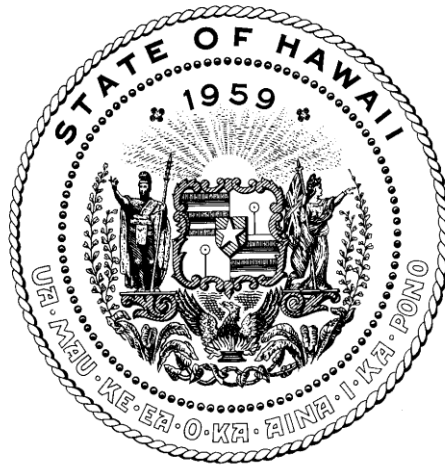


Annual Compliance Resolution Fund Report



**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII
SUBMITTED DECEMBER 2021**

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INTRODUCTION

The Department of Commerce and Consumer Affairs (DCCA or Department) submits its Annual Compliance Resolution Fund (CRF) Report pursuant to Hawaii Revised Statutes (HRS) section 26-9(o). The report describes the use of the CRF for the fiscal year (FY) beginning July 1, 2020, and closing June 30, 2021, by presenting an overview of the functions and activities of core DCCA programs funded by the CRF. In addition, the report provides a financial summary of expenditures from the CRF, including personnel and operating expenses and revenues received.¹ The report complies with Act 100, Session Laws of Hawaii (SLH) 1999, which requires all state departments and agencies to identify their goals, objectives, and policies to provide a basis for determining priorities and allocating limited public funds and human resources.

As a special-funded department, the DCCA's primary funding source is the CRF, and the Department relies upon the fees and fines assessed by its programs instead of general tax revenues. Pursuant to HRS section 26-9(o), fees shall be assessed and deposited into the CRF for issuance of a license, permit, certificate, registration, and subsequent renewals, together with all other fines, income, and penalties collected or reimbursement of costs or attorneys' fees assessed from actions brought by the Department. The director of the DCCA may use the moneys in the CRF to employ and train hearings officers, investigators, attorneys, accountants, and other necessary personnel for CRF-funded operations, and the CRF shall defray all other administrative costs, including costs to operate the supporting offices of the DCCA. The CRF may also fund any other activity relating to compliance resolution.

"Compliance resolution" is defined in HRS section 26-9(o) and means a determination of whether:

- (1) Any licensee or applicant under any chapter subject to the jurisdiction of the DCCA has complied with that chapter;
- (2) Any person subject to HRS chapter 485A has complied with that chapter;
- (3) Any person submitting any filing required by HRS chapter 514E or HRS section 485A-202(a)(26) has complied with that chapter or section;
- (4) Any person has complied with the prohibitions against unfair and deceptive acts or practices in trade or commerce; or
- (5) Any person subject to HRS chapter 467B has complied with that chapter;

and includes work involved in or supporting the above functions, licensing, or registration of individuals or companies regulated by the Department, consumer protection, and other activities of the Department.

¹ The CRF summary figures in this report are pre-close numbers.

OFFICE OF THE DIRECTOR

OVERVIEW AND COMPOSITION

The Office of the Director (Director's Office) provides general policy and administrative leadership in supervising and coordinating various department activities. The Director's Office also includes the **Hawaii Post-Secondary Education Authorization Program**, which authorizes accredited post-secondary degree-granting institutions to operate in the State, and the **Personnel Office**, which provides personnel management services to the Department.

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| | |
|------------------|--|
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GOALS AND OBJECTIVES

The Department's goals and objectives are detailed in the report sections of each division² and summarized below:

- Ensure effective and timely oversight of regulated industries and greater promotion of consumer education by providing the Department's divisions with adequate resources to carry out their responsibilities.
- Improve and upgrade existing operating systems and technologies the Department uses to advance its capabilities in responding to consumer issues and helping businesses navigate the regulatory environment.
- Provide transparency and accountability in the Department's operations.
- Improve the regulatory environment for businesses and consumers by collaborating with other agencies to provide effective and efficient regulation, as well as safe and appropriate economic development.

² The Public Utilities Commission (PUC or Commission) is funded by the PUC Special Fund pursuant to HRS section 269-33 and not in any part by the CRF. HRS section 269-5 requires the Commission to submit its own annual report to the Legislature. Please see the 2021 Public Utilities Commission Annual Report for information on PUC operations.

**ACCOMPLISHMENTS OF THE DIRECTOR'S OFFICE AND
INFORMATION SYSTEMS AND COMMUNICATIONS OFFICE IN FY 2021****Consumer Education Program**

The Consumer Education Program (CEP) provides the community with various information relating to consumer protection.

In March 2021, the CEP sponsored a public virtual event to celebrate the 17th Annual National Consumer Protection Week Fair. This week-long event featured consumer appropriate topics presented via Microsoft Teams by five organizations: Identity Theft Resource Center, State Health Insurance Assistance Program, Social Security Administration, Office of Consumer Protection and the U.S. Postal Inspection Service. Representatives from the organizations delivered presentations and addressed questions about identity theft, Medicare fraud, social security, COVID-19 scams and mail scams.

During the pandemic, the CEP made its information available to consumers electronically via the DCCA's website and other social media. As an example, "Consumer Wise Wednesdays" is a weekly post on Facebook and Twitter that provides tips on a gamut of consumer issues, such as identity theft, condominium owners' rights and responsibilities, and hurricane preparedness.

The CEP also offers two consumer education publications in hard copy and on the DCCA website. The first, the Military Consumer Fraud Guide, is a 44-page booklet that offers comprehensive guidelines to protect against fraudulent activities, as well as necessary information for military families to live and work in the State. The guide provides information about consumer topics that often affect Hawaii's military community, including housing, buying a car, payday lending, and identity theft. It also explains laws and regulations governing professional licensure and starting a business in Hawaii. Information in the publication is being updated to reflect changes resulting from the 2021 legislative session. The second publication, the Consumer Guide to Healthcare Providers, is a 14-page booklet that focuses on issues relating to Hawaii's health care providers. It provides descriptions of the health care provider licenses issued by the DCCA; contact information for the health care provider boards and programs; tips on how to select a health care provider; and information on how to resolve health care concerns or complaints.

The CEP continues its partnerships with the Consumer Financial Protection Bureau, the Federal Trade Commission, the U.S. Postal Service, and other national and local agencies to increase the amount of helpful consumer information disseminated in the State.

Hawaii Post-Secondary Education Authorization Program

In FY 2021, HPEAP issued a new school authorization for America Evangelical University-Hawaii. Two of its authorized schools closed: Babel University Professional School of Translation and Asia Graduate School of Theology (Pacific). HPEAP continues to issue transcripts for former students of Argosy University – Hawaii, which closed in 2019, Heald College Honolulu, which closed in April 2015, and World Medicine Institute, which closed in April 2018.

HPEAP is the designated state portal entity for the State Authorization Reciprocity Agreement (SARA). SARA is an agreement among member states that establishes comparable national standards for interstate offering of post-secondary education distance courses. In FY 2021, HPEAP added Touro University Worldwide, Windward Community College, and University of Hawaii Maui College to its list of SARA institutions.

A disciplinary action was taken against a formerly-authorized institution, World Medicine Institute. It was resolved with a settlement agreement, and the institution has closed.

HPEAP continues to work with stakeholders, including the U.S. Department of Education and accrediting agencies, to ensure that Hawaii schools and students will continue to fully participate in and benefit from Title IV programs.

Office of the Director's Legislative Coordination

In FY 2021, the Director's Office, including multiple DCCA administrative services and support offices, oversaw the Department's legislative activities concerning budgetary, fiscal, personnel, and administrative matters. The Director's Office assisted with the legislative operations of each division and liaised with other state departments, agencies, branches of government, and community and business groups on legislative matters.

During the Regular Session of 2021, the Department submitted 396³ testimonies and comments and recommendations pertaining to consumer and commerce matters. In addition, the Department supported various nominees for the boards and commissions attached to the DCCA. Due to the COVID-19 pandemic, the legislative session was suspended on March 17, 2020, and reconvened on May 11, 2020, to focus on stabilizing the state budget and budget-related bills in anticipation of a massive shortfall in state revenues. Several of the Department's legislative proposals, which were introduced as part of the Governor's administration package, received favorable consideration by the Legislature and were enacted.

Following the adjournment of session, the Department's legislative coordinator/government affairs attorney continued to support the DCCA in implementing legislative directives and coordinating departmentwide activities for the 2021 legislative session.

³ This total does not include testimonies submitted by the PUC.

Information Systems and Communications Office

The Information Systems and Communications Office (ISCO) assists the Department with information technology hardware, software, and custom programming support, departmental website support, and telephone and other communication services support.

During FY 2021, ISCO continued support for telework flexibility, supporting the Department's strategic initiatives and enabling its effective function during the pandemic. ISCO has worked extensively to improve security, including implementing multi-factor authentication and single sign-on for employees across various systems.

In addition, ISCO assisted with multiple enterprise projects, including: replacing the Application/Licensee Integrated Automated System and the MyPVL portal for the Professional and Vocational Licensing Division; replacing the Business Registration Information Management System and Registration Documents Processing Management System for the Business Registration Division; defining a new Salesforce system for the Captives branch of the Insurance Division; replacing the Hawaii Insurance Division System (HIDS), and developing a new Salesforce application to support responses to constituents. DCCA's MyPVL project is the first in the state to launch a production system implementing "federated login," the State CIO's vision to provide users with unified access to State web portals with a single user id and password.

CRF FINANCIAL SUMMARY FOR FY 2021

The following is the Department's CRF financial summary for FY 2021:

| Personnel Expenses | Operating Expenses | Total Expenses | Revenues Received |
|--------------------|--------------------|----------------|-------------------|
| \$38,219,581 | \$9,678,586 | \$47,898,167 | \$52,966,536 |

As a special-funded department, the DCCA requires that revenue-generating divisions secure revenues to cover their expenses and contribute equitably to overhead costs, while ensuring that they can address anticipated major improvements and expenditures and maintain adequate reserves. Maintaining an adequate reserve ensures fund solvency and continuation of mandatory public services. Since the onset of the CRF, the Department's primary fiscal goal has been to implement this strategy through conservative spending and adjusting its expenses to align with projected revenues. Accordingly, the Department's financial planning accounts for current FY year expenses, as well as future major projects and expenditures.

The DCCA anticipates incurring additional expenses to CRF accounts in the amount of \$2,000,000 in FY 2021, and an additional \$1,000,00 in FY 2022, for the following facilities improvement projects:

- Replacement of building cooling towers;
- Repair of roof damage sustained by Hurricane Lane; and
- Repair of supporting columns.

In addition, if the Department is successful in obtaining a pre-disaster mitigation grant from the Federal Emergency Management Agency, it will be required to provide matching funds.

The following is the Director's Office's (includes the Administrative Services Office, CEP, HPEAP, ISCO, Office of Administrative Hearings, and Personnel) CRF financial summary for FY 2021:

| Personnel Expenses | Operating Expenses | Total Expenses | Revenues Received |
|--------------------|--------------------|----------------|-------------------|
| \$5,616,573 | \$2,987,668 | \$8,604,241 | \$959,661 |

BUSINESS REGISTRATION DIVISION

OVERVIEW AND COMPOSITION

The Business Registration Division (BREG) has three primary functions: (1) ministerial business registration, processing, and maintenance of business registration documents for public access, including corporations, general and limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies, cooperatives, trade names, trademarks, service marks, and publicity rights; (2) one-stop assistance to businesses applying for state business and employer registrations and state taxpayer IDs; and (3) regulatory oversight over the securities industry and franchises in the State in the following areas: registration of broker-dealers, securities agents, investment advisers, investment adviser representatives, investment companies, and securities and franchise offerings for sale in the State; field examinations of broker-dealers and investment advisers in the State; review of securities and franchise offerings for sale in the State; and enforcement of the Hawaii Uniform Securities Act and the Hawaii Franchise Investment Law. BREG also conducts statewide outreach through its Investor Education Program, which provides free presentations and resources relating to investment fraud protection.

Contact information:

| | |
|----------------------------------|---|
| Main office address: | 335 Merchant Street Room 203 Honolulu, Hawaii 96813 |
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| Phone: | (808) 586-2744 |
| Website (Business Registration): | cca.hawaii.gov/breg |
| Website (Securities): | cca.hawaii.gov/sec |
| Email: | breg@dcca.hawaii.gov |
| Business Action Center – Oahu: | Relocated to BREG’s main office in October 2019. |
| Business Action Center – Maui: | Wells Professional Center 2145 Wells Street, Suite 106 Wailuku, HI 96793 Phone: (808) 243-8679 |

Business Action Center – Hilo*: 25 Aupuni Street, Suite 1301
Hilo, Hawaii 96720
Phone: (808) 961-8947

(Business Action Center – Hilo’s resource days are held on the 1st and 3rd Thursday of each month. Please call Business Action Center – Oahu to confirm hours.)

*The last resource day was held on 3/5/20, with future resource days on hold until further notice, due to the COVID-19 pandemic.

The **Documents Registration Branch (phone: (808) 586-2727)** consists of the Documents Information Section, Documents Processing Section, and Records Section. The branch maintains the State’s business registry for corporations, limited liability companies, general partnerships, limited partnerships, limited liability limited partnerships, and limited liability partnerships conducting business activities in the State. In addition, the registry contains filings for trade names, trademarks, service marks, and publicity rights.

The **Business Action Center (phone: (808) 586-2545)** provides information and assistance with state business and employer registrations, state taxpayer IDs, and more. The center has offices on Oahu and Maui and holds regular resource days in Hilo. Services are delivered in-person and via phone, email, mail, fax, and Live Chat, an instant messaging system that allows customers on the Hawaii Business Express website to obtain real-time assistance from a customer service representative.

The **Securities Enforcement Branch (phone: (808) 586-2740)** enforces state laws governing the securities industry under the Hawaii Uniform Securities Act and franchises under the Franchise Investment Law. The branch investigates and prosecutes cases involving state securities law and franchise law violations.

The **Securities Compliance Branch (phone: (808) 586-2722)** is responsible for the registration of securities broker-dealers, securities agents, investment advisers, investment adviser representatives, investment companies, securities offerings, and the filing of franchise offering circulars in the State. The branch also conducts field examinations of broker-dealers and investment advisers in Hawaii.

