCCA, the BAC has concentrated on improving its services with respect to business registration. We are now able to provide customers with file-stamped copies of their business registration documents (for a fee), which were previously available only at the downtown DCCA location. With respect to other governmental agencies, the BAC continues to work closely with the Department of Taxation and the Department of Labor to ensure coordinated document processing.

To increase awareness of the benefits of filing online through HBE, the BAC now provides computer terminals at our Nimitz Office for customers who prefer to file electronically to take advantage of the processing priority their documents will receive and the online discounts.

By partnering with Maui County's Small Business Resource Center, the BAC now provides its business assistance services at the Maui Mall every Wednesday. The BAC is currently in the process of

hiring a permanent employee to staff this Maui site. The branch is also starting to initiate plans to expand its services to the Big Island in the next year.

In addition to the Small Business Administration representatives who offer financial services counseling to our customers once a week, in April of 2005, the BAC also began to host the Hawaii State Bar Association's Business Law Section, which enlists volunteer attorneys to answer business law questions at our Nimitz Office every Thursday free of charge. 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 one secretary. The branch currently has approximately 61,900 securities salespersons and over 1,300 broker/dealer firms on record licensed to sell securities. In addition, the branch has over 48 state registered investment advisory firms and over 1,200 registered investment adviser representatives on record. The branch also processed over 1,000 franchise offering circular filings and approximately 450 filings for the private placement of securities in FY06.

### ***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 comprehensive investor education programs to improve investor awareness of and increase investor self-protection against investment fraud and abuse; in particular, in FY07, we plan to extend partnerships with AARP and SageWatch to increase senior fraud protection and expand outreach to more remote areas of Hawaii, including the Wai'anae Coast, Waimanalo and parts of Maui.

### ***Accomplishments***

The staff continues to efficiently manage the volume of applications and renewals received this year and the number of pending applications for broker/dealers, investment advisers and their representatives remains very low. The field examination program continued throughout the year to provide examinations of broker/dealers and state-registered investment advisers in Hawaii. Regular examinations of businesses located on all islands throughout the State are being conducted on a regular basis to provide onsite review of compliance with the books and records requirements under 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 NASD Institute for Professional Development. Two examiners will be certified by December 2006 and additional examiners are preparing to be certified.

Investor education continues to be another important mission, and substantial progress was made over the last year. The division implemented more investor education outreach projects that resulted in televised public service announcements, appearances at senior fairs, and participation in Fraud Squad, a

collaborative initiative with the AARP, Sage Watch, the FBI and other organizations to promote increased investor self-protection among seniors on Oahu and the neighbor islands.

The division also partnered with Hawaii Council on Economic Education (HCEE) and the NASD to promote financial literacy in Hawaii through presentations given by senior regulators and senior members of the community, including the Chairman of the NASD, Senator Daniel Akaka, the Commissioner of Securities and the senior attorney of the Securities Enforcement Branch of the division.

The division partnered with and continues to partner with HCEE to support a stock market simulation, an interactive learning tool for high school teachers to include in their curriculum. From Spring 2004 to Spring 2006, 354 teachers from 274 high schools in Hawaii have participated in this program and the program has reached over 11,500 students. The division looks forward to the program's continued growth

The branch maintains 55 different kinds of brochures and 11 different booklets, 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. The branch distributed over 10,000 of these pieces of information at presentations and fairs and through information racks over the last year. Onsite presentations and lectures reached over 2,000 persons during the year at the University of Hawaii Manoa and Hilo campuses, town hall meetings, community centers, retirement centers, community colleges, and high school and middle school classes.

### ***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, one auditor, 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 licensing 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) implement a comprehensive training and development program that includes extensive cross-training (for all employees of both securities regulatory branches) and outside training courses and conferences, including training with other securities regulatory agencies, particularly those provided by invitation from the U.S. Securities and Exchange Commission and National White Collar Crime Center, (2) develop new rules and regulations by FY08 to implement the revised Uniform Securities Act passed during the last legislative session, (3) draft and assist in passing new securities legislation, (4) develop closer relationships with the media to engage their assistance in raising public awareness of and increase self-protection against potential securities fraud and abuse by reporting on

enforcement issues and cases, and (5) develop and implement procedures that will improve the timely and effective resolution of cases, improving the branch's overall effectiveness.

### *Accomplishments*

As a result of the enforcement work of the branch, the division issued three (3) orders to cease and desist, obtained one (1) final order, six (6) consent orders, ten (10) consent agreements and three (3) judgments in fiscal year 2006. The enforcement branch assisted with three (3) matters that were referred to criminal authorities for prosecution, which resulted in two (2) criminal indictments and one (1) guilty plea to securities fraud. During the past fiscal year, the branch assessed approximately \$481,000 and collected \$457,000 in fines and penalties and issued six (6) bars from the industry.

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 variable annuities, 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 NASD Institute for Professional Development for attorneys (2 certified).

After a two-year long process of research and drafting, and during this past legislative session, the securities enforcement branch was instrumental in the passage of a comprehensive bill to repeal and overhaul the Uniform Securities Act. The drafting and passage of the Uniform Securities Act was a major accomplishment that updated securities laws originally implemented in the 1970's. The new law will become effective in July 2008, making Hawaii one of the leading states in adopting the revised model uniformed securities laws. The branch has now turned its efforts to drafting new rules and regulations to implement the new act.

As part of the branch's responsibility in increasing public awareness of securities fraud and abuse, members of the professional staff were included in a project that resulted in the creation of 3 television PSAs to combat securities fraud in our community and the implementation of a scams hotline (58SCAMS). The professional staff also provide assistance to the investor outreach program by giving securities fraud presentations to the community. The branch continues to work with the department's communications director in order to publicize regulatory actions taken and raise public awareness of and increase investor self-protection against potential investment fraud and abuse.

The division management conducted a branch evaluation over the last year and implemented a number of procedures including targets for the completion of investigations and requirements to improve attorney-investigator collaboration. The branch also continues to monitor the progress of its cases through its Complaints Management System. The result has been more efficient and effective control of the caseload and increased effective regulatory oversight of the securities industry and securities fraud in the State.

The CRF financial summary relating to BREG for FY 05-06 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,002,165	\$977,416	\$4,979,580	\$6,111,001

**CONCLUSION**

The Business Registration Division continues to receive an increasing number of applications, registrations, and complaints resulting in a growing demand for the essential government services involving the business registry, business action center, securities law enforcement, and licensing. The growing demand for the division's services has necessitated an increase in division personnel and improved information systems to handle the workload, increased training to improve the quality of regulatory oversight, and constant attention and commitment to re-engineering and adaptation to the changing, increasingly complex needs for service



## CABLE TELEVISION DIVISION (CATV)

website: [www.hawaii.gov/dcca/catv](http://www.hawaii.gov/dcca/catv)

e-mail address: [cabletv@dcca.hawaii.gov](mailto: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, transfer, or refranchise 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 daily to public inquiries, concerns, and complaints. Staff is trained to assist, provide answers, refer the problem 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 addressed 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 examine the degree of customer satisfaction by reviewing surveys and reports, and additionally, require operators to ascertain the feasibility of providing local help desk support for high speed Internet access service. 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 physically 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](http://www.hawaii.gov/dcca/catv).

### **GOALS and OBJECTIVES**

The CATV division will continue its current regulatory activities but will also focus on ensuring that Hawaii residents receive equivalent service from providers as new, advanced services become available on the mainland. These goals include:

- 1) 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
- 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) Ensure consistent cable television regulatory policies and practices
  - Continue with regularly scheduled Cable Advisory Committee meetings
  - Procure PEG services, consistent with chapter 103D, HRS
  - Continue with scheduled franchise fee and PEG reviews
  - Continue to collaborate on Institutional Network (“INET”) deployment

### **ACCOMPLISHMENTS**

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 and DCCA are currently developing the RFP that will bring these contracts into compliance.

Hawaiian Telcom (“Hawtel”) Application For a Cable Television Franchise – Hawtel submitted their application for a cable franchise on May 5, 2006 which was accepted by the DCCA on June 21, 2006.

As of November 22, 2006, Hawtel has requested three (3) extensions to the application review period, which currently expires on December 8, 2006. The DCCA continues to be ready, willing, and available to complete the application process that has been extended at the request(s) of Hawtel.

Reduced Fees to Cable Subscribers – DCCA temporarily halted the collection of the administrative fee that funds the operations of the CATV division. This action on the part of CATV will reduce division’s cash reserve balance, allow the department to achieve its financial management goals, and lower cable franchise fees to cable subscribers during this period of non-collection. The DCCA will decide when it will be appropriate to re-initiate collection of the administrative fee, based on the division’s financial position.

Cable Advisory Committee (CAC) – DCCA reconvened the CAC which had been dormant for many years. The CAC first met again in June of 2004 and subsequently, meetings have been held on each of the major islands. This has allowed neighbor island residents to participate in cable television related matters. The CAC was established by statute to advise the Director and cable operators, at their request, on cable matters.

Consultant's Report on Franchise Fee Collection – DCCA has contracted 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 will continue these reviews which will 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 independent 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.

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. Due to our efforts and those of Senator Daniel Inouye, DBS service is currently available in Hawaii but not at levels found on the mainland. Echostar – DishNetwork has made significant progress in their service offerings, including local-into-local service. Our most recent efforts have been focused on DirecTV which has not offered equivalent services that are available on the mainland. We will continue to lobby for and demand equal treatment by DBS providers.

Institutional Network (“INET”) – CATV continues its leadership role in the development, expansion and enhancement of the INET. Working with the Information, Communications and Services Division (“ICSD”) of the Department of Accounting and General Services, the University of Hawaii (“UH”) and the Department of Education (“DOE”), CATV is actively participating in the upgrade of the INET that will leverage Dense Wave Division Multiplexing (“DWDM”) technology. This upgrade will dramatically improve the capacity and performance of the INET. 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 UH, DOE and ICSD 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.

Federal Telecommunications Legislation and FCC Rulemaking – CATV continues to monitor and participate in recent developments in Congress and at the FCC. Proposed telecommunications legislation, which would have replaced the Telecommunications Act of 1996, was expected in 2005. The Congress is now expected to take action on this legislation sometime in 2007, although action in late 2006 is still possible but unlikely. The CATV division actively monitors these matters and participates in matters affecting cable television consumers in Hawaii.

The CRF financial summary relating to CATV for FY 05-06 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$339,429	\$454,886	\$794,314	\$2,134,884

## **CONCLUSION**

The year 2006 was a remarkable year for CATV, due in part to the rapid development of advanced technology by cable companies. The continued deployment of 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 to 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)

website: [www.hawaii.gov/dcca/dca](http://www.hawaii.gov/dcca/dca)

e-mail address: [consumeradvocate@dcca.hawaii.gov](mailto:consumeradvocate@dcca.hawaii.gov)

### 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, is required if 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 23 employees, ranging from an administrator, a secretary, a utilities/transportation officer, a utilities/transportation specialist, Integrated Resource Planning (“IRP”), telecommunications, and education specialists, an economist, statisticians, a tariff analyst, auditors, 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/](http://www.hawaii.gov/dcca/dca/).

The majority of the DCA’s professional staff is divided among the Financial Analysis Branch, the Economics and Pricing Branch, the Engineering Branch, and the Legal Branch.

The ***Financial Analysis Branch*** examines and analyzes the financial accounts, records and transactions of public utility and transportation companies under differing financial and operational assumptions. This data is utilized in developing projections and determining the reasonableness of companies’ operating expenses and rate base for rate-setting purposes. The Branch also reviews current accounting pronouncements to ensure that the financial information presented by the regulated companies is appropriate.

The ***Economics and Pricing Branch*** reviews and analyzes economic conditions and trends, 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 **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 four exempt positions, under HRS § 269-52(1), there presently is funding for only three exempt staff positions – the IRP Specialist, Telecommunications Specialist, and Education Specialist. 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. The IRP Specialist focuses on filings pertaining to the electric companies, and has primary responsibility for reviewing the integrated resource plans and related demand-side management program applications. The Telecommunications Specialist primarily focuses on filings pertaining to the telecommunications industry. 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.

## **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*

Ensuring that Hawaii's consumers receive reliable and affordable utility and transportation services – both in the short and long term – is the DCA's primary responsibility, and ultimate 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.

While PUC proceedings often involve rate issues, the DCA also considers, to the extent possible, the long-term costs and benefits of proposals to determine the result that will best serve consumer interests with regard to reliable service and reasonable rates.

#### *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;
- 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.

Specific ongoing investigative dockets are discussed later in this report.