The **Investor Education Program (phone: (808) 587-7400)** falls under the Securities Compliance Branch and provides investor education and financial literacy outreach statewide. The program maintains outreach programs in the areas of: kupuna (seniors) and caregivers; working families and union members; keiki (youths); industry professionals; military; and Hawaiian and other ethnic communities. The program’s free educational materials, presentations, and exhibits help consumers and investors detect and prevent securities fraud and report securities law violations.

GOALS AND OBJECTIVES

- **Documents Registration Branch:** Maintain an accurate and efficient state business registry.
 - Review and implement policies and procedures that process document filings and information requests efficiently.
 - Develop and improve its online services to better assist the public.
 - Enhance information systems to improve retrieval, processing, and recording of public filing information while protecting the integrity of the data system.
- **Business Action Center:** Be a responsive and helpful center for business registration and licensing for all businesses in Hawaii.
 - Provide practical information and efficient customer service to the public.
 - Develop relationships with the business community and seek ways to reach communities in need of business registration assistance.
- **Securities Enforcement Branch:** Be an effective state securities regulatory agency that is responsive, appropriately aggressive, and efficient.
 - Investigate and prosecute state securities law violations under the Hawaii Uniform Securities Act.
 - Investigate and prosecute consumer complaints timely.
 - Reduce case backlog.
 - Inform consumers of enforcement matters and investment scams through participation in the Investor Education Program.
 - Attend and develop training to keep staff current on emerging investigative techniques, legal analyses, and securities issues.
- **Securities Compliance Branch:** Be a state securities regulatory agency that is responsive, effective, and efficient.
 - Efficiently and timely review and approve securities and franchise applications and/or filings.
 - Maintain a regular field examination cycle for registered broker-dealers and state registered investment advisers.
 - Develop and implement internal procedures to process applications efficiently.
 - Keep current with regulatory changes and updates by providing ongoing training for professional staff.
- **Investor Education Program:** Develop meaningful investor education programs, materials, and active outreach programs that respond to the public's needs and address the financial problems that investors face. Develop and expand:
 - Partnerships with federal, state, and county agencies, nonprofit organizations, and private companies to provide outreach to various audiences throughout Hawaii.
 - Outreach through fraud prevention presentations and investor education materials at various community events.
 - The use of multimedia technology to reach audiences in a current and relevant manner.

- An industry training program to help financial professionals report financial exploitation and securities fraud.
- A securities training program for law enforcement agencies to build partnerships to help prosecute financial fraud.

ACCOMPLISHMENTS IN FY 2021

Hawaii Securities Law Expands

Act 54 of the 2021 legislative session expands the State's securities law, Hawaii Revised Statutes chapter 485A, and will allow the Department to better protect Hawaii's elders and vulnerable adults from financial exploitation in relation to securities. Act 54 is based upon the North American Securities Administrators Association's (NASAA) Model Act to Protect Vulnerable Adults from Financial Exploitation, which NASAA members adopted on January 22, 2016. Hawaii proudly joins the 28 other jurisdictions that have already enacted legislation based upon NASAA's Model Act, and the one jurisdiction that has adopted NASAA's Model Act by regulation. This bill: (1) mandates reporting of suspected financial exploitation of elders and vulnerable adults in relation to securities; (2) provides immunity for good faith reporting, thereby addressing existing privacy rules and concerns about potential legal exposure to liability that may make it difficult for securities professionals to contact regulators and other government authorities to report suspected financial exploitation; and (3) authorizes the delay of disbursements and transactions while the suspected financial exploitation is being investigated to prevent irreparable harm to the investor.

CRF FINANCIAL SUMMARY FOR FY 2021

| Personnel Expenses | Operating Expenses | Total Expenses | Revenues Received |
|--------------------|--------------------|----------------|-------------------|
| \$5,331,436 | \$894,625 | \$6,226,062 | \$8,951,698 |

CABLE TELEVISION DIVISION

OVERVIEW AND COMPOSITION

The Cable Television Division (CATV) supports the DCCA director in the issuance of cable franchises, regulation of cable operators, and facilitation of expanded access and usage of broadband services throughout the State. The CATV's primary regulatory function is to determine whether the issuance, renewal, or transfer of a cable franchise is in the public interest. In so doing, the CATV carefully considers the: (1) public need for the proposed service; (2) legal, technical, financial, and operational ability of the applicant or franchisee to provide safe, adequate, and reliable service at a reasonable cost to subscribers; (3) comments arising from public hearing and from the Cable Advisory Committee (CAC) appointed by the Governor pursuant to HRS chapter 440G; and (4) other matters deemed appropriate under the circumstances.

After the issuance, renewal, or transfer of a franchise, the CATV's role in protecting the public interest continues through the duration of the franchise. The CATV monitors and enforces the franchisee's obligations under the franchise order and ensures compliance with state rules and regulations relating to cable operators' practices and procedures. This includes monitoring the franchisee to ensure the cable operating system is reliable and responsive to the public. This reliability and responsiveness may be indicated by operators providing the widest possible diversity of informational sources and services and enhancing communication capabilities for its communities through public television; public, educational, or governmental (PEG) access; and the interconnection of public facilities.

As part of its responsibility to oversee all franchised wireline cable operators in the State, as well as the cable regulatory scheme, the CATV responds to public inquiries, concerns, and complaints. Where applicable, the CATV responds to consumer inquiries, refers complaints to the appropriate cable operator in the franchised area, or otherwise informs the public of complaint filing procedures. The CATV's mission is to ensure that all complaints and concerns are researched and appropriately resolved. In furtherance of this goal, the CATV continues to monitor the resolution of customer service concerns and assess customer satisfaction through review of surveys and reports. The CATV also continues to encourage cable operators to develop new, improved, and more effective services and facilities to enhance customer-based services to the people of Hawaii.

To the extent permitted by federal law, the CATV is also responsible for expanding the State's Institutional Network (INET) in a manner that is efficient and effective for the State. INET provides broadband telecommunications capabilities to government and educational organizations and is constructed for two-way operation as part of the State's current communications network. The tremendous growth in the State's telecommunications, information processing, storage, and retrieval needs requires high transmission capacity with a more flexible network configuration. INET is a valuable and substantial benefit of the cable television franchises that includes network capacity and service connections that provide communications services to state and county government and educational facilities. The DCCA/CATV negotiates these INET benefits and

administratively manages INET while other INET Partners⁴ manage and operate the State's communications networks.

In issuing a cable franchise, the CATV also requires that cable operators support PEG access facilities and services. Support may be provided in various ways, including setting aside several channels for PEG access and through providing a percentage of gross revenues for PEG services. The DCCA, through the CATV, has contracted oversight of access channels to nonprofit entities located in each of Hawaii's four major counties. The CATV supports the DCCA director in designating these PEG access organizations. Designation is based upon written application or proposal and after public hearing, taking into consideration the: (1) public need for the proposed service; (2) legal, technical, financial, and operational ability of the applicant to provide the proposed service in an efficient and effective manner that is fair to the public in the service area; (3) comments arising from public hearing and from the CAC; and (4) other matters deemed appropriate under the circumstances.

The CATV is cognizant of the increasing importance of ancillary services provided through cable television service to the people of Hawaii, including informational and educational programming, high speed internet access, and other emerging data services. As the infrastructure to support cable television services improves and extends to more areas across the State, more residents can gain access to broadband and the many opportunities and advantages it offers in areas such as health care, education, job resources, consumer welfare, entrepreneurship, and civic engagement. The CATV therefore continually monitors franchise service areas to identify locations that may qualify for the extension of cable service under the franchises.

In 2010, the Legislature passed Act 199, SLH 2010, charging the DCCA/CATV with broadband-related duties that include supporting public and private efforts to facilitate deployment of and access to competitively priced broadband and internet access services; facilitating broadband application development to bolster usage and demand for broadband; and facilitating the implementation of recommendations of the Hawaii Broadband Task Force. Pursuant to Act 199, the DCCA/CATV convened the Broadband Assistance Advisory Council (BAAC) and continues to use the expertise of the BAAC and its working groups in activities to increase broadband adoption and to expedite and expand access to competitively priced broadband services.

The DCCA/CATV's broadband-related duties have included assisting with legislation related to expediting and increasing broadband adoption and deployment; working with other state and county government agencies, the Legislature, service providers, and other stakeholders to address issues related to the advancement of broadband; planning efforts to facilitate broadband infrastructure development for unserved and underserved communities; working on partnerships with other public and private agencies to expand and expedite broadband deployment and adoption; and participating in Federal Communications Commission (FCC) proceedings related to reforms affecting potential funding for telecommunications and broadband for the State. To further support such activities, HRS chapter 440J requires that cable operators, telecommunication

⁴ The INET Partners are the following state agencies: (1) the Department of Accounting and General Services, through Enterprise Technology Services; (2) the University of Hawaii; (3) the Department of Education; and (4) the DCCA/CATV.

carriers, and telecommunication common carriers file with the DCCA confidential annual reports on broadband service availability and pricing.

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Email: cabletv@dcca.hawaii.gov

GOALS AND OBJECTIVES

- Ensure consistent cable television regulatory policies and practices.
 - Conduct regularly scheduled franchise fee and PEG reviews.
 - Designate access organizations to provide PEG access services.
 - Collaborate and assist in the INET deployment process.
 - Convene CAC meetings upon the DCCA director's request.
- Monitor and participate in federal telecommunications legislation and rulemaking.
 - Provide support to Hawaii's congressional delegation on applicable federal legislation.
 - Participate in relevant FCC proceedings on universal service support, broadband, and other cable-and certain telecommunications-related matters.
 - Protect and advocate the State's interests in federal funding programs for broadband infrastructure and services and equivalent enhanced services for the State.
 - Monitor other relevant government programs to identify potential funding for the State's broadband-related activities.
 - Monitor federal issues that may impact Hawaii cable television subscribers and broadband consumers.
- Use the DCCA's regulatory function to strengthen INET and provide benefits for the State and counties to the extent permitted by federal law.
 - To the extent permitted under federal laws and regulations, require cable operators to invest in infrastructure as part of a cable franchise to provide capacity and connections for public, educational, and government facilities to expand and strengthen INET.
 - Provide efficient management of INET and use negotiated INET benefits for the optimal benefit of state and county government and educational facilities.

- Facilitate and support broadband infrastructure deployment and a competitive internet service marketplace.
 - Work with state, and county agencies, broadband providers, and other stakeholders to identify policies and programs to facilitate deployment of broadband infrastructure and expand access to broadband services.
 - Assist with identification of broadband service gaps in unserved and underserved areas of the State.
 - Liaison between government stakeholders/private consumers and internet service providers regarding coverage and other service matters.
 - Assist with federal broadband programs as requested, including broadband mapping program and the dissemination of information on such programs to local public and private stakeholders.
 - Facilitate communication for BAAC members and participants to share broadband deployment and program information.
 - Monitor development and deployment of new advanced services.

ACCOMPLISHMENTS IN FY 2021

FCC Rulemaking and Appeals

The CATV monitors developments in Congress and at the FCC relating to cable television, telecommunications, and broadband. In FY 2021, the CATV continued to take an active role in FCC proceedings and appeals that directly impact cable television subscribers in Hawaii, in particular:

Cable Franchise Fees (MB Docket No. 05-311; U.S. Court of Appeals Case Nos. 19-4161/19-4162/19-4163/19-4165)

On August 2, 2019, the FCC issued an order, effective September 26, 2019, changing how local franchising authorities (LFAs) may regulate incumbent cable operators. Among other matters, the FCC ordered that cable-related “in-kind” contributions required by franchising agreements, including costs associated with the construction, maintenance, and services of INETs, are franchise fees subject to the 5% cap and are to be valued at fair market value (FMV). The new rules also clearly stated that any existing franchise order terms to the contrary will be automatically preempted, thereby prospectively negating any such previously negotiated benefits for the State. As this determination would significantly impact the distribution of franchise fees for the State, the DCCA/CATV, along with numerous LFAs, government agencies, and PEG organizations across the country, appealed the FCC order. The various appellate proceedings were consolidated and moved to the Sixth Circuit for adjudication.

On May 26, 2021, the Sixth Circuit court issued its ruling affirming in part and reversing in part the FCC order. The court affirmed the FCC’s definition of franchise fees to include in-kind contributions such as INETs (i.e., the construction, maintenance, and service of INETs), but reversed the FCC’s FMV determination regarding the cost of in-kind contributions including INETs. The Sixth Circuit court ruled that “noncash cable-related exactions should be assigned a value equal to the cable operator’s marginal cost in providing them.”

Although a petition for rehearing en banc was filed and denied by the Sixth Circuit court, the CATV will continue to represent the State's interest in applicable future proceedings and monitor developments regarding this matter. In addition, throughout this process, the CATV has and will continue to send notices and updates to the INET Partners and the counties to prepare them for potential changes in cost and application of INET connections that have historically been negotiated with the cable operators to be provided at no cost or "at-cost" (i.e., discounted).

Currently, while implementation appears to be on hold, possible impacts of the FCC's ruling as amended by the Sixth Circuit Court is a challenge to the CATV in FY 22 due to the uncertainty. Further litigation of the ruling is being contemplated and petitions to the FCC for reversal or clarification of the ruling, as amended, is strongly being considered.

Hawaiian Telcom Services Company, Inc. (HTSC) – Parent Company Merger

On November 13, 2020, Decision and Order (D&O) No. 377 was issued conditionally approving the transfer of control of HTSC's Oahu cable franchise at the parent company level from Cincinnati Bell Inc. (Cincinnati Bell) to Red Fiber Parent LLC (Red Fiber). Terms of the CATV's approval includes, inter alia, securing a commitment by Red Fiber/HTSC to invest \$20,000,000 to improve and build out HTSC's networks and infrastructure throughout the State; and build out, at a minimum, 15,000 new or upgraded line extensions of HTSC's network to homes and small businesses within six (6) years of the close of the transaction. Completion of the merger of Cincinnati Bell and Red Fiber is expected to occur during FY 2022. The CATV will continue to monitor the completion of the merger and fulfillment of the conditions of approval as set forth in the D&O.