As a member of the FCC's Consumer Advisory Committee, the DCA was able to provide input to the FCC on national communications issues that also affect Hawaii consumers by helping to formulate committee recommendations to the FCC as it made decisions regarding the implementation of our federal communications laws.

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 its 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 on Oahu and the neighbor islands 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, website hits, and consumers assisted with complaints and other issues.

**ACCOMPLISHMENTS**

In 2006, 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***

*Hawaiian Electric Company, Inc.'s ("HECO") 2005 Test Year Rate Case*

In November 2004, HECO filed an application for approval to increase its rates (net rate increase for consumers of 7.3 per cent) and to amend its rules. In fiscal year 2005-2006, the DCA, among other things, developed testimonies and participated in an evidentiary hearing to resolve the issues outstanding in this docket. On September 27, 2005, the PUC issued an interim decision and order. The parties are awaiting the final disposition of this proceeding.

*Hawaii-American Water Company's 2006 Test Year Rate Case*

In August 2005, Hawaii-American Water Company, which operates the wastewater collection and treatment system that serves East Oahu, filed an application to increase its rates (a total increase of 16.63%) and to amend its rules. The DCA conducted its analysis of the issues and submitted testimonies and participated in settlement discussions with Hawaii-American Water Company and the City and County of Honolulu (the City and County of Honolulu sought and received Commission approval to participate in this proceeding as an intervenor). On July 25, 2006, the PUC issued an interim decision and order and the parties are awaiting the final disposition of this proceeding.

*Three water and wastewater utilities apply for streamlined review process*

In December 2005 and early January 2006, three water and wastewater utilities filed applications for approval to increase their rates and amend their rules and tariffs – KRWC, Corporation, dba Kohala Ranch Water Company, Waikoloa Sanitary Sewer Company, Inc., dba West Hawaii Sewer Company, and South Kohala Wastewater Corp. During fiscal year 2005-2006, the DCA conducted discovery, prepared and submitted written testimonies, negotiated with the utilities to determine whether any disputed issues could be resolved, and in two instances, filed stipulated settlement agreements. The PUC issued interim decisions and orders in two of the three cases. The DCA is awaiting the issuance of the third interim decision and order.

***Major Capitol Improvement Projects***

*HECO's East Oahu Transmission Project*

On December 18, 2003, HECO filed an application seeking commission approval to commit approximately \$55,644,000 to construct subtransmission lines underground for HECO's East Oahu Transmission Project ("EOTP"). HECO proposes to reconfigure and connect existing circuits from Pukele Substation at the end of HECO's northern transmission corridor with existing and new circuits at Archer Substation and Kamoku Substation in HECO's southern transmission corridor, in an attempt to provide reliable power to the east Oahu service area. During fiscal year 2005-2006, the DCA, one of numerous parties to this proceeding, conducted extensive discovery, participated in both a public hearing and an evidentiary hearing, and filed testimonies, opening briefs, and reply briefs. The DCA recommended that the costs related to an initial 138kV proposal and an additional transformer at the Archer Substation be removed from the costs projected for the EOTP as proposed, but otherwise did not object to the approval of the application. The DCA is awaiting the final disposition of this proceeding.

*HECO's Campbell Industrial Park Generating Unit*

In June 2005, HECO requested commission approval to commit approximately \$134,310,260 to build a 110 megawatt generating unit, the Campbell Industrial Park Generating Station. The DCA engaged in discovery and submitted testimonies to the PUC, stating that the DCA does not oppose the commitment of funds for the new combustion turbine and construction of the associated generating facilities to meet the Company's service obligations, provided that HECO power the unit with ethanol or some other bio-fuel. The DCA is preparing to go to evidentiary hearing on the issues disputed by the parties to the proceeding during the week of December 11, 2006. Following the hearing, the DCA will prepare opening and reply briefs for the PUC, and will await final disposition of this proceeding.

*HECO's Community Benefits Program*

On the same day that HECO filed its Campbell Industrial Park Generating Unit application, HECO filed an application requesting approval of a Community Benefits Program ("CBP") that HECO intends to offer in conjunction with its proposal to install new generation and related transmission facilities at Campbell Industrial Park (See paragraph immediately above). Included in the CBP are the following six "give back" elements: (1) a seven percent electric rate reduction over ten years for HECO residential customers located in zip code 96707; (2) construction of a reverse osmosis water supply pipeline and related facilities to serve the

Kahe Generating Station, so as to use recycled wastewater to displace the use of potable water at Kahe; (3) installation of equipment and operational funding for environmental monitoring, including air quality monitoring stations in three areas of West Oahu, and the commencement of a fish monitoring program in near shore waters of West Oahu; (4) pledged financial support for a Conservation Education Program, to support a community based volunteer organization to promote resource conservation practices; (5) creation of a Community Report Card summarizing environmental data, energy usage patterns, renewable and traditional energy resource planning and HECO community support activities; and (6) continued HECO corporate financial support in the form of donations to non-profit organizations in West Oahu. HECO proposed that the first three elements of the CBP listed above be funded by ratepayers, while the last three elements be funded by shareholders. After conducting discovery, the DCA filed testimonies stating that the DCA does not oppose HECO's offering any of the elements of the CBP, especially since none of the elements are expected to impair the Company's ability to provide regulated electric service. The DCA also agreed with HECO's proposal to have its shareholders fund the last three elements of the CBP, but recommended that the PUC find that ratepayers should not be responsible the costs associated with the rate reduction element of the CBP. The DCA is preparing to go to evidentiary hearing on the remaining issue during the week of November 27, 2006. Following the hearing, the DCA will prepare opening and reply briefs for the PUC, and will await final disposition of this proceeding.

### ***Applications Requesting Approval to Transfer Control of Public Utilities***

#### *Transfer of Control of The Gas Company, LLC*

In October 2005, an application was filed requesting PUC approval to transfer control of The Gas Company, which provides approximately 67,200 customers with regulated gas utility service in the State, from HGC Holdings LLC to Macquarie Gas Holdings LLC. The DCA conducted extensive discovery and on March 3, 2006, filed a statement of position recommending approval of the proposed transfer of control, provided that the PUC adopt fourteen regulatory conditions that were negotiated and agreed upon by the applicants and the DCA. The PUC approved the transfer of control, with the adoption of the stipulated regulatory conditions, in Decision and Order No. 22449, filed on May 3, 2006.

#### *Transfer of Control of Puuwaawaa Waterworks, Inc.*

After Puuwaawaa Waterworks, Inc. ("PWI"), a regulated provider of water service to a designated service territory on the island of Hawaii, filed for chapter 11 bankruptcy, Napuu Water, Inc. ("NWI"), a member-owned Hawaii nonprofit corporation operating as a cooperative of owner-customers, filed an application requesting approval to purchase the assets of PWI. The DCA's statement of position advised the PUC that the DCA did not object to the proposed transfer to NWI, with certain qualifications. On December 29, 2005, the PUC rendered a decision, approving the proposed transfer of control to NWI and imposing certain conditions.

#### *Transfer of Control of Mauna Lani STP, Inc.*

Hawaii-American Water Company filed an application on September 9, 2005 requesting approval to purchase the assets of Mauna Lani STP, Inc. ("Mauna Lani"), a public utility authorized to provide wastewater treatment and disposal service in the Mauna Lani Resort area on the island of Hawaii. On January 12, 2006, after extensive discovery, the DCA filed its statement of position, stating that sufficient evidence exists to support the PUC's approval of the proposed transaction, conditioned upon the adoption

of certain conditions. On February 28, 2006, the PUC approved the proposed transaction, subject to certain conditions.

### *Generic and Other Proceedings*

#### *Competitive Bidding for New Electric Generating Capacity in Hawaii*

In 2004, the PUC initiated a proceeding to evaluate competitive bidding as a mechanism for acquiring or building new generating capacity in Hawaii. The use of a competitive bidding process to acquire new generating capacity has been widely implemented throughout the United States, and may serve as an alternative for Hawaii to facilitate wholesale market competition and enhance the potential for higher efficiency and lower costs for its electric industry. The DCA has been actively engaged in developing recommendations for the PUC's consideration in this docket by researching and analyzing the many policy and technical issues involved with implementing such a process, while ensuring that the interests of Hawaii's consumers are protected. In fiscal year 2005-2006, the DCA worked toward developing and critiquing a proposed framework for the competitive bidding process.

#### *HECO's Demand-side Management ("DSM") and Energy Efficiency Proceeding*

In its November 2004 rate case application (see paragraph immediately above), HECO requested approval and/or modification of the Company's currently authorized DSM and load management programs and mechanism for recovery of program costs and DSM utility incentives. In March 2005, the PUC separated HECO's request for approval to continue offering the proposed DSM programs from HECO's request for rate increase, and opened a new docket (labeled by the PUC as the "Energy Efficiency Docket") to examine the Company's proposed DSM programs. In addition to HECO's DSM program proposals, the Commission ordered the parties to the docket to address several statewide issues that could effectively alter the manner in which DSM programs are offered, programs costs are recovered and whether incentives to promote DSM efforts continue to be provided in the future. In fiscal year 2005-2006, the DCA actively participated in the development of the record for this proceeding by conducting discovery, preparing testimonies, and participating in settlement discussions. In August 2006, the DCA participated in a "panel format" evidentiary hearing, wherein the proceeding's numerous parties were allowed to present various expert witness testimonies in response to the PUC's questions. Post hearing briefs have been prepared and filed with the Commission. The DCA is awaiting the final disposition of this proceeding.

#### *Young Brothers, Limited's Less than Container Load Tariff Filing*

In April 2006, Young Brothers, Limited filed an application seeking approval to amend its Tariff No. 5-A by discontinuing less than container load ("LCL") service to and from Kahului Harbor. If approved, shipment of LCL cargo would need to be consolidated by entities other than Young Brothers prior to transport to and from the Kahului Harbor. The DCA participated in public meetings held by the PUC statewide to take public comment on this issue, and also held its own meetings with the public to discuss the impacts of Young Brothers' proposal on the public who rely on the transport of LCL cargo to and from the Kahului Harbor. Based on the information obtained in such meetings, the DCA was better able to assess the reasonableness of Young Brothers' request. The Department of Transportation, Harbors Division, Young Brothers, and the DCA negotiated a memorandum of understanding, which allowed Young Brothers to continue its LCL service to and from Maui for a stated future period. The memorandum of understanding also included provisions that would allow Young Brothers to commit to providing LCL

service to and from other ports in the State for an extended future period. As a result of the understanding, Young Brothers withdrew its application with the PUC requesting the tariff amendment.

### *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.

#### *Federal Communications Commission's Consumer Advisory Committee*

The DCA's Executive Director was appointed to the FCC's Consumer Advisory Committee in May 2005 for a term to last through December 2006. This committee was formed to make recommendations to the FCC regarding consumer issues under its jurisdiction, including implementation of FCC rules and consumer participation in the rulemaking process, consumer protection and education, access to services by people with disabilities and by those in underserved areas and populations, and the impact of new and emerging technologies. As an active participant of the committee and three of its working groups, the DCA is ensuring that the interests of Hawaii consumers are well represented before the FCC at this critical time when similar communications services are beginning to be offered by industries through different technologies and under various levels of regulatory oversight.

#### *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 insure 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 an active 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.

In addition to the above proceedings, during the fiscal year 2005-2006, the DCA reviewed approximately 210 motor carrier tariff change requests and non-rate applications, such as applications for capital improvement projects, purchase power agreements, and certificates of public convenience and necessity.

### ***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.

Together with the Department of Business, Economic Development, and Tourism's Energy Branch, the DCA co-sponsored the "Hawaii Green Building Conference" in May. Through group discussions and presentations the conference focused on energy efficiency through selecting the right kind of environmentally friendly materials and use of existing federal programs such as Energy Star for residential development and Leadership in Energy and Environmental Design ("LEED") standards for new and existing commercial building construction.

The DCA continued distributing its newsletter at public fairs and festivals throughout the State, and has doubled its electronic distribution list from 100 recipients to 200 recipients during 2006. 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.

The DCA continued to increase its outreach and education efforts on the neighbor islands by joining the Department in making informal visits to major shopping malls on each of the neighbor islands where informational displays were set up allowing consumers to ask questions and take publications made available by the DCA.

### ***Document Management System***

The DCA, in partnership with the PUC, is developing 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 implemented as early as June 2007.