Broadband Projects/Activities

In FY 2021, the DCCA/CATV conducted broadband-related activities that included:

- Working with the FCC and internet service providers on Hawaii's participation in the FCC's Measuring Broadband America program, which can expand the amount of data gathered about subscriber broadband service performance across the State.
- Gathering data on unserved and underserved areas and broadband performance across the State to enhance policymakers' understanding of the State's broadband landscape and to better inform their policies and strategies to advance the State's broadband goals. The DCCA/CATV continued to improve its No Internet Service application that gathers and maps consumer-provided data on locations where no internet service is available. Specifically, the DCCA/CATV added more publicly available data on the availability of fixed and mobile service, the built and funded locations under federal programs, and regarding the Center for Disease Control's Social Vulnerability Index. In FY 2021, the DCCA/CATV also continued to manage its "Internet Speed Map" tool, which allow residents to report their home wireline internet speeds to create a crowd-sourced map (launched in June 2020 and available at: <http://cca.hawaii.gov/broadband/speedmap/>). This tool supplements the data provided through the DCCA's issued 2018 and 2019 reports on fixed wireline speeds in the State using data obtained from Ookla, proprietor of Speedtest.net, available at: <http://cca.hawaii.gov/broadband/report-on-fixed-wireline->

[broadband-speeds-in-hawaii-july-2019/](#). In FY 2021, the DCCA/CATV added updated Speedtest data provided by Ookla for public use.

- Connecting with stakeholders to identify possible opportunities to partner on, facilitate, or support projects to extend broadband access and increase broadband adoption.
- Monitored and reported usage to stakeholders of the 100 Designated Spectrum Hotspots, pursuant to D&O No.366, which currently provide the general public (primarily in rural, underserved communities across the State) with one hour of free WiFi service per device, per day.
- Implementing a DCCA/CATV pilot WiFi project on Hawaii Island, undertaken in partnership with the County of Hawaii to provide community access to broadband-level WiFi internet services at county facilities in unserved and underserved areas around the island (Hi-WiFi Pilot Project). Seven pilot locations were selected with input from the County of Hawaii and installed in FY 2021. In FY 2021, the Hi-WiFi Pilot Project served as a model to implement similar WiFi projects across the State. The DCCA/CATV and the County of Kauai began discussions for a Hi-WiFi project on the Island of Kauai to begin in FY 2022.
- Disseminating information to stakeholders on funding opportunities for broadband projects and best practices for broadband infrastructure deployment.
- Supporting and facilitating provider efforts to extend and improve broadband infrastructure, including serving as a liaison with other government entities and the public.
- Supporting and facilitating discussions and activities of the BAAC and soliciting recommendations to expand broadband access and use.
- Assisting the public with broadband-related inquiries.
- Monitoring and updating stakeholders on the electric utility pole replacement project, which will allow providers to close the fiber optic network gap on Hawaii Island.
- Maintaining the CATV broadband website to support statutory duties under HRS chapter 440J and Act 151, SLH 2011; providing access to broadband coverage information and broadband deployment resources; and providing digital literacy resources and consumer information.

Continued Reduction of Cable Administration Fees

Pursuant to federal law, LFAs such as the DCCA/CATV can require cable operators to pay franchise fees in an amount equal to 5% of their annual gross revenues of their respective cable systems. Previously, the 5% franchise fee was allocated as follows: 3% to the PEG organizations; 1% to the Hawaii Public Television Foundation, dba PBS Hawaii; and 1% in annual fees to the DCCA/CATV to administer its responsibilities under HRS chapter 440G. As permitted by federal law, these fees are passed onto cable television subscribers and included in their monthly bills. Through discussions and analysis of available funds, the DCCA/CATV determined that over time, it accumulated more funds than currently required to cover the cost of administering HRS chapter 440G. Therefore, on May 9, 2019, the DCCA/CATV issued Decision and Order No. 375, which reduced the annual fee from 1% to zero as of July 1, 2019. This reduction in annual fees continued in FY 2021 and resulted in the lowering of monthly cable television bills for cable television subscribers throughout the State.

CRF FINANCIAL SUMMARY FOR FY 2021

| Personnel Expenses | Operating Expenses | Total Expenses | Revenues Received |
|--------------------|--------------------|----------------|-------------------|
| \$811,574 | \$506,558 | \$1,318,132 | \$59,735 |

Similar to all the other divisions of the Department, the CATV is special-funded. However, unlike many other divisions, the CATV's only source of revenues (aside from application fees, which are very rare) is annual fees from the State's two cable operators. Annual fees are collected during the beginning of the third quarter of each fiscal year, traditionally at the end of January, and amounts are based on each cable operator's gross revenues for the prior calendar year. Revenues for the CATV are dependent on the market for cable services in the State, which varies from year-to-year and is projected to decline as the market for streaming services over the internet continues to expand. Due to these factors, the CATV targets to maintain a reserve of approximately 24 months to ensure continuity of the division's operations as the cable market changes. With this target in mind, on May 9, 2019, Decision and Order No. 375 was issued to reduce the annual fees collected each year from 1% to zero, beginning on July 1, 2019, to better align the CATV's cash balance with its reserve target. This reduction in annual fees continued throughout FY 2021. Given this decision, the CATV did not receive much in "revenues" in FY 2021 and continued to operate on its reserves. As the CATV's reserves approach the established target reserve amount, as discussed above, CATV will reinstate the collection of annual fees.

DIVISION OF CONSUMER ADVOCACY

OVERVIEW AND COMPOSITION

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 or Commission). 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 consumers of utility and transportation services before the Commission, 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. Based upon analyses of this information, the DCA files either written statements of position or testimonies explaining its analyses, findings, and recommendations with the Commission. When necessary, DCA analysts provide oral testimony, subject to utility company cross-examination, in contested case evidentiary hearings to resolve differences among the parties in utility proceedings.

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

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

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

Besides these three branches, the DCA also has program, educational, and administrative specialists.

GOALS AND OBJECTIVES

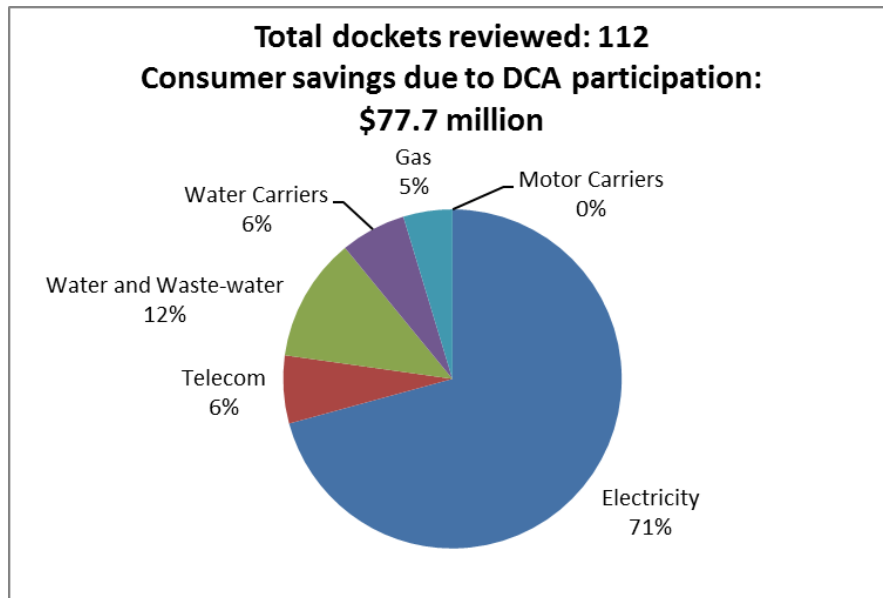
Consumer Advocacy

The DCA's primary goal is ensuring that Hawaii's consumers receive safe and reliable services at reasonable and just rates, while also ensuring customer and environmental protections and advancing renewable resource use. This goal involves balancing various competing interests.

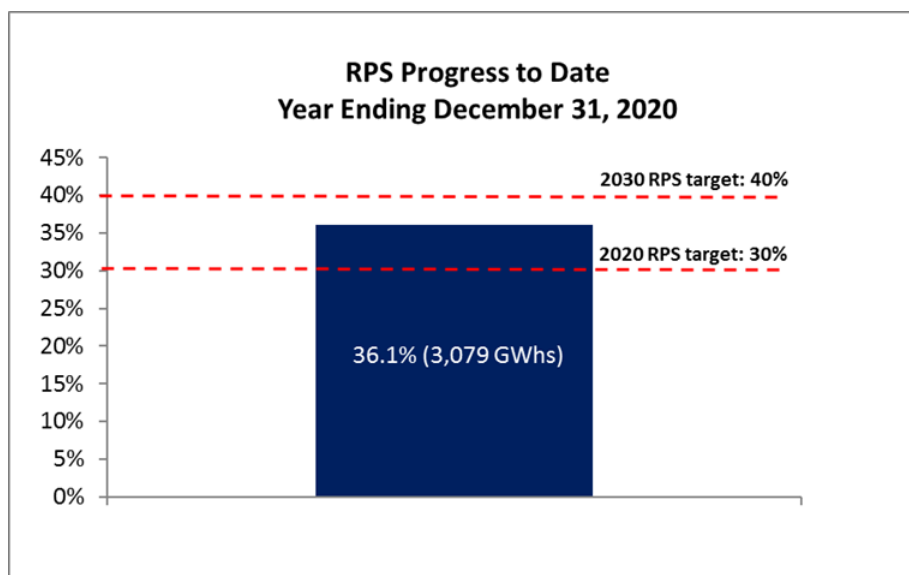
The DCA's resources are focused on PUC proceedings, which often affect the rates and reliability of utility and transportation systems and services. The DCA's participation in PUC proceedings will typically involve some or all of the following:

- Review of applications to ensure compliance with regulations.
- Participation at PUC public hearings.
- Procurement of consultant services to manage workload and for complex cases.
- Completion of discovery.
- Analysis of applications and supporting documents to determine the accuracy and reasonableness of the requests.
- Provision of recommendations to the Commission on the merits of the application through statements of position or direct testimonies and provision of oral testimonies, which are subject to cross-examination in proceedings where evidentiary hearings are necessary.
- Completion of related legal actions, such as filings of legal briefs, motions, and appeals, as necessary.

To measure the DCA's performance in advocating consumer interests, the DCA tracks various categories of information. The DCA monitors consumer savings resulting from its participation in PUC proceedings, the percentage of PUC decisions that adopt settlements reached by parties to a proceeding, the number of service quality investigations the DCA participates in, and the number of filings before the Commission that are reviewed by the DCA. Chart 1 describes the total number of dockets the DCA reviewed, the proportion of dockets reviewed by area, and the total consumer savings due to DCA participation.

Chart 1: Dockets Reviewed by Area and Overall Consumer Savings, FY 2021**Policy Advancement**

The DCA seeks to promote policies to protect and advance the interests of utility and transportation consumers on the local, state, and national levels. The division will continue to promote and facilitate Hawaii's transition from using imported fossil fuels to clean renewable energy, as well as advance federal and state broadband initiatives. Chart 2 reflects Hawaii's progress on its Renewable Portfolio Standard (RPS) goals. As of December 31, 2020, Hawaii's percentage of renewable generation increased to 36.1% of sales, which exceeded the 2020 RPS goal of 30%.

Chart 2: Hawaii's RPS Goals

Regarding energy efficiency, there is ongoing work to evaluate the State's energy efficiency potential as well as its Energy Efficiency Portfolio Standard goals.

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

- After the DCA and other parties to the proceeding state their initial positions on the issues, discovery and analyses are done to determine the reasonableness of the other parties' positions;
- Technical meetings between the parties are often held to discuss and educate each other on the issues and positions taken and to determine where possible agreement may be reached;
- The DCA provides the Commission with a recommendation it believes is in the best interest of consumers; and
- The DCA participates in evidentiary or panel hearings conducted by the Commission. The DCA presents its evidence by way of expert testimony on specific technical issues.

The DCA monitors congressional activity in the energy and telecommunications areas. The DCA maintains contact with Hawaii's congressional delegation, particularly those members sitting on committees that deal with energy and telecommunications, and provides input where appropriate and when called upon.

The DCA is actively involved in the National Association of State Utility Consumer Advocates, which participates in proceedings before the FCC, Congress, and the federal courts to advance consumer interests on national issues, many of which affect Hawaii consumers.

The DCA is actively involved with the Legislature and provides testimonies that detail consumer benefits or detriments of specific proposals and bills being considered by various legislative committees. In 2021, the DCA monitored and/or testified on 181 bills and resolutions and submitted written testimony on 44 occasions.

Measuring the performance of the DCA's efforts to promote policy objectives is inexact. While the DCA generally tracks the percentage of its positions with which the Commission ultimately agrees, this measure does not capture the efforts throughout proceedings to educate and work with other parties to reach agreement on issues.

Education and Outreach

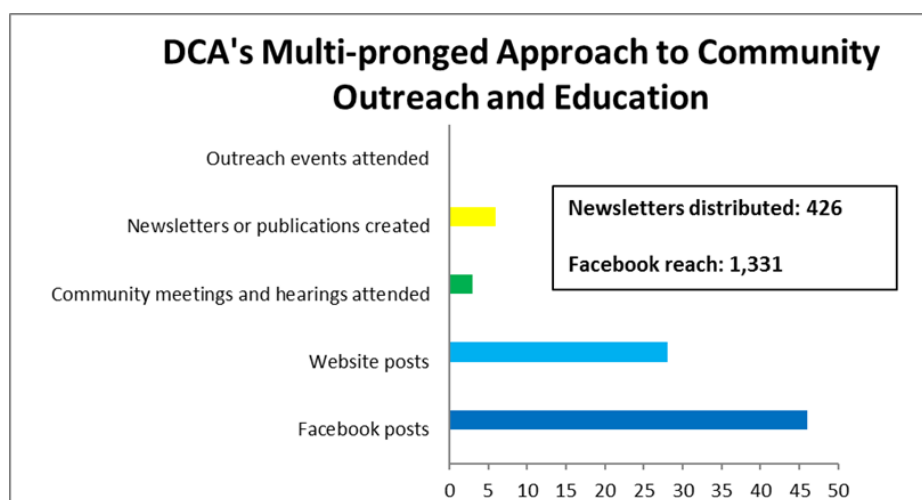
The DCA's goal is to encourage the public to be wiser consumers of public utility services by, among other things, emphasizing the possible effects that their consumption habits may have on utility rates and the environment. It is through the education and outreach process that the DCA aims to gather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

The DCA can accomplish its goal of positively affecting the habits of consumers statewide through its website and public outreach activities. The DCA established the following action plan to accomplish its goals and objectives:

- Update and improve its website with consumer-friendly and useful content;
- Use social media, such as Facebook, to reach a greater number of consumers;
- Attend public hearings and meetings to listen to consumer complaints and concerns;
- Establish information booths and provide presentations at community events, such as home shows and public fairs throughout the State and build positive relationships with both business and individual community members;
- Improve communications with consumers and the public through expanded distribution and publication of its newsletter;
- Hold informational seminars or use public service announcements to highlight different utility issues and topics; and
- As a result of the ongoing pandemic affecting community events, the DCA is looking for virtual events that might be able to provide outreach opportunities.