### ***Financial Summary***

The CRF financial summary relating to DCA for fiscal year 2005-2006 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,108,782	\$798,804	\$1,907,586	\$2,673,523

**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)

website: [www.hawaii.gov/dcca/dfi](http://www.hawaii.gov/dcca/dfi)

e-mail address: [dfi@dcca.hawaii.gov](mailto:dfi@dcca.hawaii.gov)

### 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 state-chartered and state-licensed financial institutions in Hawaii, 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 has continued to meet these high standards, with the support of the Legislature, the DCCA Director, and the Governor.

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

### Composition

DFI is headed by the Commissioner of Financial Institutions, assisted by an *Administrative Section* consisting of the Deputy Commissioner, two specialists, 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. reverse mortgages, negative equity automobile loans etc.), delivery channels (e.g. stored value cards), providers (e.g. Wal-Mart) and the attendant opportunities and risks associated with these developments provide an 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 the 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 valuable and demonstrates performance in DFI's key area of responsibility - to ensure the safety and soundness of state-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**

Implementation of New Federal Laws Continues to Expand DFI's Regulatory Role. In recent years, Congress enacted a number of important laws that significantly impact the financial services industry. They recognize the evolution of the industry, and the impact of key drivers such as the security and confidentiality of customers' nonpublic personal information, governance concerns raised by Enron and other corporate scandals, and the relentlessly ongoing advances in financial service products (e.g. interest only mortgages, negative equity automobile loans etc.), delivery channels (e.g. stored value cards), providers (e.g. Wal-Mart) and the attendant opportunities and risks associated with these developments.

The Gramm-Leach-Bliley Act removed legal barriers between the banking, securities and insurance industries, necessitating increased communication and cooperation between DFI and other state and federal agencies. It also established new financial privacy standards for consumers.

The USA Patriot Act contains provisions that update the federal Bank Secrecy Act by requiring financial entities, such as banks, finance companies, etc., to establish procedures and programs to detect and report money laundering activities and prohibit the financing of terrorist-related activities.

The Sarbanes-Oxley Act mandates public companies to, among other requirements, maintain auditor independence, strengthen corporate responsibility of financial reports and enhance corporate financial disclosures. This law also requires conflict of interest disclosure by analysts, and imposes corporate and criminal fraud accountability. These are significant federal laws which will continue to have an ongoing impact on the financial services industry. DFI therefore continues to enhance its programs and train its staff to implement these federal laws relating to money laundering, privacy for consumer financial information, and corporate governance.

Supervision of the Money Transmitter Industry in Hawaii. The money transmitter industry introduced a bill in the 2006 Legislative Session to provide a regulatory framework for necessary non-bank money services, address concerns relative to criminal activities and terrorist financing, and protect legitimate money service businesses and their customers from unnecessary discrimination due to overzealous enforcement of federal statutes. The bill was signed into law as Act 153 and became effective on May 31, 2006, but does not require money transmitters to be licensed until July 1, 2007. Since passage of the bill, DFI has conducted outreach to the money transmitter industry and is drafting rules, application forms, licensing procedures, and examination procedures to implement the Act. Additional outreach efforts will be conducted before July 1, 2007.

Mortgage Broker Regulation. Mortgage Brokers and Solicitors currently register with DCCA's Professional and Vocational Licensing Division (PVL). The significant impact the mortgage broker industry has recently had on consumers has resulted in many states developing statutes to actively regulate and supervise brokers in addition to registering them. DFI introduced a bill in the 2006 Legislative Session which would have provided more robust regulation and supervision of the local industry. Since that bill was not enacted, DFI, in order to solicit more industry, consumer and related input on the concept of improved Mortgage Broker regulation, formed a Mortgage Broker Task Force (Task Force) composed of individuals representing the mortgage industry and various consumer organizations. The objectives of the Task Force were to (1) consider an appropriate framework for mortgage broker regulation and supervision, (2) consider the applicability of background checks, pre-licensing testing, ethics training, and continuing education, (3) consider the most effective method of implementation of an appropriate framework for

mortgage broker regulation and supervision, and (4) draft a proposed bill incorporating the foregoing concepts for introduction in the 2007 Legislative Session. Although the Task Force made some excellent progress and achieved agreement on several key issues, numerous details were unresolved, thus precluding the creation of a Task Force-sponsored bill for the 2007 Legislative Session. While the Task Force was dissolved without achieving all of its objectives, participants were encouraged to submit legislative proposals to address those points on which there appeared to be agreement. DFI will continue to work with the mortgage industry, consumer organizations, and other interested parties to develop more focused regulatory oversight of the mortgage broker industry, for the benefit of both consumers and industry participants.

Continued Development of DFI's Emergency Preparedness Program. As a direct result of September 11 and its aftermath, and the devastating hurricanes in Florida and the Gulf Coast in 2005, DFI continues to develop, implement, and maintain 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 all the financial institutions operating in Hawaii, DFI has continued to redefine the roles and functions of the Financial Institutions Liaison Team (FILT). The FILT originally drafted an air transport contingency plan. Then in 2004 the FILT, under DFI guidance, developed, implemented and tested a statewide emergency communications plan which included all Hawaii financial institutions, with particular emphasis on the depository companies. This plan was expanded and refined in 2005.

In 2006, DFI continued to further refine and enhance its Emergency Preparedness Plan. Specific preparations for a pandemic flu outbreak were initiated by DFI in 2006, and include contingency plans for maintaining DFI's essential operations under various scenarios. The process included two DFI examiners attending workshops sponsored by the State Department of Health and the FDIC. In addition, DFI examiners enhanced the emergency preparedness plans for DFI and the emergency communication plans for financial institutions within the State. Communication trees were tested periodically, and most recently used for gathering status reports from banks and depository financial institutions following the November earthquake on the Island of Hawaii.

DFI will continue to work with the State's financial institutions, Hawaii State Civil Defense, federal regulators, the Federal Aviation Authority, the Hawaii Bankers Association, and 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 their national accreditation program for state financial service regulatory agencies to insure that the management and staff of these agencies are knowledgeable, appropriately organized, staffed, funded and trained to carry out its 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.

Bank, Financial Services Loan Company, and Escrow Depository Examination Programs. DFI continues to take a greatly expanded role in conducting examinations. This expanded role is necessitated not only by cutbacks in federal agency examination staffing and the addition of new State-chartered and intra-Pacific banks to the Honolulu market, but is also a critical element in the CSBS Reaccreditation review. DFI continues 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 2006, DFI examiners, for the first time, took the lead role at a commercial loan review of one of the larger institutions, and also took the lead role in the reviews of capital, earnings, liquidity, and sensitivity at the major bank examinations. Furthermore, DFI examiners performed independent visitations of the State's two newest banks. DFI also implemented its enhanced Bank Secrecy Act/Anti-Money Laundering ("BSA/AML") Examination Program in accordance with federal laws, resulting in dramatic improvements in the examination of the BSA/AML compliance programs of DFI-regulated institutions.

In another "first," a DFI examiner was federally certified to perform, and did perform, loan reviews of Shared National Credits ("SNCs"), jointly with certified examiners from several federal agencies. SNCs, which are loans over \$20 million in which three or more banks have a participation, are examined under a special examination program to ensure that there is a uniform credit review of these large risk assets held by multiple institutions.

As a result of DFI financial institution examinations and enforcement actions in 2006, over \$490,000 in refunds of improper fees and charges were paid to, or are in the process of being paid to, Hawaii consumers by DFI-regulated entities. In addition, in 2006, as a result of DFI's enforcement of Hawaii escrow depository laws, in excess of \$125,000 in unclaimed monies held in old escrow accounts have been remitted by DFI-regulated escrow depositories to consumers and, where the customers could not be located, the abandoned monies were paid and are continuing to be paid to the Unclaimed Property Program of the Department of Budget and Finance.

De Novo Bank Activity. In 2006, two new Hawaii state-chartered banks, Pacific Rim Bank and Ohana Pacific Bank, opened. These banks were the first state-chartered banks to open in Hawaii since 1959. In addition, the Bank of the Federated States of Micronesia opened an intra-Pacific bank branch in Hawaii under a little used provision of the Hawaii Revised Statutes. That bank is unique since it is considered a "foreign bank", but has its deposits insured by the FDIC.

Waiver of Examination Fees and Costs. The Hawaii State Legislature through Act 182, 1999 Session Laws of Hawaii, mandated an annual deposit on June 30 of each fiscal year of \$2.5 million from the franchise tax collected under HRS Chapter 241 to the Compliance Resolution Fund (CRF) for the support of DFI's program. The deposit from the franchise tax collections was reduced to \$2 million beginning in FY 2001-2002. DFI received \$2 million on June 30, 2005 and June 30, 2006 to fund its program for FY 2005-2006 and FY 2006-2007, respectively. With adequate revenues to support the Division from these funds, DFI once again temporarily suspended collection of hourly examination fees and examination costs from Hawaii financial institutions for these two fiscal years and thereby lessened the financial costs of state regulation on Hawaii financial institutions.

Educational Outreach to Industry and Public. During 2006, DFI and the FDIC conducted a number of outreach activities for the benefit of the industry.. The outreach activities included a full day seminar explaining requirements for financial institutions under the Bank Secrecy Act and anti-money laundering

laws, a full day seminar covering compliance matters, and a Director’s College which outlined the various duties and standards for directors of Hawaii’s financial institutions. DFI also conducted outreach to the money transmitter businesses in Hawaii regarding the new money transmitters law,

Nontraditional Mortgage Product Best Practices. During 2006, DFI and PVL jointly issued a number of “best practices” relating to the marketing of nontraditional mortgages by state-licensed mortgage lenders and mortgage brokers. The best practices were developed by CSBS and the American Association of Residential Mortgage Regulators (AARMR) to substantially mirror the guidance issued jointly by the federal banking regulators to insured depository financial institutions and their affiliates. DFI, as a member of CSBS, participated in the CSBS/AARMR discussions. The “best practices” are intended to promote consistent product delivery in the mortgage market by clarifying how residential mortgage providers can offer nontraditional mortgages in a way that clearly discloses the risks borrowers may assume.

The CRF financial summary relating to DFI for FY 05-06 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,695,705	\$248,467	\$1,944,171	\$2,180,745

**CONCLUSION**

During FY 05-06, in addition to its established regulatory and licensing programs, DFI continued to expand, develop and implement examination programs in response to new federal legislation and changing circumstance in the industries regulated by the Division. The formation of new banks in Hawaii and the strict requirements of the CSBS accreditation process have necessitated improved standards of performance – a challenge to which the DFI staff has enthusiastically responded.

The continuing implementation of new federal legislation and the new state legislation licensing and regulating money transmitters, as well as the rapid evolution of technologies and products in the financial services industry, provided DFI and the Hawaii financial institutions it regulates and supervises with ongoing challenges. New areas of emphasis such as money laundering, mortgage-related consumer compliance issues and homeland security added to the Division’s traditional concern with the safety and soundness of regulated institutions, have created new technical requirements and an increasing workload for DFI staff which they are meeting through participation in both federal and locally delivered training programs. All of these factors require DFI to continue to aggressively employ its resources to effectively deal with the changes while at the same time maintaining the strength and safety of our State-chartered financial institutions and protecting the rights of depositors, borrowers, consumers and other members of the community.

## INSURANCE DIVISION (ID)

website: [www.hawaii.gov/dcca/ins](http://www.hawaii.gov/dcca/ins)

e-mail address: [insurance@dcca.hawaii.gov](mailto:insurance@dcca.hawaii.gov)

### OVERVIEW

ID's 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.

	<u>@ 6/30/06</u>	<u>@ 6/30/05</u>
Adjuster	596	592
Captives	160	153
Certificate of Authority (Insurer)	971	957
Fraternal Benefit Society	6	6
Fraternal Benefit Society Agent	52	54
HMO (Health Maintenance Organizations)	2	2
Independent Bill Reviewer	16	17
Limited Lines Motor Vehicle Rental Co. Producer	22	20
Limited Lines Producers	1536	1,098
Managing General Agent	9	7
Mutual Benefit Society	4	6
Nonresident Agent	17,724	14,516
Producer	5,784	6,064
Reinsurance Intermediary Broker	4	4
Reinsurance Intermediary Manager	1	n/a
Service Contract Providers	117	126
Surplus Lines	519	382
Vehicle Protection Product Warrantor	11	11
<b>TOTAL</b>	<b>27,534</b>	<b>24,015</b>

ID administers chapters 431, 431K, 431L, 431M, 431-P, 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](mailto:insurance@dcca.hawaii.gov).