To measure its performance and progress on education and outreach activities, the DCA tracks the number of people reached through education and outreach events, newsletters and other publications distributed, and consumers assisted with complaints and other issues. Chart 3 illustrates various ways the DCA engaged in community outreach and education in FY 2021.⁵

Chart 3: DCA's Multi-pronged Approach to Community Outreach and Education



ACCOMPLISHMENTS IN FY 2021

Advocacy Before the Public Utilities Commission

The DCA's primary activities consist of its advocacy before the Commission. The following are some of the division's key accomplishments in FY 2021.

⁵ The COVID-19 pandemic resulted in the cancellation of in-person outreach events. In addition, the education specialist position was vacant for six months of FY 2021.

Energy Dockets

(1) Resource Planning

Throughout most jurisdictions, energy utility companies are required to conduct long-term planning processes to efficiently plan on how to meet customer needs with an optimal mix of resources, such as central station generation, distributed generation, and demand-side resources. The need for energy planning is heightened in Hawaii since Hawaii's RPS and Energy Efficiency Portfolio Standard objectives require careful planning to ensure that Hawaii's energy rates do not unreasonably escalate or the reliability and resiliency of electric services do not suffer. Although such planning was historically done through Integrated Resources Planning proceedings, and more recently as Power Supply Improvement Plans proceedings, the Hawaiian Electric Companies (HECO Companies) continued hosting a series of Integrated Grid Planning meetings and workshops as part of Docket No. 2018-0165. In addition, based on the expected termination of purchased power agreements for and retirement of fossil fueled generation, the Commission has opened Docket No. 2021-0024 to review the HECO Companies' transition plans to replace the fossil fueled generation with renewable energy projects. The DCA is actively participating in the evaluation of this transition and the impact on electricity costs and the reliability of the electric systems in all relevant proceedings. The DCA will continue to actively review and provide recommendations regarding the utilities' resource planning efforts.

(2) Renewable Energy Procurement

In Docket No. 2017-0352, the Commission provided the forum through which the HECO Companies could issue requests for proposals to acquire new renewable energy projects. The DCA was an active party in this proceeding and the resulting applications seeking approval of purchased power agreements with independent power producers. The DCA sought to ensure that the procurement of new resources would benefit all consumers and be at reasonable costs. To date, there have been two phases where Phase 1 generated eight projects with a potential capacity of over 274 megawatts and Phase 2 resulted in twelve projects with a potential capacity of almost 400 megawatts of generation. The Commission has also initiated a grid services procurement in FY21.

(3) Distributed Energy Resources (DER), Grid Modernization, Microgrids, and Advanced Rate Design

The DCA continues to participate in Docket No. 2019-0323, which was opened by the Commission to comprehensively investigate technical, economic, and policy issues associated with DER, including those associated with the provision of demand response and grid services.

The Commission opened Docket No. 2018-0141 to investigate grid modernization, including the need to upgrade the grid to facilitate DER, among other things. The anticipated result is having the grid provide more information to the utilities to better manage resources, as well as provide the opportunity for customers to manage their use and/or work with third-party providers of energy services. The DCA continues to participate in this docket, including Phase II, to promote the cost effective roll out of grid modernization to benefit all customers, protect consumers' data privacy and access issues,

advocate for customer access to their own usage data, compliance with nationally recognized data standards, and access to anonymized data for research and planning.

Pursuant to Act 200, SLH 2018, the Commission opened Docket No. 2018-0163, a proceeding to establish a microgrids services tariff to address concerns with disasters and grid resiliency. The DCA has been participating in this proceeding and seeking to ensure that the docket focuses on resiliency issues and determining what barriers exist, including the need for grid modernization and updated rate designs to facilitate microgrids.

To facilitate market-based transactions and to provide better pricing signals to consumers and producers, the DCA continues to participate in various dockets to ensure that fair rate design is being advanced. This work spans a number of different dockets, such as those for DER, microgrid, grid modernization, and rate cases. The DCA will continue to seek necessary modifications to address concerns with outdated rate design principles.

(4) Performance-Based Ratemaking

Act 5, SLH 2018, required the Commission to establish performance incentives and penalty mechanisms to tie revenues to performance instead of investments. Thus, as part of the Commission opened Docket No. 2018-0088, the DCA has been actively participating in this proceeding to protect consumers' interests, as the possible outcomes could be favorable to the HECO Companies and/or third-party special interests – to the detriment of the consumers. The Commission has adopted a Framework and the parties continue to evaluate additional performance mechanisms and to assess the efficacy of the adopted framework.

(5) Community-Based Renewable Energy (CBRE) Program

While the Commission approved a CBRE framework, this program has encountered several issues. The DCA and other stakeholders continue to participate in this proceeding to determine how to use lessons learned from the first phase of this proceeding to develop CBRE projects that could benefit all consumers, especially vulnerable customers, and to guard against this program primarily benefitting commercial and more affluent consumers. For this reason, the DCA continues to advocate for a CBRE Customer Bill of Rights and an online portal that would be customer-friendly and allow customers to easily compare and identify their best options.

Dockets Involving Other Industries

The DCA participated in various dockets involving regulated water, wastewater, telecommunications, utility gas, and transportation companies. These dockets included ongoing rate proceedings for water/wastewater utility companies, and eligible telecommunications carrier certification for various telecommunications companies. Several utilities have filed for deferred cost accounting for pandemic-related costs. The Consumer Advocate also handled various dockets relating to Hawaii Gas. In addition, starting in 2019, interisland shipper Young Brothers applied for a general rate increase, which the DCA fought because YB was seeking recovery of unnecessary and excessive expenses and investments. During the case, the impacts of the ongoing pandemic affected Young Brothers' operations, and its parent company cut off further financing, which resulted in an emergency increase. This resulted in the legislature asking for the creation

of a water carrier working group to address measures that might be necessary to ensure the viability of interisland water carrier. The DCA has continued to work on addressing the many systemic issues within both the ongoing dockets before the Commission as well as in the water carrier working group.

COVID-19 related

Throughout the pandemic, the DCA has sought to address consumers' needs as it relates to utility services. The DCA recommended, and the Commission adopted, a moratorium on service termination for non-payment so no consumer would go without electricity, basic phone service, or other regulated utility service during the moratorium. The DCA also has been actively engaging with the community, other governmental agencies, and community agencies to identify and secure aid, where possible to assist in bill payment. The DCA continues to look for ways to help consumers as the pandemic continues to impact Hawaii's economy.

Advocacy through Participation on Committees and Boards

The DCA seeks to represent, protect, and advance customers' interests by participating in various committees and boards that are related to regulated utility and transportation services. Some of the committees and boards that the DCA served on in FY 2021 include the following:

- **Enhanced Wireless 911 Services:** Pursuant to Act 168, SLH 2011, the Enhanced Wireless 911 (E911) Board and the E911 Fund were created to ensure that the State's E911 system can meet emergency needs.
- **One Call Center Advisory Committee:** Pursuant to Act 141, SLH 2004, the One Call Center Advisory Committee seeks to properly educate contractors and customers about procedures and services available to help avoid damaging underground utility facilities and associated injuries.
- **Hawaii Energy Policy Forum:** The Hawaii Energy Policy Forum is an organization that brings together various entities from government, education, industry, and other interested stakeholders to discuss energy-related issues and how to best pursue changes that are consistent with the State's goals and objectives.
- **Hawaii Clean Energy Initiative:** Initiated by a memorandum of agreement between the U.S. Department of Energy and the State of Hawaii, the Hawaii Clean Energy Initiative is a key driving factor in Hawaii's clean energy transition efforts.
- **Water Carrier Working Group:** As mentioned above, DCA has been participating in the Water Carrier Working Group that was created as a result of Senate Resolution 125, S.D. 1, SLH 2020, which was tasked with recommending mid- and long-term solutions to ensure continuous water carrier service throughout the State. A report on the recommendations is due to the Legislature by November 2021.

Education and Outreach

In FY 2021, the DCA continued its education and outreach activities to better educate consumers and extend its reach to communities throughout the State but these efforts were hampered by the ongoing pandemic. However, as mentioned above, the DCA sought to inform customers of possible bill assistance aid programs to help consumers who may have been struggling to pay utility bills.

The DCA continued to use its website to provide relevant information and informative news, and to use Facebook to reach consumers more quickly through social media. In FY 2021, the DCA's Facebook posts included notifying consumers of changes in utility disconnection, as well as late fee policies and resources available during the COVID-19 pandemic. Through Facebook, the DCA also educates consumers by posting energy and water-saving tips and notifying consumers of pertinent, utility-related online newspaper articles, blog posts, and radio and television programs. The Facebook page is also used to announce upcoming utility-related public hearings, consumer fairs, utility and green energy conferences, and media events.

CRF FINANCIAL SUMMARY FOR FY 2021

| Personnel Expenses | Operating Expenses | Total Expenses | Revenues Received |
|--------------------|--------------------|----------------|-------------------|
| \$2,180,951 | \$758,402 | \$2,939,352 | \$4,564,903 |

DIVISION OF FINANCIAL INSTITUTIONS

OVERVIEW AND COMPOSITION

The Division of Financial Institutions (DFI) provides regulatory oversight for the State's financial service providers, which include both bank and nonbank companies. The DFI provides supervision, regulation, and examination of all Hawaii state-chartered and state-licensed financial institutions, including banks, foreign banking agencies and representative offices, savings banks, trust companies, financial services loan companies (both depository and nondepository), money transmitters, mortgage loan originators and companies, mortgage servicers, escrow depositories, and credit unions.

In supervising financial institutions authorized to take deposits, the DFI works closely with the Federal Deposit Insurance Corporation (FDIC), Federal Reserve Bank of San Francisco, Consumer Financial Protection Bureau, and National Credit Union Administration. The DFI supervises nondepository financial institutions with other state regulators through a system referred to as networked supervision. The partnerships with the federal bank regulators and networked supervision provides a comprehensive oversight over financial institutions.

During the COVID-19 pandemic, the DFI has been able to provide seamless services to applicants, licensees, and consumers.

The major functions of the DFI are to:

- Charter, supervise, regulate, and examine all state banks and credit unions, foreign bank branches, agencies and representative offices, and intra-Pacific branches.
- License, supervise, regulate, and examine nondepository companies, including escrow depositories, money transmitters, mortgage loan originators, mortgage loan originator companies, and mortgage loan originator branches, mortgage servicer companies and small dollar consumer lenders.
- Provide guidance to supervised financial institutions.
- Accept and investigate complaints by consumers.

The DFI is recognized by two accreditation organizations for appropriately licensing, supervising, and examining chartered and licensed companies, providing consumer protection to individuals, and providing the highest standards of training for its staff. The DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and reaccredited in 1995, 2000, 2005, 2012⁶, and 2018. The CSBS accreditation program sets high standards for state banking regulators nationwide. Forty-seven out of 52 states⁷ meet CSBS accreditation requirements. The DFI has

⁶ Hawaii did not seek reaccreditation in 2010. A new commissioner was appointed in 2011.

⁷ Includes the District of Columbia and Puerto Rico.⁸ The next full accreditation review is scheduled for 2023.

been able to retain its accreditation status for banks and mortgage industry since 2018 through the annual accreditation review⁸.

In 2Q FY 2015, the DFI was the eighteenth state in the nation to be accredited by the CSBS/AARMR accreditation program sets high standards for state mortgage regulators nationwide. Currently, 30 of 66 mortgage regulatory agencies meet CSBS/AARMR accreditation standards. The accreditation program includes mortgage loan originators, mortgage loan originator companies, and mortgage servicer programs.

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Email for mortgage program: dfi-nmls@dcca.hawaii.gov

The **Administrative Section** coordinates and facilitates activities within the DFI, with other divisions, and with other state and federal agencies regarding regulatory and supervisory oversight issues.

The **Licensing and Regulatory Analysis Branch** is responsible for licensing activities and other regulatory approvals, the quarterly off-site monitoring program, responding to complaints and inquiries from consumers and licensees, and investigating alleged violations of state and federal laws. Licensing activities include reviewing and analyzing all applications for new financial institutions (bank and nonbank), opening, relocating, or closing branches, and adding new or unique services to determine whether consumers may be harmed by the action of any licensee. The branch reviews all license renewals for state and federal compliance before issuing an approval. The branch has two sections: one section focuses on emerging financial technology companies including money transmitters, while the other section focuses on the mortgage industry, including mortgage loan originators, mortgage loan originator companies, and mortgage servicers.

⁸ The next full accreditation review is scheduled for 2023.

⁹ The AARMR is a trade organization for mortgage regulators.

This branch also oversees banks and escrow depositories and conducts investigations in all industries supervised by the DFI.

The **Field Examination Branch** is responsible for on-site and off-site examinations of all state-chartered and state-licensed financial institutions. Examinations, unlike accounting audits, are forward-looking and risk-based reviews of factors underlying the safety and soundness of 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 branch is divided into two sections: one section focuses on the safety and soundness of state-chartered banks, credit unions, and money transmitters, while the other section focuses on compliance with federal and state regulatory laws and guidance for mortgage-related industries.