### **Composition**

The Insurance Commissioner heads the Insurance Division (ID) and is assisted by the Chief Deputy Insurance Commissioner. The seven branches of the ID are:

**Captive Insurance Branch.** The Captive Insurance Branch (CIB) is currently led by a Captive Insurance Administrator, and includes a Secretary, and 6 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, effective FY 2005-06 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 Insurance Division, 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 USC § 1033 and HRS §431:2-201.3. The C&E is comprised of a chief investigator and 3 other 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, 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 Insurance Division was first accredited by the NAIC in 1996 and re-accredited in 2001 and 2006. The FS&E is comprised of a manager, 7 examiners, 2 certification specialists and a clerk.

In addition to financial surveillance, the Branch 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 \$90 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 Patient 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 10 other authorized positions.

**Legal Branch.** The Legal Branch advises the Commissioner, the Chief Deputy, 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 branches in regards to supervision, rehabilitation and liquidation proceedings. The Legal Branch is comprised of a supervising attorney, 3 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 producers, nonresident producer, and adjuster licenses; and the LB maintains records of the licensees. The LB is responsible for continuing education deficiency notices, license renewal notifications, processing of remittance checks, confirmation & 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, 6 licensing clerks, and a clerk typist.

**Motor Vehicle 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 also employs special deputy attorney generals to initiate criminal prosecutions. By employing deputies who are trained in insurance fraud, all cases receive prompt attention and representation in the criminal justice system. The IFIB has created a toll free insurance fraud hotline.

The IFIB consists of an administrator, 5 investigators, 2 forensic auditors, and a legal clerk. The administrator and 2 contract attorneys are designated as Special Deputy Attorney Generals 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.

**Office Services Branch.** The Office Services Branch (OS) provides general reception; answers and screens telephone calls, clerical, stenographic, typing, duplicating and other administrative services for the ID. OS also, maintains the division'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 5 clerk typists.



**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 Rate and Policy Analysis Branch analyzes and approves or disapproves rate filings for casualty, property, motor vehicle, inland marine, surety, credit life and disability, and medicare supplement insurance. The Branch 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 8 rate & policy analysts.

## **ACCOMPLISHMENTS**

**Compliance and Enforcement Branch.** During 2005, consumers and industry saved or recovered more than \$870,997.33 from insurance companies and agents with the assistance of the Insurance Division. A total of 753 complaints and request for assistance were received for the following classes of insurance:

**MOTOR VEHICLE INSURANCE:** Received the largest number of cases with 565 or 75% of the total. Of this amount, 537 cases involved claims and claims handling. Complaints involving personal injury protection coverage (PIP) for medical and other related benefits accounted for 396 cases. Of this amount, 175 were PIP cases where benefits were contested or denied by the insurer and referred for formal resolution by administrative hearing; the remaining 221 PIP cases were resolved by other means, such as mutual agreement or court orders. There were 141 material damage cases: 59 of these cases involved payment or settlement delays, 30 were coverage and liability disputes, 40 were disputes about damages, 8 involved claim denials, and 4 involved miscellaneous claim issues. Complaints other than claims totaled 28 and included 13 in the area of premiums and underwriting, 8 policy cancellations or non-renewals, 1 involving marketing and sales, and 6 miscellaneous. Three hundred and eighty six (386) cases were resolved or referred to the appropriate agency for resolution and 175 cases involving PIP denials were referred for formal resolution by administrative hearing; 4 cases remain pending.

**LIFE/ANNUITY INSURANCE:** There were 44 complaints received or 6% of the total. Of this amount, 9 involved possible misrepresentations and fraudulent transactions, 24 involved policy servicing, 1 involved claims handling, 3 involved underwriting (cancellations and non-renewals), 5 involved surrender values and 2 involved replacement. 43 cases were resolved or referred to the appropriate agency for resolution. One case remains pending.

**WORKERS' COMPENSATION:** There were 48 complaints received or 6% of the total. Of this amount, 37 involved claims and payment delay and 11 involved underwriting (premium billing). Forty eight cases were resolved or referred to the appropriate agency for resolution.

**FIRE/HOMEOWNERS INSURANCE:** There were 54 complaints received or 7% of the total. Of this amount, 13 involved underwriting (rating, cancellations, and non-renewals), and 41 involved claims. Fifty four cases were resolved and referred to the appropriate agency for resolution.

**GENERAL LIABILITY:** There were 24 complaints received or 3% of the total. Of this amount, 10 involved underwriting (refund, cancellations, and non-renewals), 12 involved claims, and 2 involved

marketing and sales. Twenty four cases were resolved and referred to the appropriate agency for resolution.

**MISCELLANEOUS:** In addition to the above categories, there were 18 complaints received or 3% of the total, relating to other classes or matters of insurance (disability, marine, surety, and miscellaneous). Eighteen cases were resolved or referred to the appropriate agency for resolution.

**ASSIGNED CLAIMS PROGRAM:** There were 107 applications for benefits to the assigned claims program that were received and reviewed. Of this amount, 86 applications were processed to servicing carriers for further handling.

**DISCIPLINARY ACTION:** There were 40 formal actions filed that involved the Compliance and Enforcement Branch. Of this amount 21 Letters of Caution were issued, 1 suspension, 1 revocation and 17 Consent Orders. A total of \$25,750.00 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 twenty domestic insurers and eighteen captive risk retention groups 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 allows for the introduction of remedial measures and prevention of future insolvencies. Analytical and examination procedures are subject to an accreditation review by the National Association of Insurance Commissioners (“NAIC”).

In 2006, the Division underwent an accreditation review by the NAIC and retained its accreditation status for a full five-year term. The accreditation program requires states to have and maintain adequate statutory and administrative authority as well as sufficient resources to effectively regulate the financial solvency of insurance companies. Failure to meet these standards could result in loss of accreditation status or receive less than a full five-year accreditation status. Loss of accreditation status may prevent other states from relying upon the analytical and examination work performed by the Hawaii Insurance Division.

In 2006, the FS&E admitted the first alien U.S. branch office under provisions established by the new State of Entry for Alien Insurers statutes.

In March 2006, the FS&E identified that material adverse financial conditions existed at Hawaiian Insurance & Guaranty Company, Ltd. (“HIG”), the state’s fourth largest issuer of homeowner insurance policies. The Hawaii Insurance Division initially entered into a Memorandum of Understanding with HIG regarding fund transfers to its parent company which eventually led to a Rehabilitation Order in June 2006, and an Order of Liquidation in August 2006. The Hawaii Insurance Division negotiated a sale of certain HIG assets, including the assumption of HIG’s existing homeowner’s policies, which prevented approximately 20,000 HIG policyholders from seeking homeowner’s insurance from other insurance companies in a capacity constrained market.

The following is a summary of other activities of the Branch during the last two fiscal years (dollar amounts are rounded to the nearest thousand):

	<u>FY 2005*</u>	<u>FY 2004*</u>
Number of Active Licensees	971	957
Direct Premiums Written in Hawaii	\$4,154,316,000	\$3,956,763,000
Premium Tax Returns Processed	6,000 +	5,800 +
Premium Taxes Collected and Processed	\$97,057,000	\$87,687,000
Total Hawaii Investments**	\$4,174,832,000	\$4,422,186,000

\*Includes domestic, foreign, alien, and surplus lines licensees.

\*\*Includes bank balances.

**Health Insurance Branch.** The Health Insurance Branch receives inquires and complaints pertaining to federal and state laws governing health insurance, including long-term care insurance. From July 1, 2005 to June 30, 2006, ninety-seven (97) complaints were received. Of the ninety-seven (97) complaints, sixty-six (66) were resolved and four (4) are stilling pending. Of the remaining twenty-seven (27) complaints, the Health Insurance Branch had no jurisdiction for twenty-two (22) complaints, three (3) were referred to the appropriate agency for resolution, and two (2) were referred for a formal resolution. Of the total cases, twenty-three (23) involved claims appeals; sixteen (16) involved reimbursement timeliness; nine (9) involved policy coverage; seven (7) involved unfair marketing; five (5) involved termination of coverage; and the remaining thirty-seven (37) involved miscellaneous issues such as provider networks and denial of coverage. The complaints during this period resulted in consumers saving over \$127,000.

During the same period, the Health Insurance Branch responded to two-hundred-sixty-two (262) formal inquiries. Twenty-seven (27) were regarding obtaining health insurance coverage; another twenty-seven (27) inquiries were regarding claims appeals or reimbursements; twenty-five (25) were questions regarding health insurance coverage; twenty-three (23) were questions regarding filing complaints; another twenty-three (23) were regarding legal questions; nineteen (19) were regarding federal regulations; eleven (11) were regarding the Prepaid Health Care Act; and the remaining one-hundred-five (107) were miscellaneous general health insurance questions.

To protect the policyholders, domestic insurance organizations, including mutual benefit societies and health maintenance organizations, are regularly examined for solvency and compliance with the Hawaii Revised Statutes ("HRS"). For the period July 1, 2005 through June 30, 2006, reports have been officially 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 14F. The Health Insurance Branch received thirty-five (35) rate filings during the period July 1, 2005 through June 30, 2006.

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 Chapter 431:10H (Long-Term Care Insurance). The Health Insurance Branch received and reviewed one-hundred-forty-one (141) long term care advertising filings during the period July 1, 2005 through June 30, 2006.

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, 2005 to June 30, 2006, sixteen (16) requests for an external review were received.

**Motor Vehicle 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 also employs special deputy attorney generals 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 fiscal year 2005-2006, the Fraud Unit received 223 referrals. Of the referrals accepted, criminal indictments were obtained against 24 individuals. Of the 24 individuals indicted during the fiscal year, 8 have been sentenced, and 16 have not reached the sentencing phase.

The Fraud Unit obtained restitution orders totaling \$66,382.00 for the cases that reached final disposition. In those cases that reached final disposition, the Fraud Unit also obtained fines payable to the State of Hawaii totaling \$15,325.00, payments in the amount of \$2,640.00 to the Crime Victim Compensation Fund, probation services fees in the amount of \$400.00, and community service totaling 1150 hours.

The Fraud Unit endeavored to meet its statutory mandate to prevent insurance fraud by distributing copies of its informational brochure on the topic of auto insurance fraud to the community. During the fiscal year, more than 1000 brochures were distributed to private citizens, insurance companies, law enforcement, and state agencies.

One of the primary goals of the Fraud Unit is to educate the public, insurance industry, and law enforcement about motor vehicle insurance fraud. To meet this objective, the Fraud Unit conducted informational presentations for various insurance companies, the Hawaii Chapter of the Special Investigators Unit, the Hawaii Claims Manager's Association, National Insurance Crime Bureau, and a few public schools.

In the area of training, the investigators attended seminars hosted by the National Insurance Crime Bureau, the National Health Care Anti-Fraud Association, John E. Reid Institute, National Association of Insurance Commissioners, Western States Auto Theft Investigators Association, the Honolulu Police Department, the Department of the Attorney General, and the International Association of Special Investigator Units.

**Rate and Policy Analysis Branch.** During fiscal year 2005-06, 2,863 rate filings and 3,960 policy filings were reviewed; in the preceding year, 5,743 rate filings and 2,570 policy filings were reviewed. The Rate and Policy Analysis Branch also reviewed and analyzed approximately 7,300 motor vehicle reports and statements.

On November 21, 2001, Hawaii became the 40th state to begin accepting electronic form filings for life insurance products through the National Association of Insurance Commissioners' filing process known as SERFF or the System for Electronic Rate and Form Filing. Five hundred ninety-six electronic form filings were processed during the fiscal year.

Since August 26, 2005, two rating organizations and twenty-five insurers participating in the ID E-Transmittal filing system submitted 111 filings for approval or acceptance.

### **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 the Division Hopes to Accomplish:** (1) Meet its statutorily mandated requirement. (2) Retain the ID's accreditation by the National Association of Insurance Commissioners (NAIC). (3) Protect policyholders by examining insurers/captive insurers to ensure financial compliance with statutory requirement 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. (6) Provide and improve internet access by the public for insurance licensees' public data. (7) Provide on-line processing, rate & policy form filings, information on licensing & filing requirements and forms for licensees.

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

1. Through proper personnel and case load management the ID will strive to meet the mandated statutory requirements for the insurance code.

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 policyholder 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. Incorporated risk assessment methodology into the examiner's financial analysis work product.

4. For 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 allow 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 & insurance licensees.

5. The ID participates in the proceedings of the NAIC by attending the meeting to address the 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 is various committees and currently a chair of one committee, vice chair of another.

6. The ID’s web site allows the public to access to general information on insurance, information on licensees, comparative auto & homeowners premiums, 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 will create additional interfaces from HIDS to the NAIC and the Hawaii Information Consortium databases. The current interface 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 able to be found on the website. Also, the ID is working with the NAIC to implement SERFF. These projects are scheduled to be completed in FY 08.

**Action Plan & Timetable to Implement Established Objectives and Policies in One, Two and Five Years.**

Hawaii is one of twenty eight member states of the Interstate Insurance Product Regulation Compact which was triggered in May 2006. The compact adopted bylaws and rulemaking rules in September 2006. Within the next year, it is anticipated that the Interstate Compact will be accepting life filings for review, which will permit insurers to offer coverage in all participating compact states upon approval of the product. Continuing improvements to the HIDS, website and interfaces with the NAIC and eHawaii.gov will take place.

**Process to Measure the Performance of Programs and Services in Meeting the Stated Goals, Objectives and Policies.**

The following are specific performance goals set for each fiscal year and the results are measured against the goals at the end of each fiscal year:

- Resolve 90% of complaints resolved within 30 days.
- Complete 100% of financial examinations of insurers within statutory time requirement.
- Review 90% of rate and policy filings reviewed within statutory time requirement,
- Resolve 80% of motor vehicle fraud cases in favor of the State

The CRF financial summary relating to INS for FY 05-06 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,922,644	\$1,813,782	\$5,736,426	\$4,025,591

**CONCLUSION**

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

## OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

website: [www.hawaii.gov/dcca/oah](http://www.hawaii.gov/dcca/oah)  
e-mail address: [oah@dcca.hawaii.gov](mailto: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 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.

Lastly, an integral part of OAH's responsibilities is the Medical Claims Conciliation Panel (MCCP). The MCCP program is responsible for conducting informal conciliation hearings on claims against health care providers before such claims can be filed as lawsuits. The decisions of the MCCP 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 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/areas/oah/](http://www.hawaii.gov/dcca/areas/oah/); and e-mail address: [oah@dcca.hawaii.gov](mailto:oah@dcca.hawaii.gov).

### **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 all decisions online on the DCCA/Office of Administrative Hearings web site: [www.hawaii.gov/dcca/areas/oah/oah\\_decisions/](http://www.hawaii.gov/dcca/areas/oah/oah_decisions/)

### ACCOMPLISHMENTS

The following table summarizes the CRF-related activities conducted by OAH for the 2005-2006 fiscal year:

Type of Proceeding Conducted	Number
Pre-hearing conferences	156
Status conference	295
Motions	56
Hearings	176
Oral arguments on written exceptions	16

The following table summarizes the number of cases and the relative percentage of CRF-related activities conducted by OAH for the 2005-2006 fiscal year, by referring division of OAH

DCCA Divisions Referring Matters to OAH	Case Filed	%
Insurance Division (denial of personal injury protection benefits)	418	69%
Regulated Industries Complaints Office (disciplinary proceedings)	132	22%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, violations of securities laws)	16	3%
Professional and Vocational Licensing (license denials)	17	3%
Office of Administrative Hearings (procurement protests condominium disputes)	11	2%
Office of Administrative Hearings (condominium disputes)	8	1%

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.

The financial summary for the Director and its support Office, which includes OAH, is reflected in footnote 2 in the Introduction.



**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 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](http://www.hawaii.gov/dcca/ocp)

e-mail address: [ocp@dcca.hawaii.gov](mailto: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, 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](http://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 2005-2006 statistics.

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

OCP operates the Landlord-Tenant Volunteer Center. The Center is supervised by an investigator and is staffed by trained volunteers 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. During the past year, the office joined in the production of four public service announcements highlighting the problem of identity theft in Hawaii. 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;
- Prepare 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 in which it provided important information to thousands of Hawaii residents regarding how to avoid being victimized.

**Cases**

OCP handled several significant cases in 2006 involving nearly every area of consumer protection. It filed and resolved numerous cases relating to alleged violations of Hawaii's laws governing unaccredited degree granting institutions, car rentals, solar energy, credit practices, foreclosure avoidance schemes, living trusts, sweepstakes and prizes, door-to-door sales, refund and exchanges, and unfair or deceptive trade practices. OCP's involvement successfully resulted in recovering approximately 1.6 million dollars in restitution for Hawaii consumers as well as obtaining injunctive relief and fines against violators. In several cases, OCP secured temporary restraining orders against violators of Hawaii's consumer protection laws, successfully preventing them from continuing to harm and exploit Hawaii consumers.

**LEGISLATION**

**Anti-Phishing Task Force**

In an attempt to combat the growing problem of identity theft, OCP participated in a phishing task force which examined various ways to combat identity theft in Hawaii.

OCP assisted in developing several bills for the 2006 legislative session designed to combat identity theft, of which the following were enacted into law:

- Credit report freeze -- Preventing credit bureaus from releasing information to unauthorized parties without the consumer's consent;
- Security breach notification – Requiring businesses keeping personal information to notify individuals if there has been a security breach;
- Disposal protection – Requiring businesses to properly destroy consumers' personal data; and
- Social security number protection – Restricting the use and transmittal of social security numbers.

The CRF financial summary relating to OCP for FY 05-06 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,111,133	\$174,100	\$1,285,234	\$489,106

**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 each 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 <sup>6</sup>
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices <sup>7</sup>
HRS Chapter 480D	Collection Practices <sup>8</sup>
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
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 <sup>9</sup>
HRS Chapter 487A	Plain Language Law
HRS Chapter 506	Reverse Mortgage Loan
HRS Chapter 521	Landlord Tenant Code <sup>10</sup>
ACT 146 (1999)	Check Cashing
Act 282 (1997)	Assistive Device Warranty Act
Act 222 (2000)	Service Contracts

<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> See also, Collection Agencies HRS §443B-20.

<sup>9</sup> E.g. Motor vehicle advertising, HRS §437-4.

<sup>10</sup> 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.

**Table 2: OCP Information Requests**

REQUEST AND INQUIRIES	FY 03-04	FY 04-05	FY 05-06
Requests for Prior Complaint History	7,555	5,564	3,776
Requests for Landlord/Tenant Information	9,660	10641	9,574
Complaint Inquiries	20,505	15012	12,508
Requests for Records Review	15	12	43
<b>TOTAL</b>	<b>37,735</b>	<b>31,229</b>	<b>25,901</b>

**Table 3: Number of OCP Complaints Filed**

COMPLAINANT	FY 03-04	FY 04-05	FY 05-06
Public	1,428	1,641	1,657
OCP	57	40	36
<b>TOTAL</b>	<b>1,485</b>	<b>1,681</b>	<b>1,690</b>

**Table 4: Numerical Breakdown of Dispositions of All OCP Cases**

DISPOSITIONS	FY 03-04	FY 04-05	FY 05-06
Complaint Withdrawn	10	7	6
Legal Action & Referrals to Legal	192	135	497
Advisory Contact	37	31	24
Civil Dispute/Personal Matter	52	46	38
Monetary Threshold	14	10	1
Complainant Uncooperative	31	41	25
Consumer Complaint Resolved	33	35	19
Respondent Died or Bankrupt	101	135	57
Business vs. Business	20	20	15
No Jurisdiction	9	21	23
Refer to Investigation	143	107	92
Other	3	7	4
Warning Letter	53	83	56
Insufficient Evidence	460	444	517
Transferred to Other Gov't. Agency	621	609	594
No Violation	27	20	14
Information Only/Inquiry	150	251	155
<b>Total</b>	<b>,1956</b>	<b>2,002</b>	<b>2,137</b>



**Table 5: OCP Complaints by Subject Matter**

A complaint may cover multiple subject matters

SUBJECT	FY 03-04	FY 04-05	FY 05-06
Animals	4	5	10
Breeders	3	0	0
Pet Grooming	3	2	0
Pet Shops	2	2	1
Kennels/Boarding	1	0	0
Refund Law – Refunds/Exchanges/Merchandise Credit	44	52	30
Gift Certificates	9	11	14
Apparel/Accessories	35	44	16
Laundry/Dry Cleaning/Laundromats	0	0	2
Dressmaker/Tailors	0	1	0
Fabric/Notions/Etc.	2	0	0
Shoes/Etc.	6	1	1
Clothes	14	7	9
Appliances	11	6	12
Refrigerator/Freezer/Stove/Range	7	17	11
Water Heaters/Air Conditioners	4	1	2
Washer/Dryer	5	2	4
Radio/Stereo/Tape Deck/CD Player	10	15	7
TV/VCR	5	21	8
Sewing Machine	1	3	0
Vacuum Cleaner	9	8	10
CB Radios	0	0	0
Computers/Software	82	59	36
Health Services/Products	20	19	16
Exercise Devices	2	3	1
Exercise/Health Clubs/Clinics	13	12	68
Health Foods	0	0	0
Weight Reduction	5	1	2
Cosmetics/Beauty Products	5	4	6
Wigs/Hairpieces	0	2	1
Entertainment/Music	5	5	4
Concerts/Events	1	2	4

**2006 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Ticket Sellers/Promoters	6	2	1
Theaters	2	0	0
Night Clubs/Discotheques	0	0	0
Musical Instruments/Lessons	3	9	2
Audio Records/Tapes/CD/Etc.	3	3	1
Buying Clubs - Record/Tape/CD/Video	2	0	1
Video Records/Tapes/CD/Etc.	11	10	8
Florists/Nurseries	2	6	4
Food/Drink	14	14	19
Food Stores/Markets	5	12	10
Drive Inns	0	1	0
Caters/Deli	0	0	0
Bakery	0	1	1
Restaurants	10	6	10
Banquet Halls	0	0	0
Bars/Cocktail Lounges	0	0	1
Energy/Fuels	0	2	1
Solar Energy	0	2	2
Gas, Propane, Etc.	5	8	2
Energy Saving Devices	1	0	1
House Materials/Goods/Services	10	20	20
Beds & Mattresses	6	5	4
Furniture	23	22	18
Cookware	2	3	1
Draperies	1	0	0
Carpet/Rugs	5	4	5
Clocks	0	0	0
House Hardware/Fixtures	5	4	11
Woodwork/Metal craft/Glass/Etc.	2	4	6
Interior Decorators	1	0	0
Lawn Care Products/Yard Service	3	5	2
Upholsters	3	2	0
Water Purifiers/Filters	1	3	1

**2006 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Cleaning Services	7	3	4
House Construction/Remodeling	6	8	5
Vermin/Bug Extermination	0	0	1
Tools	2	7	4
Insurance	25	17	16
Extended Warranties	7	2	4
Service Agreements/Contracts	19	37	67
Jewelry	22	22	24
Precious Stone & Metals	3	1	0
Watches	9	15	1
Medical	8	11	8
Hospitals/Clinics	16	9	6
Pharmacies	1	2	3
Convalescent/Nursing Homes	0	1	0
Medical Equipment	4	3	2
Medical Service Companies	2	3	2
Medical Laboratories	3	0	0
Home Care Facilities	0	1	4
Psychiatric Counseling/Group Therapy	0	0	0
Other Counseling/Group Therapy	0	0	0
Occupational Therapists (457G)	0	0	0
Morticians, Cemeteries & Other	1	1	4
Moving & Storage	10	6	9
Private Storage Company	1	3	0
Bill of Lading	0	0	0
In-transit Storage	0	0	0
Delivery Service	7	3	5
Air Cargo Service	1	0	0
Multi-Product Retailer/Wholesalers	11	3	4
Buying Clubs	2	3	1
Department Stores	6	1	5
Photography	7	2	4
Photo Studios	2	0	1

**2006 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Film Processing	1	0	0
Camera/Equipment	17	10	4
Photographic Services	4	2	5
Professional Services	8	10	15
Attorneys/Legal Services	3	3	3
Accountants/Bookkeeping	1	1	0
Tax Services	3	2	6
Medical Professional	6	3	4
Adoption Agencies	0	0	0
Printers	2	3	1
Regulated Services (Trade & VO Caption)	3	2	6
Protection Devices	2	1	0
Fire/Burglar Alarms	3	1	2
Heat/Smoke Detectors	0	0	0
Locks (Windows, Doors, Etc.)	1	1	2
Fire Extinguisher	0	0	0
Recreation/Toys/Game/Etc.	15	8	18
Arts & Crafts	7	1	4
Boats & Airplanes	5	2	5
Toys	9	13	2
Surfboards	0	1	0
Video Games	9	10	4
Camping Equipment	0	1	0
Sporting Goods	11	14	7
Recreational Rentals	3	2	3
Transportation	7	4	4
Cabs	1	1	1
Moving Companies/Storage	7	0	2
Pedi-Cabs	0	0	0
Tour Buses and Limos	1	0	1
Automobiles	26	24	34
Car/Truck Rental	18	25	15
Car/Truck Lease	2	0	1