GOALS AND OBJECTIVES

- Maintain public confidence and trust in the financial system in a changing environment.
 - The DFI does not receive any general funds. Instead, the division receives funding from its chartered and licensed companies and individuals. DFI also receives almost half of its revenues from the franchise tax paid by the banks and other financial institutions. The DFI operates like a business, as it balances revenues and expenses to provide oversight and supervision for the benefit of Hawaii's residents.
 - The DFI keeps abreast of emerging technologies and financial products during the quickly evolving innovative products and services by fintech companies.
 - The DFI reviews and proposes changes to its laws to appropriately meet the everchanging environment in which it functions. The innovative business models and functions of licensees have changed the landscape of compliance to become complex and multifaceted. Instant fulfillment of services has become the norm for consumers, and the DFI struggles to continue maintaining proper supervision of licensees.
 - The DFI provides joint regulation, supervision, and examination of state-chartered financial institutions.
 - The DFI is the primary regulator for nondepository industries.
- Have an effective and collaborative workforce with satisfied and valued employees who see the DFI and DCCA as their employer of choice.
 - Since 2011, the DFI processes its work through electronic means and continues to expand the use of technology in processing work from applicants and licensees. Licensees apply for licenses, renewals, and any changes through a secure electronic channel. All processing of applications and requests occurs electronically. Examinations are also conducted electronically, where licensees provide examination documents through a secure channel. Examiners spend less time onsite with the licensee, saving money for the licensee and travel times by the examiners. The DFI still accepts paper inquiries and complaints from consumers,

- although more consumers have taken advantage of the DFI's online consumer complaint process.
- The DFI developed a career path for employees to advance and retain employees.
 - The DFI has been successful in recruiting new employees and providing training through virtual sessions and on-the-job training.
 - The DFI leverages its resources with other state and federal agencies to provide oversight over state-chartered and licensed companies. This networked supervision involves communication skills to efficiently discuss and take appropriate action on licensees.
- Have effective and efficient operations and programs.
 - The DFI implemented a new database system and continues to work with the vendor to implement a workflow process.
 - The DFI continues to use the Nationwide Multistate Licensing System & Registry (NMLS) for licensing, supervision and examination of its nondepository licensees.
 - Achieve the DFI's strategic objectives, which center on the orientation, training, and effective deployment of the division's examiners and providing best practices to licensees in a professional manner.
 - Federal training programs administered by the FDIC and the Federal Reserve System are regularly used for this purpose, as are web-based programs provided by the CSBS, AARMR, MTRA¹⁰, NACCA¹¹, and Risk Management Association.
 - The DFI seeks to recruit new staff who, through on-the-job training, will be able to adjust to the rapidly changing landscape of the financial services industry. New financial service products continue to be created, modified, and initiated by licensees that the DFI regulates and supervises.
 - DFI examiners aim to stay up-to-date with the latest iteration of financial products, services, and delivery methods, which have greatly expanded through technology and impact of cybersecurity.

ACCOMPLISHMENTS IN FY 2021

Impact of COVID-19

The DFI was well-prepared to continue serving the public, applicants, and licensees during the COVID-19 pandemic. There was no disruption of services with many consumers and licensees unaware that employees were working remotely. DFI also continued to deliver training to licensees through webinars and live presentations on WebEx, Zoom, and Microsoft Teams.

The expectation by consumers was elevated during the pandemic, causing banks and our non-depository licensees to find solutions to deliver products and services in an effortless and seamless way. Consumers wanted instant responses and instant transactions for their financial activity.

¹⁰ Money Transmitter Regulators Association is a national non-profit organization dedicated to the efficient and effective regulation of money transmission industry in the United States of America.

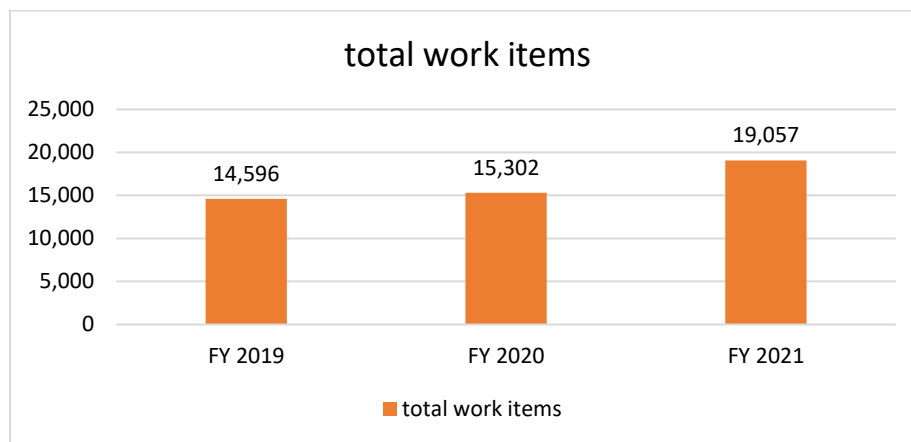
¹¹ National Association of Consumer Credit Administrators was formed to improve the supervision of consumer finance companies and to facilitate the administration of laws governing these companies.

Consumers did not want to be “bogged down” with the security layers required by federal and state laws. Consequently, there was a constant push and pull by consumers and our financial industry to service consumers. This translated into using more financial technology (“fintech”) by all financial institutions. Fintech companies exploded into the financial products and services arena, creating experiential and experimental pathways to traditional banking, mortgage, and money transmission activities (non-depository financial institutions). The DFI pivoted and started supervision and examining non-depository financial institutions for cybersecurity. This shift expanded the scope of the supervision and examination for the DFI, allowing DFI to review the cybersecurity protocols, policies, and procedures of the non-depository financial institutions.

The DFI examination team has expanded its participation in multi-state examinations for money transmitters, mortgage loan originator companies, and mortgage servicer companies. In FY22, the DFI will participate in the first “One Company One Exam” on the largest mortgage loan originator company in the nation with 36 other states.

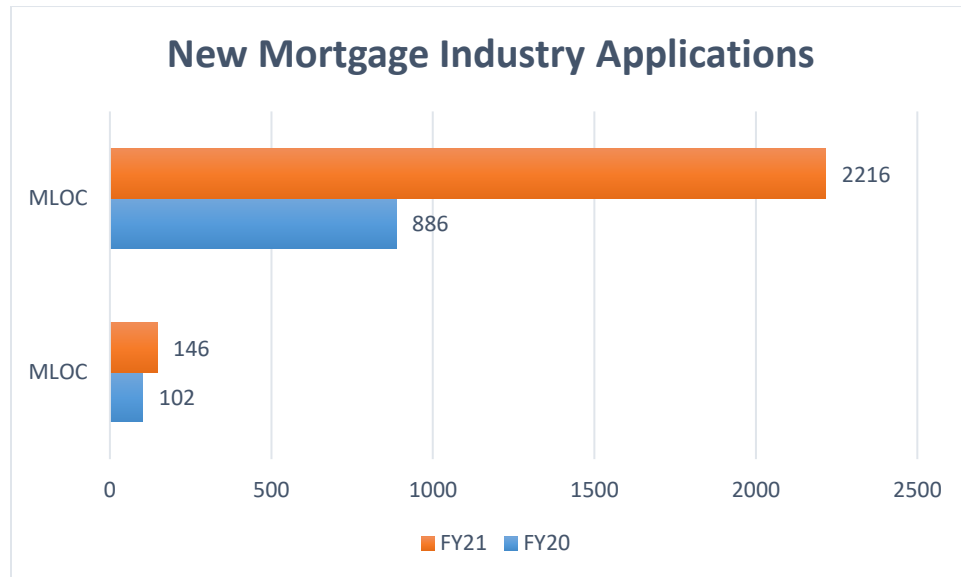
Through DFI’s ongoing independent examination of licensees for compliance with laws, rules, and regulations, DFI examiners identified instances where consumers were harmed, resulting in DFI ordering licensees to return approximately \$5.6 million to 716 consumers in CY2020. The DFI contacted the affected consumers to validate that the restitution checks were legitimate because consumers were not expecting the restitution and many thought that the licensee checks were a scam.

The DFI’s licensing staff was challenged by the number of work items submitted. These work items included amendments to the application for change in control by key individuals, name changes to the company, change of employers, and surrender of licenses. The DFI believes these changes were largely due to the pandemic circumstances with working from home and the type of employment available.



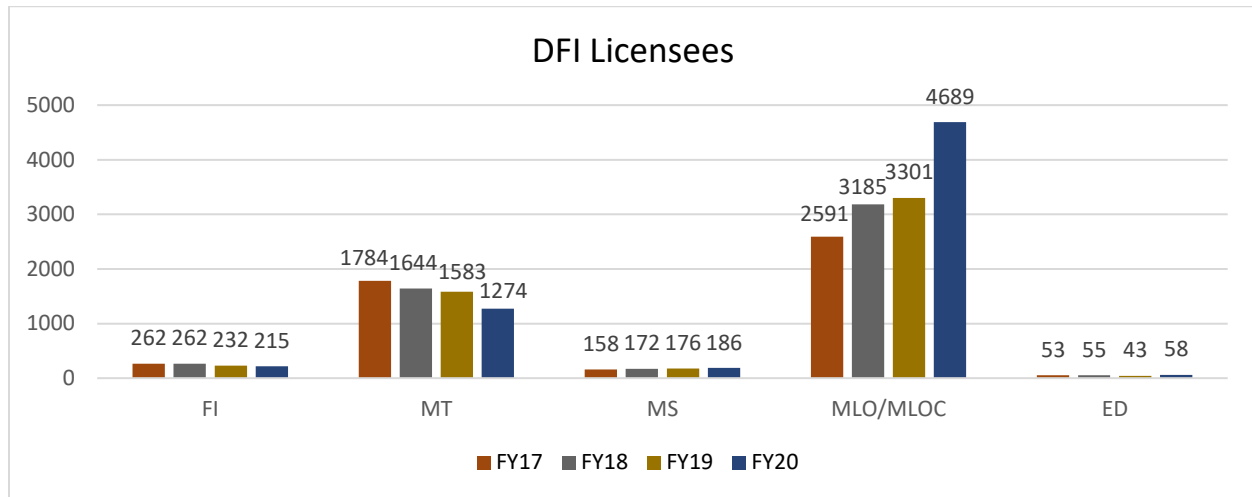
The most impactful activity for the DFI was the unprecedented number of applications by the mortgage industry. Around the country, as employees were either laid off or unable to work from home because of the pandemic, the mortgage industry appeared attractive. Mortgage loan

originators were able to work from home and deliver loan documents electronically to consumers, and communicate through video conference calls or telephone calls. The DFI licensing staff, like staffs across the nation saw an explosion of applications throughout the year partially fueled by the low mortgage interest rates and low housing inventory. Processing times dramatically increased from an average of 10 days to 180 days.



The DFI team licensing money transmitters saw an increase in the number of applications from 14 in FY20 to 22 in FY21. The applications became increasingly complex as money transmitters used creative fintech applications and platforms to either request an exemption from the law or have such complex business structures, to make it difficult to determine how the flow of money occurred during the transactions. Additionally, many money transmitters became increasingly global, and had directors and key individuals (control persons of the company) outside the jurisdiction of the United States. DFI continues to discuss with other states about how discipline can be conducted for companies operating outside the jurisdiction of the United States.

Added to the number of applications, mortgage loan originator companies and money transmitter companies were making changes to their business models, layering subsidiaries, affiliates, and related companies to facilitate the transactions. The DFI licensing team reviewed thousands of pages of business models, explanations, additional policies, and flow of funds to determine if consumers would continue to be protected by state and federal laws. These subsidiaries, affiliates and related company key individuals also had to be vetted to determine whether they met the regulatory criteria which proved to be difficult in some cases because of the global nature of the individuals.

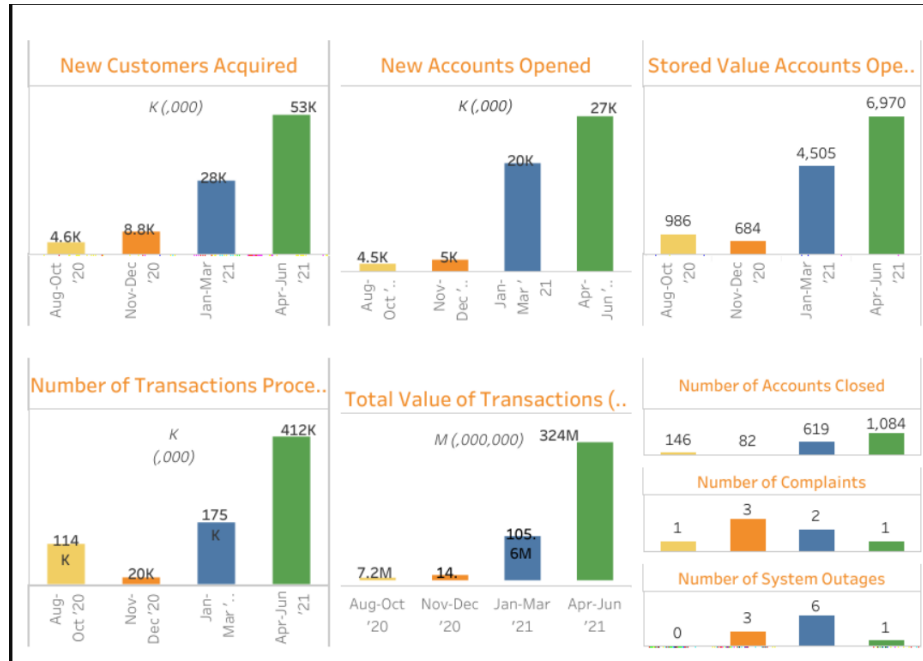


Digital Currency Innovation Lab

The Digital Currency Innovation Lab (DCIL) was created to study whether the money transmitter law was the appropriate licensing scheme, and to determine whether digital currency companies should be licensed for consumer protection. The DCIL completed its first full year of participation with fifteen companies. The DCIL started operations in August 2020 with twelve companies¹². In June 2021, another four companies were allowed to participate in the DCIL. The DCIL as of 06.30.21, had over 53,000 consumers taking part with the participating companies.

The DFI will submit its interim report in late 2021 about what was learned so far, to report on various findings and high points with respect to ongoing supervision of the DCIL participant companies, and finally the recommendation for a new regulatory framework and licensing scheme to replace DCIL and enable consumer protection supervision of the digital currency industry.