**2006 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Moped Rentals	0	1	0
Other Transportation Rentals	3	1	1
Towing	16	17	14
Parking	5	5	9
Body/Paint Shops	22	18	10
Auto Parts/Repair	58	35	28
Rust proofing/Undercoating	1	2	1
Glass Tinting	3	1	2
Vehicle (Incl Mopeds) New & Used Sales	7	15	9
Warranties	7	8	11
Travel/Vacations	18	21	10
Air Travel Services (Airlines, Etc.)	19	15	11
Ocean Travel Services (Cruises & Ships)	6	5	7
Discounted Tickets - Travel/Entertainment	3	2	0
Hotels & Motels	13	11	13
Bed & Breakfast	2	3	3
Tour Services	10	5	9
Travel Clubs	0	0	0
Passports & Visas	0	0	0
Utilities	0	4	0
Gas Provider	2	0	1
Electric	1	0	0
Telephone/Cellular/Pagers	56	74	70
Water	0	0	1
Cable	2	4	10
Telecommunications/Electronic Devices	12	13	7
Dating Services	6	4	2
Investment/Financial	12	12	20
Chain Letter	0	0	0
Consumer Credit	13	19	5
Credit Card	61	61	50
Identity Theft	0	5	5
Checking Accounts	7	3	3

**2006 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Debit Accounts	1	4	1
Promissory Notes	0	1	1
Buying on Account	0	1	1
Information to Obtain Credit/Credit Cards	0	1	1
Discount Coupons/Books	4	3	3
Financial Institutions	9	4	11
Credit Reporting Agency	4	2	2
Credit Repair	4	1	1
Collection of Debts	7	6	6
Advance Fee Loans	1	1	1
Bank/Savings & Loan/Industrial Loan Companies	2	3	4
Escrow Services	1	1	0
Loan/Mortgages	12	12	20
Investment/Opportunity Scheme	6	13	5
MLM/Pyramids/Endless Chain Schemes	2	2	0
Referral Sales	1	0	0
Get Rich Programs	0	3	2
Work-at-Home Programs	7	5	3
Coins/Currency	1	4	4
Stocks & Bonds	1	1	8
Oil/Gas Lottery	0	0	1
Art	2	0	2
Securities	0	1	0
Tax Planning/Devices	2	0	0
Contract Sellers	2	0	0
Pawn Shops	1	1	2
Auctioneers	1	1	3
Second Hand Dealers	0	0	0
Real Estate	7	12	9
Sweepstakes/Lottery/Games of Chance	22	21	27
Contests	4	0	0
Gambling	0	0	0
Education/Information	22	6	7

**2006 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Schools (Elementary, High)	4	0	7
Degree Granting Schools	13	4	2
Unaccredited Degree Schools	40	18	252
Trade/Vocational Schools	2	0	3
Home Study	1	0	0
Correspondence Schools	0	0	0
Dance Schools	0	0	0
Modeling Schools	0	1	4
Day Care Centers	0	34	1
Employment	10	0	1
Resume Preparation	0	0	0
Modeling Agency	5	2	3
Regular Periodic Information Service	0	1	0
Magazine	14	8	9
Subscription Services	17	9	7
Newspaper	3	2	1
TV Broadcasting	1	5	1
Radio Broadcasting	2	0	1
Computer Information Services	17	19	15
Internet Transactions	455	587	344
Internet Fraud Complaint Center	-	-	339
Books/Encyclopedia	4	2	3
Self-Improvement Seminars	1	0	0
Encounter Group Therapy	0	0	0
Charitable Solicitations	4	7	4
Environmental Claims	0	0	3
Religious	1	0	0
Emergency: Prize/Freeze/Gouging/Rent Termination	0	0	0
Rent to Own	0	0	1
Elderly Issues	9	7	12
Civil Procedures/Statutory Constructions	0	1	0
Multistate Projects	13	9	9
Spamming	2	1	0

**2006 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
MS – Newspaper Advertisement	15	12	7
MS – Other Regular Printed Media Ad (Magazine, Etc.)	17	10	13
MS – Television/Cable	3	4	2
MS – Info Commercial	2	5	3
MS – Telemarketing	15	9	11
MS - 1-900 Numbers	0	0	0
MS – Direct Mail	9	6	11
MS – Information Brochure	2	0	0
MS – Response Card/Letter	1	1	0
MS – Home Presentation (Door-to-Door)	2	4	2
MS – Radio	1	0	0
MS – Product Show	0	0	0
MS – Information/"How To" Seminar	2	4	5
MS – Mail Order	17	9	22
<b>TOTAL COUNT</b>	<b>1,986</b>	<b>2,017</b>	<b>2,275</b>

**Table 6: OCP Neighbor Island Assistance FY 2006**

<b>DIVISION</b>	<b>HILO</b>	<b>MAUI</b>	<b>TOTAL</b>
Division of Financial Institutions	3	4	7
Business Registration	48	28	76
Cable Television	3	0	3
Insurance Division	14	3	17
Division of Consumer Advocacy	2	0	2
Professional & Vocational Licensing	36	32	68
Regulated Industries Complaints Office	202	114	316
Non-Departmental Related	110	124	234
Other DCCA Divisions	3	2	5
<b>TOTAL</b>	<b>421</b>	<b>307</b>	<b>728</b>



## PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)

website: [www.hawaii.gov/dcca/areas/pvl](http://www.hawaii.gov/dcca/areas/pvl)

e-mail address: [pvl@dcca.hawaii.gov](mailto:pvl@dcca.hawaii.gov)

### OVERVIEW

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations for 45 different professions and vocations. Twenty-five (25) licensing regulatory boards and commissions are administratively attached to DCCA/PVL, as well as twenty (20) 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 45 licensing areas. Additionally, PVL responds to phone inquiries on whether a person or entity is properly licensed, a service that can assist consumers in making a decision on whether or not to utilize the services of a licensed professional.

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 45 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://www.hawaii.gov/dcca/areas/pvl>. The website also includes a Geographic Report of current licensees by licensee type, by island, and by type of entity. It is updated periodically 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 Online Inquiry, a fully interactive site that enables the public to access the licensee roster online. The roster may be searched to confirm licensing by license name, license number, and other identifying information. Updates to the online information occur within 30 minutes of the update to the licensing database. Feedback received on the on-line roster indicates that the site benefits 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 Inquiry is [http://www.hawaii.gov/dcca/areas/pvl/e\\_services](http://www.hawaii.gov/dcca/areas/pvl/e_services).

This is the sixth 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. During Fiscal Year 2005-2006, 25,722 licensees renewed their licenses electronically. This represents 64.1% of the total number of licensees that could take advantage of the online service. Compared to the prior biennial renewal cycle of 2004 for these licensees, there was an increase in 2006, as Fiscal Year 2004 had only 10,635 licensees renew online,

representing 28.32% of the total number of licensees. While a fair share of renewals are still mailed in by licensees and manually processed by PVL, the division is hopeful that even more licensees will take advantage of online renewals in the future. In time, PVL hopes to be able to offer all licensing areas the opportunity to renew online. Online renewals are available at [http://www.hawaii.gov/dcca/areas/pvl/e\\_services](http://www.hawaii.gov/dcca/areas/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 and processes 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 issuing new licenses, 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 its continued validity and reliability, and advises boards on all technical aspects of examinations.

***Administration Branch (See Hawaiian Telcom Government Pages, State Offices, Page 11, second and third columns, Executive Offices for Boards/Commissions & Programs)*** serves as the liaison between the director of the department and the 25 boards, commissions, and 20 regulatory programs administratively attached to DCCA. On a daily basis, the Administration Branch 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 20 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 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://www.hawaii.gov/dcca/areas/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, 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 (Percentages) of License Renewals Online; Table 4: Total number of Website "Hits," and Table 5: Total Number of Email Inquiries.

## **GOALS, OBJECTIVES and ACCOMPLISHMENTS**

### *Customer Service*

PVL's involvement with the DCCA Customer Service Improvement Project while working in collaboration with the Department of Human Resources Development (DHRD), was a successful pilot project. The goal of the project was to provide the best possible customer service that PVL's Licensing Branch could provide to the public. The Licensing Branch assessed the quality of its customer service, identified possible areas for improvement, and designed and implemented actions/interventions. Evaluating the effectiveness of the actions/interventions will be done over the course of the following years.

PVL also showed significant improvements with the percentage for timely processing of licenses renewed and maintenance of a high percentage for timely processing of new licenses. The percentage of applicants licensed in an appropriate, timely manner in FY 05-06 was 96.5%. The percentage of licensees renewed in an appropriate and timely manner in FY 05-06 was 97.8%.

### *Improving/Expanding/Enhancing PVL's Online Services*

In pursuing the division's objective of improving and expanding online service offerings, PVL saw the number of online renewals increase for businesses and professionals. The December 2005 online renewal user rate was 58.09%, while the prior corresponding biennial user rate was 25.80%. Also, the June 2006 online renewal user rate was 57.83%, while the prior

corresponding biennial renewal user rate was 27.98%. Overall, the FY 06 renewal user rate was 64.10%, while the corresponding biennial FY 04 renewal user rate was 28.32%. PVL continues to better educate our licensees by informing them that their license renewals can be done online by distributing information to them via mail, email, press releases, and by posting renewal information on the respective web pages. In a couple of instances, literature was distributed at the respective industry associations, for distribution to their membership. Our goal continues to be to find as many means possible to encourage online use so that we may attain close to having 100% online renewal participation. Our performance will continue to be measured by the number of online renewals that occur during the biennial renewal cycles.

Our goals still include implementation of a 24/7 system to allow surety companies to submit insurance updates on contractor and pest control licenses, a Customer Appreciation Credit for all online renewals, improvement of the PVL List Builder online service, and an online system to allow individuals to update their PVL records online.

With regard to the 24/7 online system to allow surety companies the ability to submit insurance updates on contractor and pest control licensees, we have designed the system and will be rolling out the system by soliciting sureties to use the submittal system, overcoming and resolving surety concerns, increasing user rate via meetings, presentations, press releases, and informing licensees of the benefits in encouraging their surety to use the system. The performance of this project will be measured by the number of surety companies that participate, online submittals of insurance updates, and by the reduction of paper submittals received by PVL.

PVL implemented a 10% Customer Appreciation Credit (CAC) for online renewals 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. However, the CAC could only be offered to licensees eligible under section 92-28, HRS. During FY 06, the CAC allowed a savings of \$188,140 to affected licensees. Eligible licensees will receive this credit through FY 07. To ensure all licensees who renew online can receive the CAC, PVL is proposing to submit a bill to the 2007 Legislature to section 92-28, HRS, to allow all licensees renewing online, the ability to receive the discount. The performance of this project will be measured by the ability to afford the discount to all licensees and by the increase in our online renewal user rate.

On the issue of renewals, in April 2006, PVL began the development phase to add contractor renewals, effective September 2006, to the online renewal system. There was a substantial investment of time, effort, and technical knowledge between the PVL Staff, HIC, and ICSD. Coordination with the Tax department was also crucial to implementation of the renewal system. Contractor online renewals were set to go live on August 7, 2006. Also, effective June 2006, four new licensing types were added to the online renewal system. These were massage therapy establishments, pest control field representatives (active), pest control field representatives (inactive), and pest control operators (inactive). PVL's IT team had the vision to seek and be innovative to accommodate systems changes by adding these new license types to the online system.

As was mentioned in PVL's overview, the number of online renewals for licensees had increased considerably. One of the reasons for the increase was a successful April 2006 renewal,

where the online renewal user rate for Engineers, Architects, Surveyors, and Landscape Architects (EASLA) was 94.35%. The prior corresponding biennial renewal user rate was 37.77%. This increase was due to a pilot program where, instead of sending out the renewal form, we notified the EASLA licensees by postcard, to renew online. It was still an option to request the renewal forms so one could file manually, but we promoted the 10% CAC discount for online renewals. EASLA was selected for this pilot project because they were the highest in user rates over the years and thought to be adaptable to using the online renewal system. EASLA licensees responded favorably to this process, generating the highest online user rate to date.

PVL continues to improve the PVL List Builder Online Service. This twenty-four hour service allows the public to obtain lists of licensees from PVL's database that is updated daily. The customized lists can be based on license type, license status, geographical criteria, and other factors. As compared to the number of lists built in FY 05 (245), FY 06 had 278 lists built. Enhancements are an on-going activity. The performance of this project will be measured by user feedback and the number of lists built over the prior years.