¹² One company failed to comply with DCIL requirements and its membership was terminated.



Successful Pilot Testing

The DFI was one of six states (and the District of Columbia) piloting a complaints portal of a multi-state examination system with the CSBS. The State Examination System is used to conduct off-site examinations of nondepository licensees. This System is being used by the network of states which conduct examinations of nondepository companies.

Continued Accreditation status for Banking and Mortgage

The DFI was able to continue its accreditation status for banking and mortgage through the pandemic. The DFI team members were able to continue training, processing applications, providing on-going supervision, and conducting examinations off-site. The DFI team members worked with the FDIC, FRB, CFPB to coordinate on-going supervision and conduct examinations on our banks with all of the agencies working from home.

The network of states learned to work together to license companies and conduct examinations. The networked supervision allows states to use subject-matter experts to share expertise in the area of regulatory compliance, information security, cybersecurity, and financial analysis.

Although the DFI's partnership with other agencies and training is ongoing, every effort the DFI undertook sought to ensure the safety and soundness of the financial system, protect consumers, and encourage economic growth — all while promoting innovative and responsive supervision. Lastly, through the efforts of state banking agencies, including the DFI, state regulators were represented through the State Liaison Committee on the Federal Financial Institutions Examination Council, which: issued updated Bank Secrecy Act examination procedures; issued new customer due diligence and beneficial ownership examination procedures; and identified areas of the supervisory process that could be modernized to reduce burden and improve efficiency.

CRF FINANCIAL SUMMARY FOR FY 2021

| Personnel Expenses | Operating Expenses | Total Expenses | Revenues Received |
|--------------------|--------------------|----------------|-------------------|
| \$3,994,683 | \$555,769 | \$4,550,452 | \$6,788,789 |

INSURANCE DIVISION

OVERVIEW AND COMPOSITION

The Insurance Division (INS) is responsible for overseeing the State's insurance industry, which includes insurance companies, insurance agents, self-insurers, and captives. The division ensures that commercial and individual consumers are provided with insurance services that meet acceptable standards of quality, equity, and dependability at fair rates by establishing and enforcing appropriate service standards and by monitoring the solvency of insurers. The INS licenses, supervises, and regulates all insurance transactions in the State under HRS title 24. Legal service plans also fall under the division's duties.

The following list shows the number of active insurance licensees at the end of the last two FYs:

| Type of License | Licenses as of June 30, 2021 | Licenses as of June 30, 2020 |
|---|---|---|
| Adjuster | 3,845 | 3,708 |
| Captive | 248 | 238 |
| Certificate of authority (insurer) | 1,068 | 1,055 |
| Foreign risk retention group (registered) | 65 | 65 |
| Fraternal benefit society | 7 | 7 |
| Health maintenance organization | 4 | 4 |
| Independent bill reviewer | 27 | 28 |
| Life settlement broker | 26 | 26 |
| Life settlement provider | 23 | 21 |
| Limited lines motor vehicle rental company producer | 27 | 41 |
| Limited lines portable | 18 | 18 |
| Limited lines producer | 1,459 | 1,570 |
| Limited lines self-service storage producer | 11 | 49 |
| Managing general agent | 57 | 45 |
| Mutual benefit society | 5 | 5 |
| Nonresident producer | 76,599 | 64,966 |
| Pharmacy benefit manager registration | 40 | 38 |
| Producer | 8,361 | 7,926 |
| Purchasing group (registered) | 234 | 242 |
| Reinsurance intermediary | 45 | 40 |
| Service contract provider registration | 207 | 190 |
| Surplus lines broker | 2,248 | 2,172 |
| Third party administrator | 196 | 162 |
| Vehicle protection product warrantor registration | 49 | 49 |
| TOTAL: | 94,869 | 82,665 |

The INS administers HRS chapters 431 (Insurance Code), 431C, 431K, 431L, 431M, 431P, 431S, 432, 432C, 432D, 432E, 435C, 435E, 448D, 481R, 481X, and 488, which relate to the licensing, supervision, and regulation of all insurance transacted in the State by all insurance entities.

Contact information:

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Room 213
Honolulu, Hawaii 96813

Mailing address: P.O. Box 3614
Honolulu, Hawaii 96811

Phone: (808) 586-2790

Website: cca.hawaii.gov/ins

Email: insurance@dcca.hawaii.gov

The **Captive Insurance Branch** handles all aspects of licensing, regulating, and developing the State's captive insurance industry. With 248 active licenses as of June 30, 2021, Hawaii's captive insurance domicile is ranked eighth worldwide and fifth in the U.S. for the largest captive domiciles. Pursuant to Act 1, SLH 2005, the Captive Insurance Administrative Fund defrays funds expended for the INS' captive insurance program. Accordingly, the CRF does not fund the cost of this program.

When a complaint is filed with the INS, the **Compliance and Enforcement Branch** conducts an investigation to ensure compliance with applicable statutes and rules. When violations are identified, the branch recommends appropriate disciplinary actions. In addition, the branch is responsible for processing administrative hearing requests, qualifying applicants to the Hawaii Joint Underwriting Plan assigned claims program, reviewing background information of producer licensing applicants to identify criminal and administrative histories, assisting consumers, and coordinating and qualifying applications for written consent pursuant to 18 United States Code section 1033 and HRS section 431:2-201.3.

The **Financial Surveillance and Examination Branch** conducts financial analyses and examines Hawaii-domiciled insurance companies, agencies, health maintenance organizations, and mutual benefit societies to assess their financial condition, solvency, and compliance with applicable laws and regulations. To safeguard consumer interests and maintain the integrity of the insurance industry, the branch also:

- Licenses more than 1,300 domestic, foreign, and alien insurers.

- Processes and collects more than \$193 million in premium and surplus lines taxes on behalf of the General Fund and workers' compensation levies on behalf of the Department of Labor and Industrial Relations.
- Processes and administers tax credits claimed against insurance premium taxes.
- Authorizes and monitors accredited, certified, and trustee reinsurers.
- Registers purchasing groups and foreign risk retention groups.
- Regulates self-insurers.
- Maintains security deposits.
- Monitors market share and competitive standards of mergers and acquisitions.

The INS is subject to periodic review by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Program, which requires state insurance departments to regulate domestic insurers' corporate and financial affairs. The Financial Surveillance and Examination Branch introduces legislation and promulgates administrative rules to ensure the INS has adequate statutory and administrative authority and the resources necessary to satisfy its regulatory obligations.

The **Health Insurance Branch** regulates health insurers, including health maintenance organizations and mutual benefit societies. The branch's primary responsibilities include: receiving inquiries and complaints pertaining to health insurance, including long-term care insurance; receiving requests from consumers for external reviews of a health plan's coverage decisions under HRS chapter 432E and administering the external review process; reviewing premium rate filings and forms to ensure readability and disclosure of required information; and coordinating with the Financial Surveillance and Examination Branch to conduct financial surveillance of health insurers.

The **Insurance Fraud Investigations Branch** conducts a statewide program for the prevention, investigation, and prosecution of insurance fraud cases and complaints. The branch's jurisdiction includes all lines of insurance, except workers' compensation. The branch reviews referrals submitted by the insurance industry, other agencies, and the public and initiates an investigation when a crime may have been or is being committed. State law requires that any insurer, insurer's employee, or insurer's agent that believes a fraudulent claim is being made refer the case to the Insurance Fraud Investigations Branch within 60 days.

The **Legal Branch** advises the INS on all legal matters and serves as the interface between the INS and the Department of the Attorney General. The branch serves as hearings officers for administrative hearings as assigned by the insurance commissioner; researches insurance issues; interprets statutes and rules; reviews and analyzes administrative decisions and rulings; prepares legislative bills, legislative testimonies, and administrative rules; responds to requests for formal and informal legal opinions; assists other INS branches in enforcing compliance with the Insurance Code; and provides assistance to other branches in supervision, rehabilitation, and liquidation proceedings.

The **Licensing Branch** reviews, issues, extends, inactivates, and activates insurance licenses and registrations and administers continuing education (CE) programs. The branch maintains records of the licenses and registrations of producers, nonresident producers, surplus lines brokers, adjusters, service contract providers, vehicle protection product warrantors, and pharmacy benefit managers, among others. In addition, the branch issues CE deficiency notices and notifications; processes remittance checks, amendments, renewals, appointments, and terminations of appointment; prepares and updates fee schedules; addresses licensing inquiries from the public; and provides online confirmation to licensees. The branch also works with the insurance commissioner's CE advisory board to approve or deny CE providers or courses.

The **Office Services Branch** provides general reception services; answers and screens telephone calls; provides clerical, stenographic, typing, and other administrative services for the INS; maintains the INS' central administrative files, including memoranda, newspaper articles, documents, and reports; orders office supplies and equipment for the INS and maintains its inventory; and receives and distributes the INS' mail.

The **Rate and Policy Analysis Branch** provides systems and procedures for the analyses of rate and policy filings of domestic, foreign, and alien insurance companies for compliance with the State's insurance laws. The 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.

For a comprehensive report on the INS' activities, please visit cca.hawaii.gov/ins/reports/ to view the 2021 Annual Report of the Insurance Commissioner of Hawaii.

GOALS AND OBJECTIVES

- Continue meeting its statutorily mandated requirements.
 - The INS will continue complying with the Insurance Code and the Hawaii Administrative Rules (HAR) through proper personnel and caseload management.
- Maintain accreditation status with the NAIC.
 - Accreditation of state insurance regulators is administered by the NAIC and requires state insurance departments and divisions to maintain adequate statutory and administrative authority, as well as sufficient resources to effectively regulate the financial solvency of insurance companies. To maintain its accreditation status, the INS will ensure the required level of funding for its financial surveillance resources. In addition, the INS will review and submit to the Legislature, when necessary, proposed legislation for the adoption of NAIC model laws required for accreditation.

- Improve Hawaii's world ranking as a leading captive insurance domicile.
 - Hawaii has long been an attractive domicile for the captive insurance industry because of its rigorous standards and geographical location. The INS continued to review its marketing strategy and amend existing components to remain competitive with the maturing and dynamic captive market in the United States. Hawaii actively pursues opportunities in Asia and has maintained its standing as a captive insurer domicile world leader.
- Transition to a new INS database.
 - As the INS looks to the future, it is focused on implementing system solutions to replace its outdated legacy Hawaii Insurance Database System. During FY 2020, INS evaluated various options and chose to license the NAIC's State Based System that 30 additional state insurance departments already utilize. This transition will begin in FY 2022 and will not only improve the INS' efficiency, but also provide better online services and information to consumers and insurance licensees.

ACCOMPLISHMENTS IN FY 2021

Savings to Hawaii Consumers

Through a combination of the rate review process and the complaint investigation process, the INS helped consumers save a total of \$55.6 million in FY 2021. The INS reviewed and issued dispositions on 1,516 rate filings and handled 547 complaints. The Rate and Policy Analysis Branch recorded \$6.9 million of long-term care premium savings and \$4.1 million of property and casualty premium savings. An additional \$39 million of premium was returned to consumers, primarily by private passenger auto insurers in response to the COVID-19 crisis. Review of health rate filings resulted in consumers savings of \$2.1 million.

Growth in Licensee's and Revenue

The INS saw a 15% growth in licensee's in FY21. The increase was primarily attributed to additional nonresident producers licensing in Hawaii. The INS processed these new licensee's without adding any additional staff. The growth in licensee's and the revenue associated with those licenses was a main factor in a 22% increase in revenues in FY21. The increase in revenue allows the INS to forego an industry assessment in FY22.

CRF FINANCIAL SUMMARY FOR FY 2021

| Personnel Expenses | Operating Expenses | Total Expenses | Revenues Received |
|--------------------|--------------------|----------------|-------------------|
| \$7,332,977 | \$1,516,562 | \$8,849,538 | \$14,271,599 |

With a 22% increase in revenues in FY21, the INS expect to have enough funds to cover budgeted expenditures without having to conduct an industry assessment.

OFFICE OF ADMINISTRATIVE HEARINGS

OVERVIEW AND COMPOSITION

The Office of Administrative Hearings (OAH) is a support office under the Director's Office and is responsible for conducting administrative hearings and issuing recommended decisions for all DCCA divisions that are statutorily required to provide contested case hearings under chapter 91, HRS. The OAH's primary CRF caseload includes cases involving:

- Disciplinary actions filed by the Regulated Industries Complaints Office against licensees;
- Appeals of the decisions of the boards, commissions, and programs attached to the Professional and Vocational Licensing Division to deny license applications;
- Petitions for declaratory relief;
- Citations issued to persons or businesses engaged in unlicensed activities;
- Trade name or trademark disputes;
- Securities enforcement actions brought pursuant to the Uniform Securities Act;
- Denials of personal injury protection insurance benefits;
- Disciplinary actions arising from HPEAP; and
- Other matters from other divisions.

The OAH is also responsible for conducting administrative review hearings on:

- Procurement cases from all agencies and divisions of the State, its four counties, and the University of Hawaii that arise under the Hawaii Public Procurement Code;
- Certain kinds of motor vehicle dealer, distributor, and manufacturer disputes under HRS chapter 437, part 2;
- Appeals of benefit determinations from the Employer-Union Health Benefits Trust Fund under a Memorandum of Understanding; and
- Appeals of benefits determinations from the Hawaii Employees' Retirement System under a Memorandum of Understanding.

Another integral part of the OAH's responsibilities is its administration of the Medical Inquiry and Conciliation Panel (MICP) and the Design Claim Conciliation Panel (DCCP). The MICP conducts informal conciliation hearings on inquiries regarding health care providers before any claims against those providers can be filed as lawsuits. Similarly, the DCCP conducts informal conciliation hearings on claims against design professionals (i.e., engineers, architects, surveyors, and landscape architects) before those claims can be filed as lawsuits. The MICP does not make any decisions on the merits of the parties' positions. The decisions of the DCCP are advisory and not binding on the parties, should a party decide to pursue the matter in court.

For a comprehensive report on MICP and DCCP activities, please visit cca.hawaii.gov/oah/reports/ to view the 2021 Annual Report on the Medical Inquiry and Conciliation Panel and Design Claim Conciliation Panel.