PVL continues to explore an online system to allow individuals to update their PVL records online, such as allowing them to make an address change or a name change. To some extent, we have incorporated address changes into the online renewal process which have made things easier for licensees. There are, however, licensing areas which do not renew online, and therefore, a separate online system for address changes could still be warranted. PVL will continue to explore this issue.

#### *Legislative Initiatives*

Pursuant to Act 121, SLH 2005, in July 2005, the Board of Dental Examiners (BDE) officially adopted the American Board of Dental Examiners (ADEX) examination as the licensing examination for dentists, therefore terminating the State Constructed Examination (SCE). It took six years of earnest effort for the BDE and PVL staff to ensure adoption of a national licensing examination in place of the SCE.

In addition, PVL had a successful 2006 Legislative Session. The Legislature supported all changes proposed by the PVL Administration relating to: inactive status for professional and vocational licensees, principal private detectives and guards, mental health counselors, and nurse licensure.

Act 49 amended the Professional and Vocational Licensing chapter by providing a mechanism for licensing areas to opt in for inactive status if their licensing laws did not currently allow it. By a simple process, this Act empowers licensing authorities to allow licensees to go on inactive status when they are currently not engaged in the practice of their profession or vocation, and to allow licensees to reactivate their licenses. An inactive status is a means of providing an alternative licensing status that accommodates special circumstances that may fall upon a licensee, and which would result in paying lower fees to maintain the license. Act 49 takes effect on January 1, 2007.

Act 13 amended the Private Detectives and Guards licensing chapter by repealing the requirement that principal detectives and principal guards must be residents of the State to qualify for licensure, due to constitutional concerns. Subsequently this opened the door for out-of-state private detectives and guards to apply for licensure. The Act also provides the flexibility for an agency to hire more than one principal private detective or guard. Act 13 took effect on April 24, 2006.

Act 14 amended the Mental Health Counselors licensing chapter by amending the definition of the “practice of mental health counseling” and clarifying licensing requirements to improve the regulation of mental health counselors. Act 14 took effect on April 24, 2006.

Act 30 amended the Nurses licensing chapter by adding automatic forfeiture of a license that is not timely renewed or for failure to comply with other licensing requirements; establishing a two year restoration period and conditions for restoration of a license; providing for inactive license status and reactivation of an inactive license; and authorizing the Board of Nursing to specify continuing education requirements as an alternative proof of competency for a nurse who has not actively practiced in a United States jurisdiction for more than five years. Act 30 took effect on April 26, 2006.

PVL would also like to mention the passage of the Regulated Industries Complaints Office’s administration bill, Act 186, relating to Electricians. PVL’s Board of Electricians and Plumbers and Contractors License Board, and PVL’s staff contributed significantly to the passage of the Act. The Act strengthens the enforcement provisions of the electrician and plumber licensing law. Act 186 took effect on June 13, 2006.

#### *Real Estate Branch Education Programs*

PVL’s objectives include improving the Real Estate Branch’s (REB) offering and delivery of prelicensing and continuing education courses. On the condominium side, this includes enhancement to on-line public access to condominium projects and AOA/O registrations, and for the newly enacted condominium law, the development and implementation of a new registration program for condominium projects and a comprehensive education program for the condominium community and developers. For a comprehensive report on the tasks associated with the goals and objectives of the Real Estate Branch and the Real Estate Commission, please refer to <http://www.hawaii.gov/dcca/areas/real/main/reports> to view their Annual Report for fiscal year ending June 30, 2006.

The REB and the Real Estate Commission’s (REC) 2006 legislative participation fine tuned the recodified condominium law (Act 273) passed by the 2004 and 2005 legislatures. Educational sessions on this new recodified condominium law (Chapter 514B, HRS) were provided and directed to those impacted, namely condominium owners, boards of directors of the Association of Apartment Owners, managing agents, real estate licensees, developers, and other related professionals. The REC also initiated the Consumer-Broker Relationships Ad Hoc Committee (CBRAHC) to review and study Hawaii’s current laws and rules on this topic. Further, the REC enhanced its website to provide real estate related consumer resources.

*Financial Overview*

The CRF financial summary relating to PVL for FY 05-06 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,489,153	\$958,315	\$4,447,468	\$5,505,513

**CONCLUSION**

PVL continues to forge ahead with its initiatives to improve accessibility to licensing services and information, and to deregulate and streamline the licensing process without compromising consumer protection. PVL is committed to working with licensees and the public to achieve the optimum balance between thoughtful and fair regulation, and consumer protection. In these difficult economic times, 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.

**Table 1: PVL Statistical Overview**

	FY 04-05	FY 05-06
No. of applications received	16,849	17,232
No. of applicants licensed	12,166	14,735
No. of licenses renewed	58,730	46,958
No. of changes processed	205,791	206,591
No. of calls received by Licensing Branch	109,526	86,594
No. of current licensees	121,059	126,869
Total licensee population (all statuses - i.e. Current, forfeited, delinquent)	274,604	289,737

**Table 2: Total Number of Current PVL Licensees**

Boards and Commissions (shown by asterisk *), and Programs	FY 04-05	FY 05-06
Accountants*	2,560	2,507
Activity Desks	709	677
Acupuncturists*	566	571
Barbering and Cosmetology*		
Barbers	1,167	1,165
Barber Shops	209	199

**2006 Compliance Resolution Fund Report**

**Professional and Vocational Licensing Division (PVL)**

<b>Boards and Commissions (shown by asterisk *), and Programs</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Beauty Operator*	6,832	6,823
Beauty Instructor	78	78
Beauty School	8	9
Beauty Shops	1,184	1,145
Boxing (all categories)*	55	14
Cemeteries and Pre-Need Funeral Authorities	23	24
Chiropractors*	610	583
Collection Agencies	428	498
Contractors*	10,017	10,849
Dentists*	1,326	1,442
Dental Hygienists	776	784
Dispensing Opticians	152	176
Electricians (all categories)*	2,533	2,446
Plumbers (all categories)*	960	1,005
Electrologists	17	17
Elevator Mechanics*	202	207
Employment Agencies	89	96
Engineers, Architects, Surveyors, and Landscape Architects:*		
Engineers	4,808	4,748
Architects	2,105	2,042
Surveyors	185	184
Landscape Architects	142	135
Hearing Aid Dealers & Fitters	94	88
Marriage and Family Therapists (established 12/31/98)	121	144
Massage Therapists*	5,743	6,508
Massage Establishments	655	755
Medical and Osteopathy*		
Mental Health Counselor		157
Physicians	7,285	7,291
Podiatrists	78	78
Osteopaths	465	548
Physician Assistants	116	123
Emergency Medical Technicians	435	454
Mobile Intensive Care Technicians	357	359



**2006 Compliance Resolution Fund Report**

**Professional and Vocational Licensing Division (PVL)**

<b>Boards and Commissions (shown by asterisk *), and Programs</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Mortgage Brokers	456	581
Mortgage Broker Branch Offices	102	140
Mortgage Solicitors	3,482	6,071
Motor Vehicle Dealers*	254	290
Motor Vehicle Salespersons	1,938	2,091
Motor Vehicle Repair Dealers*	1,001	924
Motor Vehicle Mechanics	2,344	2,098
Naturopaths*	89	85
Nursing*		
Registered Nurses (RN)	16,415	16,395
Licensed Practical Nurses (LPN)	2,983	2,703
Advanced Practice Registered Nurse (APRN)	717	762
APRN with Prescriptive Authority (established 10/24/98)	146	134
Nurse Aides	10,685	9,001
Nursing Home Administrators	124	132
Occupational Therapists (established 1/1/99)	406	491
Optometrists*	352	352
Pest Control Operators*	161	179
Pest Control Field Representatives.	157	217
Pharmacists*	1,681	1,692
Pharmacies	221	222
Wholesale Prescription Drug Distributors	62	59
Miscellaneous Permit	246	242
Physical Therapists*	982	1,126
Port Pilots	9	9
Deputy Port Pilots	3	3
Private Detective Agencies*	31	35
Private Detectives	113	120
Guard Agencies	57	68
Guards	86	95
Psychologists*	669	713
Real Estate Appraisers (all)	418	457
Real Estate Brokers*	5,616	5,994
Real Estate Salespersons	11,961	14,496
Real Estate Branch Offices	102	117

**2006 Compliance Resolution Fund Report**

**Professional and Vocational Licensing Division (PVL)**

<b>Boards and Commissions (shown by asterisk *), and Programs</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Condominium Hotel Operators	16	19
Social Workers (established 7/1/95)	1,409	1,551
Speech Pathologists*	464	433
Audiologists	55	58
Travel Agencies	1,478	1,313
Veterinarians*	351	371
<b>TOTAL</b>	<b>120,932</b>	<b>126,768</b>

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

<b>License Types</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Accountant		809 (35%)		1,755 (75.1%)
Activity Desk		50 (19.6%)		60 (26.3%)
Acupuncturist	139 (30.55%)		202 (40.97%)	
Architect		605 (35.07%)		1,778 (93.73%)
Audiologist		20 (41.7%)		23 (46%)
Barber		88 (8.9%)		341 (32.1%)
Barber Shop		4 (2.2%)		45 (25.1%)
Beauty Operator		873 (15.5%)		2,697 (46%)
Beauty Instructor		10 (17.9%)		42 (60.9%)
Beauty Shop		101 (10.6%)		401 (40.8%)
Chiropractor		125 (23.5%)		279 (54.6%)
Dental Hygienist		157 (22.7%)		507 (70.2%)
Dentist		294 (23.2%)		828 (62.5%)
Dispensing Optician		31 (26.96%)		86 (60.14%)
Electrologist	4 (26.67%)		4 (23.53%)	
Elevator Mechanic		47 (25.41%)		70 (38.67%)
Emergency Medical Technician (basic)		128 (35.9%)		356 (86.2%)
Emergency Medical Technician (paramedic)		131 (40.8%)		271 (79.2%)
Hearing Aid Dealer and Fitter		18 (24.3%)		29 (37.7%)
Landscape Architect		35 (30.17%)		122 (92.42%)
Land Surveyor		72 (41.86%)		170 (94.97%)
Marriage and Family Therapist			38 (40%)	
Massage Establishment				323 (59.48%)

**2006 Compliance Resolution Fund Report**

**Professional and Vocational Licensing Division (PVL)**

<b>License Types</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Massage Therapist		1,308 (29.03%)		3,581 (65.86%)
Mortgage Broker	68 (33.01%)		142 (44.24%)	
Mortgage Solicitor	344 (28.29%)		861 (49.63%)	
Motor Vehicle Consumer Consultant		3 (42.86%)		1 (20%)
Motor Vehicle Salesperson		195 (17.4%)		590 (44.56%)
Naturopath		31 (40.3%)		62 (83.8%)
Nurse, Advanced Practice Registered (APRN)	162 (32.08%)		354 (57.1%)	
Nurse, Licensed Practical (LPN)	640 (27.75%)		1,250 (55.04%)	
Nurse, Registered (RN)	4586 (37.26%)		8,420 (62.26%)	
Nursing Home Administrator		34 (29.82%)		53 (45.69%)
Occupational Therapist	74 (27.82%)		135 (41.8%)	
Osteopath		141 (37.5%)		307 (73.44%)
Pest Control Field Representative				106 (72.6%)
Pest Control Operator (inactive status only)				1 (12.5%)
Pharmacist		648 (41.7%)		1,296 (79.7%)
Pharmacy		33 (15.8%)		109 (50.9%)
Pharmacy – Misc. Permit		20 (11.9%)		57 (30.2%)
Pharmacy – Wholesale Prescription Drug Dist.		17 (30.9%)		21 (40.4%)
Physical Therapist	236 (30.49%)		378 (43%)	
Physician		2,039 (34.1%)		4,130 (64%)
Plumber		171 (19.86%)		239 (26.41%)
Podiatrist		23 (33.8%)		33 (46.5%)
Professional Engineer		1,648 (38.9%)		4,276 (94.64%)
Psychologist		218 (36.97%)		312 (46.49%)
Real Estate Broker	1,384 (28.41%)		1,982 (39.34%)	
Real Estate Salesperson	2,507 (29.63%)		4,441 (44.08%)	
Social Worker		338 (34.6%)		
Speech Pathologist		94 (25.3%)		137 (38.1%)
Veterinarian		76 (24.68%)		228 (68.06%)
<b>TOTAL</b>	<b>10,144 (32.32%)</b>	<b>10,635 (28.32%)</b>	<b>18,207 (52.07%)</b>	<b>25,722 (64.1%)</b>