Contact information:

Office and mailing address: 335 Merchant Street
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Honolulu, Hawaii 96813

Phone: (808) 586-2828

Website: cca.hawaii.gov/oah

Email: oah@dcca.hawaii.gov

GOALS AND OBJECTIVES

- Conduct contested case hearings and issue consistent and well-reasoned, recommended decisions in a fair and impartial manner and as expeditiously as possible.
 - The OAH implements processes and procedures to ensure all cases are timely processed, from the date of filing to the issuance of a final order. These processes and procedures include: entering additional data fields in the OAH's database so that all pending cases can be tracked for timeliness throughout the entire hearings process; inventorying all OAH cases every February and August of each year; and disposing of cases where no party has taken any action.
 - Make available to the public an efficient means of submitting their hearing and related requests to the OAH electronically.
 - When appropriate, conduct hearings and other proceedings remotely.
- Make available to the public all decisions issued by CRF-related boards, commissions, programs, and divisions.
 - The OAH makes available online all procurement protest decisions shortly after it notifies the parties of the decisions. Since January 2009, the OAH has posted on its website all decisions in other areas.
 - Through new software, the OAH redacts personal information protected by privacy laws from decisions and makes decisions compliant with the Americans with Disabilities Act.
 - The OAH routinely publishes all decisions shortly after they are issued to foster greater awareness of state laws, encourage voluntary resolution of disputes, and maintain consistency in rendering decisions.
- Make available to the public various forms and detailed written instructions to access and initiate the contested case hearing process.

ACCOMPLISHMENTS IN FY 2021

Notwithstanding its closure to walk-in traffic, the OAH has been able to continue its operations after making several adjustments to its procedures. These adjustments include devising a system that has allowed the parties to submit their cases and pleadings electronically. In addition, the hearings officers were trained in conducting hearings and conferences remotely, and the OAH's case management system allowed the OAH to track cases, assign tasks, generate calendars and schedules, and issue decisions—all electronically. As a result, the daily operations of the OAH have experienced no interruption by the pandemic.

The below table summarizes CRF-related activities the OAH conducted in FY 2021:

| Type of Proceeding Conducted | Number |
|-------------------------------------|---------------|
| Pre-hearing conferences | 78 |
| Status conferences | 118 |
| Motions | 16 |
| Hearings | 139 |

The below table summarizes the number of cases and relative percentage of CRF-related activities the OAH conducted in FY 2021.

| DCCA Divisions Referring Matters to the OAH | Cases Filed | % |
|--|--------------------|----------|
| Insurance Division (denial of personal injury protection benefits and enforcement actions) | 160 | 68% |
| Regulated Industries Complaints Office (petitions for discipline and appeals from citations for unlicensed activities) | 23 | 10% |
| Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, and violations of securities laws) | 9 | 4% |
| Professional and Vocational Licensing (license denials) | 10 | 4% |
| Hawaii Employees' Retirement System (retirement benefit denials) | 16 | 7% |
| Procurement Administrative Reviews (protest denials) | 17 | 7% |
| Other CRF-related hearings | 0 | 0% |

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

OFFICE OF CONSUMER PROTECTION

OVERVIEW AND COMPOSITION

The Office of Consumer Protection (OCP) acts on behalf of the DCCA director, who serves as the consumer counsel for the State under HRS chapter 487. The OCP reviews, investigates, and conducts enforcement actions against unfair or deceptive trade practices in consumer transactions. The OCP also provides consumer education and promotes awareness of important consumer protection issues through its programs, media releases, and educational materials.

The OCP's enforcement jurisdiction encompasses a wide range of businesses and commercial activities, including, but not limited to: advertising violations, door-to-door sales, gift certificates, offers of gifts and prizes, going-out-of-business sales, refunds and exchanges, collection practices, credit sales, health clubs, towing, fine prints, and motor vehicle rentals. More recently, the OCP has investigated and initiated enforcement actions on price gouging and unlawful rent increases while the governor's emergency declarations were in effect and to protect consumers from the misleading and deceptive practices in the sale and manufacturing of consumer products. See Table 1: Laws Enforced by OCP.

The OCP received more than 830 consumer complaints in FY 2021. The actual number of OCP complaints varies from year to year, depending on circumstances. Many factors influence the number of complaints to the OCP in any given year, such as the number of victims impacted by a business' illegal conduct. During the past several years, the OCP averaged approximately 630 consumer complaints per year. Consumer complaints remained higher in FY 2021 than before the pandemic because of the effects COVID-19 has had on the economy.

In addition to its enforcement duties, the OCP offers information on the Residential Landlord-Tenant Code, HRS chapter 521, to the public through the Landlord-Tenant Information Center.

The OCP employs many different strategies to ensure its mission is achieved in a meaningful and cost-effective manner. First, the staff prioritizes 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, to proactively address perceived consumer problems, the OCP initiates investigations of problematic commercial practices. Third, the staff attempts to provide as much phone assistance as possible, thereby enabling consumers to resolve their concerns without needing official or formal government procedures or intervention. Fourth, emphasis is placed on consumer and business education through public service announcements, Consumer Dial messages, social media, public informational forums, speaking engagements, media releases, and the dissemination of brochures. Finally, the OCP partners with numerous public and private agencies to promote consumer protection throughout Hawaii. The OCP will continue to implement these strategies and increase its consumer education outreach.

Contact information:

Main office address: Leiopapa A Kamehameha Building
(State Office Tower)
235 South Beretania Street
Suite 801
Honolulu, HI 96813
(808) 586-2630

Maui office address:
(new location) Wells Professional Center
2145 Wells Street
Suite 106
Wailuku, HI 96793
(808) 243-4648

Hilo office address: Bank of Hawaii Building
120 Pauahi Street
Suite 212
Hilo, Hawaii 96720
(808) 933-8845

Website: cca.hawaii.gov/ocp

Email: ocp@dcca.hawaii.gov

The **Consumer Resource Center (phone: 808-587-4272)** performs intake of complaints for the OCP. The center is staffed by intake investigators at the Regulated Industries Complaints Office who answer consumers' questions, distribute OCP complaint forms to consumers, receive written consumer complaints, and forward cases to the OCP for review, closure, or further investigation. In FY 2021, the center resolved approximately 1,805 OCP complaint inquiries without a formal complaint. In addition, a section of the center answers phone requests for prior complaint history. If circumstances permit, consumers can also visit the OCP's Honolulu office to view hard copies of case files. Prior to the release of any file, the OCP reviews its contents to ensure legally protected private information is not disclosed.

The **Investigation Section (phone: 808-586-2630)** receives cases from the Consumer Resource Center and gathers evidence to determine whether consumer laws have been violated. Investigators' tasks include site inspections, witness interviews, document collection, evidentiary analysis, report-writing, and service of subpoenas. See Table 3: Numerical Breakdown of Dispositions of all OCP Cases and Table 4: OCP's Top Ten Complaints.

The **Residential Landlord-Tenant Information Center (phone: 808-586-2634, Consumer Dial Information Service: 808-587-1234)** is staffed by OCP investigators and volunteers Monday through Friday. The center does not represent landlords or tenants in court or provide legal advice; its role is limited to providing information regarding landlord-tenant laws. The OCP supplements this function by making available additional information on the DCCA's 24-hour Consumer Dial Information Service and on its website. The OCP also publishes the Hawaii Residential Landlord-Tenant Handbook, of which thousands are distributed each year.

The **Legal Section (phone: 808-586-2636)** has enforcement attorneys who undertake civil enforcement actions against violators of consumer law. The enforcement attorneys also engage in informal and formal resolution of cases prior to filing lawsuits.

The OCP also provides the following services:

Consumer Education

To enhance consumer awareness of various consumer problems, the OCP continuously strives to promote consumer education. In this regard, the OCP issues press releases on a variety of consumer topics and distributes written materials tailored to provide specific consumer information. The OCP also provides consumer information through its website and its Consumer Dial Information Service, in which interested persons may call 24 hours a day and receive information on a variety of topics. The OCP participates in numerous educational virtual forums in which thousands of consumers and business persons have received extensive information about consumer protection in Hawaii.

Neighbor Island Assistance Requests

The OCP offers assistance to neighbor island residents in DCCA-related matters and other areas. See Table 5 for statistics on OCP's Neighbor Island Assistance in FY 2021.

GOALS AND OBJECTIVES

- Fulfill the OCP's statutory mandate of fostering a fair and safe marketplace for consumers and businesses.
- 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.
- Maintain fiscal responsibility on behalf of DCCA and OCP operations.
- Support innovative legislation designed to protect consumers in Hawaii.
- Proactively initiate cases against problematic business practices before widespread consumer harm occurs.
- Disseminate consumer education to the largest possible populace.
- Facilitate the exchange of information with a wide array of civil and criminal law enforcement agencies.
- Provide in-house training to OCP investigators and attorneys.

ACCOMPLISHMENTS IN FY 2021

Filing complaints became more accessible for consumers when the OCP launched its new online complaints portal. The online complaints portal enables consumers to submit complaints without dropping off or mailing their forms to the office. The portal also receives consumers' concerns who wish to inform the OCP of issues affecting them without having to file a formal complaint. This information allows the OCP to monitor trends such as the latest scams affecting consumers.

The OCP experienced an increase in both calls to its Residential Landlord-Tenant Information Center and searches on its website for information relating to the eviction and mediation processes mandated by Act 57. Act 57 was a measure passed by the Legislature during the 2021 legislative session that changed the eviction procedures for non-payment of rent. Accordingly, the OCP focused its efforts on educating residential tenants and landlords of their rights and obligations under Act 57 by updating its website, participating in webinars, and training the Residential Landlord-Tenant Information Center staff on the new law.

In FY 2021, the OCP responded to 101,566 requests and inquiries from the public, including 11,121 requests for landlord/tenant information through its Residential Landlord-Tenant Information Center. See Table 2: OCP's Information Requests.

Legislation

The OCP testified and provided input on numerous measures related to consumer protection during the Regular Session of 2021, including bills relating to the Residential Landlord-Tenant Code, peer-to-peer motor vehicle sharing, motor vehicle rentals, towing, advertisements, privacy, and shipping charges.

Cases

The OCP's cases in FY 2021 involved nearly every area of consumer protection. These cases involved alleged violations of Hawaii's consumer protection laws governing price gouging, mortgage rescue fraud, data breaches, gift certificates, door-to-door sales, wire transfers, refunds and exchanges, advertising, and unfair or deceptive trade practices, including complex multistate enforcement actions based on unfair or deceptive marketing practices by wireless phone companies, financial institutions, and medical device manufacturers.

CRF FINANCIAL SUMMARY FOR FY 2021

| Personnel Expenses | Operating Expenses | Total Expenses | Revenues Received |
|--------------------|--------------------|----------------|-------------------|
| \$1,955,507 | \$189,010 | \$2,144,516 | \$3,480,783 |

Through its efforts, the OCP recovered more than \$3,400,000 in fines, penalties, costs, and restitution for Hawaii consumers. The OCP anticipates receiving fines and penalties in FY 22 from multistate settlements and cases.

TABLES**Table 1: Laws Enforced by OCP**

| | |
|---------------------|---|
| HRS section 127A-30 | Rental or sale of essential commodities during a state of emergency; prohibition against price increases |
| HRS section 290-11 | Vehicles left unattended on private and public property; sale or disposition of abandoned vehicles |
| HRS chapter 437D | Motor Vehicle Rental Industry Act |
| HRS chapter 446 | Debt Adjusting |
| HRS chapter 446E | Unaccredited Degree Granting Institutions |
| HRS chapter 476 | Credit Sales ¹³ |
| HRS chapter 477E | Fair Credit Extension |
| HRS section 480-2 | Unfair competition, practices, declared unlawful ¹⁴ |
| HRS chapter 480D | Collection Practices ¹⁵ |
| HRS chapter 480E | Mortgage Rescue Fraud Prevention Act |
| HRS chapter 480F | Check Cashing |
| HRS chapter 481A | Uniform Deceptive Trade Practice Act |
| HRS chapter 481B | Unfair and Deceptive Practices, including: Unsolicited Goods; Commercial Mail Order Buying Clubs; Unlawful Offers of Gifts or Prizes; Misrepresentation as to Aid to Handicapped; Returns for Refunds, Merchandise Credits, and Exchanges; Sale of Solar Energy Devices; Sale of Computers; Sensitivity-Awareness Group Seminars; Credit Repair Organizations; Gift Certificates; and Ticket Brokers and Fees |
| HRS chapter 481C | Door-To-Door Sale |
| HRS chapter 481D | Going Out of Business Sales |
| HRS chapter 481F | Sale of Prints |
| HRS chapter 481H | Water Treatment Units |
| HRS chapter 481K | Assistive Technology Warranty Act |
| HRS chapter 481L | Motor Vehicle Lease Disclosure Act |
| HRS chapter 481M | Lease-Purchase Agreements for Personal Property |
| HRS chapter 481P | Telemarketing Fraud Prevention Act |
| HRS chapter 481X | Service Contracts |
| HRS chapter 486N | Health Clubs |
| HRS section 487-5 | General functions, powers, and duties of director of OCP |
| HRS chapter 487A | Language of Consumer Transactions |
| HRS chapter 487J | Personal Information Protection |
| HRS chapter 487N | Security Breach of Personal Information |
| HRS chapter 487R | Destruction of Personal Information Records |

¹³ HRS section 476-31. The OCP has also filed cases based upon the Federal Truth in Lending Act and the State's usury statute, HRS chapter 478.

¹⁴ The OCP also has enforcement power over certain lemon law agreements under HRS section 481I-4 and has filed lawsuits under HRS section 486-119 (Hawaii-made products; Hawaii-processed products). Also, HRS chapter 514E sets forth a comprehensive regulatory scheme for time-share development, sales, and maintenance and establishes 13 specific types of conduct that constitute *per se* violations of HRS section 480-2. Under HRS section 490:2A-104, Uniform Commercial Code leases are explicitly subject to state consumer protection statutes and case law.

¹⁵ See also HRS section 443B-20 (Unfair competition, unfair or deceptive acts or practices of collection agencies).