**Table 4: Total Number of Website “Hits”**

<b>Boards and Programs</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Accountancy	32,780	24,615

**2006 Compliance Resolution Fund Report**

**Professional and Vocational Licensing Division (PVL)**

<b>Boards and Programs</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Activity Desk	3,518	1,325
Acupuncture	8,373	3,695
Barbering and Cosmetology	34,155	23,296
Boxing	1,769	868
Cemetery and Pre-Need Funeral Authority	3,737	725
Chiropractor	13,411	6,153
Collection Agency	6,468	2,398
Contractor	129,990	88,022
Dentist and Dental Hygienist	33,886	28,570
Dispensing Optician	4,335	583
Electrician and Plumber	15,395	14,444
Electrologist	3,005	214
Elevator Mechanic	4,527	362
Employment Agency	4,202	640
Engineer, Architect, Surveyor, and Landscape Architect	59,502	43,569
Hearing Aid Dealer and Fitter	2,811	334
Marriage and Family Therapist	11,832	6,184
Massage Therapy	34,367	30,151
Medical and Osteopathy	75,842	53,190
Mental Health Counselor	6,664	8,006
Mortgage Broker and Solicitor	51,443	40,077
Motor Vehicle Industry	13,148	6,626
Motor Vehicle Repair	8,186	3,337
Naturopathy	3,507	847
Nurse Aide	2,362	1,829
Nursing	108,800	99,125
Nursing Home Administrator	4,665	1,348
Occupational Therapist	4,547	1,872
Optometry	10,247	2,340
Pest Control	9,571	3,522
Pharmacy and Pharmacist	35,018	26,827
Physical Therapy	15,952	12,432
Private Detective and Guard	11,439	4,593
Professional Vocational Licensing (PVL)	196,510	280,636
Psychology	13,394	8,088

<b>Boards and Programs</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Real Estate	679,159	296,279
Real Estate Appraiser	34,598	25,635
Social Worker	15,974	6,712
Speech Pathology and Audiology	4,350	1,639
Subdivision	2,292	1,262
Time Share	8,071	3,984
Travel Agency	7,451	3,779
Veterinary	5,835	2,005
<b>TOTAL</b>	<b>1,738,169</b>	<b>1,172,138</b>

**Table 5: Total Number of Email Inquiries**

<b>Boards and Programs</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Accountancy	532	647
Activity Desk	32	13
Acupuncture	116	115
Barbering and Cosmetology	260	452
Boxing	0	0
Cemetery and Pre-Need Funeral Authority	28	12
Chiropractor	208	298
Collection Agency	56	98
Contractor	476	776
Dentist and Dental Hygienist	323	431
Dispensing Optician	11	13
Electrician and Plumber	110	113
Electrologist	4	2
Elevator Mechanic	0	2
Employment Agency	6	9
Engineer, Architect, Surveyor, and Landscape Architect	599	707
Exam Branch	63	52
Hearing Aid Dealer and Fitter	6	10
Marriage and Family Therapist	139	188
Massage Therapy	391	566
Medical and Osteopathy	653	1,117
Mental Health Counselor	134	90

**2006 Compliance Resolution Fund Report**

**Professional and Vocational Licensing Division (PVL)**

<b>Boards and Programs</b>	<b>FY 04-05</b>	<b>FY 05-06</b>
Mortgage Broker and Solicitor	256	352
Motor Vehicle Industry	83	96
Motor Vehicle Repair	39	65
Naturopathy	28	29
Nurse Aide	23	44
Nursing	1453	1,872
Nursing Home Administrator	12	22
Occupational Therapist	34	84
Optometry	93	124
Pest Control	36	17
Pharmacy and Pharmacist	622	669
Physical Therapy	678	786
Private Detective and Guard	63	96
Psychology	238	256
Professional Vocational Licensing (PVL)	924	663
Real Estate	8,854	9,795
Real Estate Appraiser	466	461
Social Worker	209	164
Speech Pathology and Audiology	51	102
Time Share	337	571
Travel Agency	54	55
Veterinary	77	122
<b>TOTAL</b>	<b>18,789</b>	<b>22,156</b>

## REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)

website: [www.hawaii.gov/dcca/rico](http://www.hawaii.gov/dcca/rico)

e-mail address: [rico@dcca.hawaii.gov](mailto: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, 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.<sup>11</sup> 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, Intake and Alternative Dispute Resolution)*

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](http://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 or OCP.

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.

---

<sup>11</sup> See, Section 26-9, and 26H-4, Hawaii Revised Statutes.

Mediation has been integrated into RICO's case handling system. Cases are evaluated based upon factors such as the type and severity of the alleged licensing law violation, the severity of the dispute, and the complaints history of the respondent. Since its inception, over half of the cases referred and concluded through this initial mediation path have been successful. This service is now available on Kauai, Maui, Hilo and Kona, as well as in Honolulu.

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 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.ehawaii.gov/org/serv/cms](http://www.ehawaii.gov/org/serv/cms). 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.

This year, the Consumer Resource Center was selected as the Department's Team of the Year.

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

### ***Field Investigation***

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 can be 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).

As a result of the enforcement work of the division, during the past fiscal year, RICO issued 124 citations for unlicensed activity, and 164 judgments (based on lawsuits or consent judgments or citation orders) were entered for unlicensed activity. 70 Petitions for Disciplinary Action and 80 Settlement Agreements were filed in cases involving licensees, and 64 Complaints for Injunctive Relief and 53 Consent Judgments were filed in cases involving unlicensed activity. 163 Board orders were entered against licensees, including 30 revocation orders, 7 suspension orders, 7 voluntary surrenders, and 5 probation orders. \$1,117,597 were assessed in fines.

*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. SCAP handled 80 cases (compared to 77 cases last year) and helped consumers recover over \$919,000 during the year.

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.

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.

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 increased training for staff, increased staffing, database enhancements, and streamlined report writing.

## **ACCOMPLISHMENTS**

*Electrical and Plumbing Task Force:* S.C.R. 49 S.D. 1 and S.R. 24 S.D. 1 called for the creation of a Task Force on Enforcement of the Electrical and Plumbing Licensing Laws. The task force consisted of the IBEW Local 1186, Plumbers-Fitters Local 675, Electrical Contractors Association of Hawaii, Plumbers and Mechanical Contractors Association of Hawaii, the Board of Electricians and Plumbers and RICO. Through a series of meetings, the Task Force explored and made recommendations on a number of initiatives, such as providing more information to licensees at the time of renewal, more public education about unlicensed activity, additional staffing of RICO investigators, and statutory changes, such as Act 186.

*Legislation to enhance Chapter 448E:* As a result of Task Force discussions, the division proposed legislation relating to Chapter 448E that strengthens the laws relating to unlicensed activity and to aiding and abetting unlicensed activity in the context of electrical and plumbing work. This legislation became Act 186.

*Cosmetology Compliance Check:* In 2006, RICO's field investigators participated in a compliance check of most of the nail salons in the Honolulu area, primarily to raise awareness of the licensing law and to check for licensing law violations.

*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 BIA presentations about remodeling issues and has participated in a number of home shows including the Maui Home Show and the BIA Home Show and through presentations to a number of industry groups. At

the same time, in response to questions from the public, RICO prepared and placed online a Cosmetology consumer brochure that explains what to look for when hiring a beauty professional such as a nail technician.

*Case Processing:* RICO continues its effort to ensure that cases are timely investigated and prosecuted. With the successful completion of aged cases during FY05, the focus in FY06 was to adopt policies and strategies that facilitate efficient and effective investigations and prosecutions. Additional refinements were made to RICO investigative reports and settlement agreements, and both of these initiatives have translated into faster case processing, more focus on cases with serious violations and a larger number of enforcement actions.

*UBI Project:* Throughout FY06, RICO has been working with a vendor on the Uniform Business Information Project (UBI) to implement enhancements to its database system. These enhancements provide more immediate and effective sharing of information from the licensing and business registration division databases to the database used by RICO, and sets the framework for greater uniformity between the various databases in use by the department.

The CRF financial summary relating to RICO for FY 05-06 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
3,684,115	\$611,140	\$4,295,255	\$4,476,522

### **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**

	2005	2006
Requests for Complaints History	80,349	60,700+
Complaint Inquiries & Forms issued	17,784	16,287+
<b>TOTAL</b>	<b>98,133</b>	<b>76,987+</b>

+Reflects increased use of the Internet to obtain prior complaints information and complaint forms.

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

Board, Commission, or Program	2004	2005	2006
Accountants	7	17	5
Activity Desks	3	6	10
Acupuncturists	6	3	3
Barbers & Cosmetologists	119	79	85
Boxing	2	1	6
Cemeteries and Pre-Need Funeral Authorities	18	11	5
Chiropractors	3	1	7
Collection Agencies	21	25	14
Contractors	344	489	457
Dentists and Dental Hygienists	12	14	14
Dispensing Opticians	3	0	2
Electricians & Plumbers	11	20	34
Electrologists	0	0	0
Elevator Mechanics	0	0	0
Employment Agencies	0	2	1
Engineers, Architects, Surveyors and Landscape Architects	17	19	30
Hearing Aid Dealers & Fitters	2	1	4
Marriage and Family Therapists (established 12/31/98)	1	0	0
Massage Therapists	89	69	81
Medical (including Osteopathy)	94	110	135
Mortgage Brokers & Solicitors	21	20	29
Motor Vehicle Industry	71	115	51
Motor Vehicle Repair	66	81	43
Naturopaths	4	4	2

**2006 Compliance Resolution Fund Report**

**Regulated Industries Complaints Office (RICO)**

Nursing	20	34	25
Nursing Home Administrators	1	1	2
Occupational Therapist	2	0	0
Optometrists	2	1	1
Pest Control	11	9	5
Pharmacy	14	5	22
Physical Therapists	1	2	4
Pilotage	0	0	0
Private Detectives & Guards	5	3	4
Psychologists	4	7	6
Real Estate Appraisers	3	7	6
Real Estate (including Condominiums)	87	150	127
Social Workers	1	0	0
Speech Pathologists & Audiologists	0	0	0
Subdivision	1	1	0
Time Share	4	6	4
Travel Agencies	285	66	32
No Rules Combat	13	18	29
Veterinarians	11	7	7
	1,379*	1,406*	1292*

\*Does not include investigations closed or referred at intake level.

**Table 3: Assistance Provided to the Public for other DCCA divisions by Neighbor Island RICO Offices in FY 2006**

DIVISION	HILO	KAUAI	KONA	MAUI	TOTAL
Division of Financial Institutions	19	31	0	6	56
Business Registration	697	582	1113	550	2942
Cable Television	1	7	0	2	10
Insurance Division (+ MVID)*	51	39	21	12	123
Division of Consumer Advocacy	25	17	1	1	44
Professional & Vocational Licensing	780	426	1285	622	3113
Office of Consumer Protection	319	495	370	215	1399
Non-Department Related	596	596	309	243	1744

<b>Totals</b>	<b>2488</b>	<b>2193</b>	<b>3099</b>	<b>1651</b>	<b>9431</b>
---------------	-------------	-------------	-------------	-------------	-------------

Numbers include requests from the public for information or assistance by telephone, walk-ins, or letter. \* MVID: Motor Vehicle Insurance Division

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

	SCAP COMPLAINTS
<b>BMW</b>	<b>1</b>
<b>DAIMLER CHRYSLER</b>	<b>12</b>
<b>FORD</b>	<b>10</b>
<b>GM</b>	<b>12</b>
<b>HONDA</b>	<b>7</b>
<b>HYUNDAI</b>	<b>2</b>
<b>ISUZU</b>	<b>1</b>
<b>KIA</b>	<b>6</b>
<b>MAZDA</b>	<b>3</b>
<b>MERCEDES-BENZ</b>	<b>5</b>
<b>MINI</b>	<b>1</b>
<b>NISSAN</b>	<b>11</b>
<b>SUBARU</b>	<b>2</b>
<b>TOYOTA</b>	<b>5</b>
<b>VOLKSWAGEN</b>	<b>1</b>
<b>VOLVO</b>	<b>1</b>
<b>Total Cases</b>	<b>80</b>
Cases Arbitrated*	41
Cases Settled	36
Cases Withdrawn/Dismissed	3
Total Refunded to Consumers	>\$919,000

\*Of the cases arbitrated, 21 arbitrations were in favor of the manufacturer and 20 cases were in favor of the consumer.