HRS chapter 506
HRS chapter 521

Mortgages of Real Property or Fixtures
Residential Landlord-Tenant Code¹⁶

Table 2: OCP's Information Requests

| REQUEST AND INQUIRIES | FY 2019 | FY 2020 | FY 2021 |
|---|---------------|----------------|----------------|
| Requests for prior complaint history | 4,671 | 4,559 | 5,277 |
| Website inquiry general information | 32,780 | 52,200 | 55,115 |
| Website inquiry landlord/tenant information | 10,326 | 37,149 | 31,186 |
| Requests for landlord/tenant information | 9,717 | 9,563 | 11,121 |
| Complaint inquiries | 5,545 | 13,600 | 9,982 |
| Requests for records review | 5 | 13 | 6 |
| TOTAL | 63,044 | 117,084 | 112,687 |

Table 3: Numerical Breakdown of Dispositions of all OCP Cases

| DISPOSITIONS | FY 2019 | FY 2020 | FY 2021 |
|---|------------|------------|--------------|
| Complaint withdrawn | 3 | 3 | 6 |
| Legal action and referrals to Legal Section | 78 | 102 | 44 |
| Advisory contact | 4 | 5 | 9 |
| Civil dispute/personal matter | 23 | 37 | 71 |
| Monetary threshold | 0 | 0 | 0 |
| Complainant uncooperative | 14 | 8 | 24 |
| Consumer complaint resolved | 8 | 8 | 73 |
| Respondent died or bankrupt | 12 | 5 | 16 |
| Business vs. business | 15 | 13 | 8 |
| No jurisdiction | 13 | 3 | 19 |
| Refer to investigation | 241 | 305 | 135 |
| Other | 0 | 4 | 15 |
| Warning letter | 3 | 5 | 27 |
| Insufficient evidence | 62 | 31 | 232 |
| Transferred to other government agency | 111 | 114 | 147 |
| No violation | 19 | 31 | 49 |
| Information only/inquiry | 140 | 102 | 392 |
| TOTAL | 746 | 776 | 1,267 |

¹⁶ HRS section 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 section 480-2. In addition, HRS section 521-77 provides that the OCP may receive, investigate, and attempt to resolve any dispute arising under HRS chapter 521.

Table 4: OCP's Top Ten Complaints

| SUBJECT | FY 2019 (rank/total) | FY 2020 (rank/total) | FY 2021 (rank/total) |
|---|--------------------------------|--------------------------------|--------------------------------|
| Internet crime complaints (National White Collar Crime Center) | #4.80 | #3.44 | #1.395 |
| Price gouging | #8.38 | #1.234 | #2.174 |
| Travel/vacation | #1.171 | #4.41 | #3.144 |
| Refunds | #7.52 | #10.26 | #4.105 |
| Transportation (sale/repair/rent/tow/parking) | #2.131 | | #5.102 |
| Education (trade, vocational, home study, unaccredited degree-granting institution) | | | #6.63 |
| Internet transactions (PC/software/server) | #6.55 | #9.28 | #7.58 |
| Utilities (electric, telephone, cable) | | | #8.52 |
| Real Estate (Landlord-Tenant, Foreclosures) | | | #9.50 |
| Identity theft/security breach | | | #10.46 |
| Insurance | #9.33 | | |
| Gift certificate | #10.31 | | |

Table 5: OCP's Neighbor Island Assistance in FY 2021

| DIVISION | HILO | MAUI | TOTAL |
|--|-------------|-------------|--------------|
| Division of Financial Institutions | 0 | 1 | 1 |
| Business Registration | 0 | 5 | 5 |
| Cable Television | 0 | 0 | 0 |
| Insurance Division | 0 | 2 | 2 |
| Division of Consumer Advocacy | 0 | 0 | 0 |
| Professional and Vocational Licensing | 0 | 0 | 0 |
| Regulated Industries Complaints Office | 0 | 0 | 0 |
| Non-DCCA related | 0 | 192 | 192 |
| Other DCCA divisions | 0 | 0 | 0 |
| TOTAL | 0 | 200 | 200 |

PROFESSIONAL AND VOCATIONAL LICENSING DIVISION

OVERVIEW AND COMPOSITION

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations of 52¹⁷ different professions and vocations. The division: provides support to licensing regulatory boards, commissions, and programs; handles applications and licenses; reviews and processes renewals; maintains license records; provides guidance to properly implement licensing laws and administrative rules; and responds to consumer inquiries on whether a person or an entity is properly licensed, to help them decide whether to use the services of that person or entity.

The **PVL website** (cca.hawaii.gov/pvl) provides consumers licensing information for all of its licensing areas; fillable license applications; publications; licensing laws and administrative rules; FAQs; a link to the division's online services (cca.hawaii.gov/pvl/e_services); board meeting schedules, agendas, and meeting minutes; and a geographical report that lists current, active, or inactive licensees by county.

The PVL's **Business Check website** (cca.hawaii.gov/businesscheck/) helps consumers verify the licenses of businesses or individuals, including their license identification number; whether a license is active or inactive; current status of the license; original date of licensure; expiration date of licensure; current and former persons, businesses, or tradenames; information on "conditional license" codes and descriptions; and any formal disciplinary action taken against the licensee.

The public can create a customized list of licensees using the PVL's **List Builder website** (pvl.hawaii.gov/pvllistbuilder/). The list is sortable by board, program, commission, zip code, license issuance, license status, and island. Lists are available for download within 24 hours of making the request.

The division's **MyPVL website** (pvl.hawaii.gov/mypvl) allows licensees to access information and services from a single dashboard, including: managing or renewing¹⁸ their existing licenses; making address changes; and printing license pocket identification cards¹⁹ and wall certificates online at no cost. Applicants for licensure can also submit their initial license applications and supporting documents; pay fees; monitor their application status; and receive correspondence. As of FY 2021, MyPVL has over 179,898 individual accounts managing 190,854 licenses.

¹⁷ Twenty-five licensing regulatory boards, including two commissions, are administratively attached to the DCCA/PVL, as well as twenty-seven licensing programs whose board duties and functions are vested in the DCCA director.

¹⁸ While the PVL still accepts and processes renewals mailed by licensees, a majority of renewals are now submitted online.

¹⁹ The pocket ID card has a QR code that consumers can scan to verify a licensee's current status.

Contact information:

Office address: 335 Merchant Street
Room 301
Honolulu, Hawaii 96813

Mailing address: P.O. Box 3469
Honolulu, Hawaii 96801

Phone: (808) 586-3000

Website: cca.hawaii.gov/pvl

Email: pvl@dcca.hawaii.gov

The **Licensing Branch (phone: 808-586-3000)** is comprised of the Applications Section and the Records Section. The Applications Section reviews and processes applications for licensure, issues licenses, and maintains records of licensing applications. The Applications Section, on behalf of the boards, commissions, and programs, conducts highly intensive reviews of all initial licensing applications, determines the status of those applications, and, in some instances, makes the final determination to either issue or defer issuance of licenses. The Applications Section also performs customer service duties by answering the PVL's main public call-in line, which answered approximately 139,240 calls in FY 2021, or approximately 11,603 calls per month. To address the high call volume, a call center pilot program was established in April 2019. The call center has provided both the Applications Section staff and the Administration Branch phone support during the COVID-19 pandemic by addressing routine inquiries, such as the status of an application or where to obtain and file applications. The Records Section is responsible for renewing, restoring, and reactivating licenses and maintaining records of all licensees. The Records Section is also involved with performing customer service duties by assisting the public with licensing information at the main PVL walk-in counter, as well as responding to phone inquiries. Both sections of the Licensing Branch use the PVL's computerized licensing database to obtain immediate information about applicants and licensees. Inquirers may request information on whether a person or entity is licensed, the original date of licensure, the 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.

The **Administration Branch (phone: 808-586-2690)** handles board affairs such as coordinating, preparing, facilitating, and recording board meetings; ensuring board compliance with applicable laws that guide and direct its conduct; and implementing board decisions on applications, policies and procedures, and disciplinary actions. The branch also responds to requests for interpreting licensing laws and rules, oversees licensing and examination activities, and guides and assists with regulatory compliance issues. The same activities are done for the 27 programs (absent the necessity of board meetings) on behalf of the DCCA director. The Administration Branch also

performs substantial coordination and facilitation activities with other state, county, and federal agencies involved with licensing and regulatory issues.

The **Examination Branch (phone: 808-586-2711)** assists in ensuring proper administration of required licensing examinations of the boards, commissions, and programs. The branch proctors in-house examinations, reviews and processes requests by applicants for special examination accommodations, maintains examination records, and transmits eligibility information for applicants seeking licensure, certification, or registration in Hawaii. The branch ensures approved applicants are provided the necessary pre-examination information and generates post-examination score reports. Additionally, with input from board members and other subject matter experts, the branch confirms the validity and reliability of numerous exams by reviewing and revising the exam content.

The **Real Estate Branch (Phone 808-586-2643)** performs the same functions as the Administration Branch, but for real estate licensing and regulation, and condominium property regimes. With a large volume of applicants, licensees, and registrations, the Real Estate 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: www.hawaii.gov/hirec/.

All four branches within the PVL work collectively toward processing applications, licenses, and renewals to ensure the public has choices among competent and licensed practitioners. In FY 2021, 89.70% or 64,825 licensees renewed their licenses online, as compared to 90.53% or 54,364 licensees who renewed online in FY 2019. The PVL encourages licensees to use its online renewal system, which helps them save valuable time and effort. The PVL's online renewal system reduces the processing of renewals from 14 to 21 business days to 3 to 5 business days.

For a statistical summary of key PVL activities, see:

- Table 1: PVL Statistical Overview;
- Table 2: Total Number of Current PVL Licensees;
- Table 3: Total Number (Percentage) of Licenses Renewed Online; and
- Table 4: Total Number of Email Inquiries.

GOALS AND OBJECTIVES

- Focus on improving customer service by changing how staff works and through increased use of technology.
- Continue to have the PVL Working Group meet monthly to discuss ways to streamline processes.
- Store documents electronically until they are ready for processing, as this will decrease the amount of time staff spends manually filing paper and will allow greater access to relevant documents.

- Implement other means of reducing paper transactions, such as processing high-volume transactions online.

Examination Branch

- Identify appropriate ways to improve the exam portion of the licensing process to benefit both the applicant population and the PVL's own operations.
- Replace the remaining paper/pencil examinations with computer-based exams.
- Continue to maintain COVID-19 exam protocols, including: increasing the number of available exam rooms to accommodate examinees, complying with emergency proclamations and executive orders in response to the COVID-19 pandemic, and implementing safety protocols to ensure the health and safety of the examination proctors and examinees.

Real Estate Branch²⁰

The Real Estate Branch (REB) will continue to improve the offering and delivery of real estate pre-licensing and continuing education (CE) courses. Work continues on revisions to Hawaii Administrative Rules (HAR) chapter 99 for real estate brokers and salespersons, which will result in the replacement of the existing chapter with three smaller chapters for future ease of use, as well as other changes. The REB will continue educating its licensees on various real estate related topics through the Real Estate Commission's (REC) mandatory core course. For the condominium program, REB is currently working on soliciting and procuring for a new free comprehensive condominium educational course which would supplement the current ABC's Course. The new course is for registered associations not able to send members due to financial constraints. REB continues to enhance online public access to condominium projects, Association of Unit Owners registrations, and further develop its communication efforts with unit owners, developers, boards, associations, and the general public. The COVID-19 pandemic forced the REB to adjust to providing a vast majority of its programs online and virtually. For a comprehensive report on the REB's and REC'S FY2022 goals and objectives, please refer to cca.hawaii.gov/reb/reports/ to view their Annual Report for fiscal year ending June 30, 2021.

ACCOMPLISHMENTS IN FY 2021

Remote Board meetings and a new license processing system

Since the initial shutdown of State offices in March 2020 due to the COVID-19 pandemic, PVL staff, licensees, consumers, and the board members of the 25 licensing boards under the Department have all had to quickly learn and acclimate to remote-meeting technologies to conduct staff meetings, board meetings, and public hearings. The PVL continues to ensure that board members and division staff have the appropriate infrastructure to participate in virtual meetings

²⁰ For a comprehensive report on the goals and objectives of the Real Estate Branch and the Real Estate Commission, please visit cca.hawaii.gov/reb/reports/ to view the 2021 Annual Report of the Real Estate Commission.

and to improve upon all aspects of PVL operations to continue serving applicants, licensees, and consumers.

Significantly, on February 22, 2021, the PVL launched the Hawaii Online Access to Licenses and Applications Salesforce System, called Hō`ala, which replaced its older ALIAS System, to allow applicants to submit their initial license applications and supporting documents; pay fees, monitor their application status; and receive correspondence – all through their MyPVL account. This deployment was made to improve integration of the online services and management information for the thousands of Hawaii licensed professionals. Hō`ala, like any new system has posed some challenges, but it has also streamlined some processes and record keeping. For example, the PVL is able to provide direct communication with initial applicants for licensure by providing notices of deficiency and licensure. This enables for a quicker processing time and provides the division an alternative to mailing out all notices.

Conversion of Licensing Documents to Electronic Format

The PVL continued its scanning and imaging project of converting licensing documents into electronic format. Conversion protects historical documentation from damage or destruction and has allowed PVL staff to retrieve and review documents electronically, thereby eliminating the delay that comes with physically retrieving files. The division also moved toward incorporating a documents management system to more easily manage scanned documents enabling its filing to appropriate licensing files.

Licensing Branch Accomplishments

The Licensing Branch received approximately 25,211 new applications and issued 13,576 licenses in FY 2021. In addition, the branch processed approximately 19,1645 license-related changes, such as address changes, name changes, and broker changes. The branch answered 139,240 calls in FY 2021, or approximately 11,603 calls per month. The COVID-19 pandemic had a significant impact on the branch. At one time, the Licensing Branch was not able to access hard copy files immediately and was dependent on team members scanning files to access through a secured drive to process while teleworking. This alone created a considerable backlog with hundreds of documents being received daily. To address this backlog, the Licensing Branch scaled back its use of hybrid remote work and instead worked primarily in the office while maintaining social distancing mandates. Additionally, the branch created focus groups of 4 to 5 team members to address backlogged areas. For example, these focus groups brought forward a 6 to 7-month delay in processing to 1 to 2 months in some instances.

Examination Branch Accomplishments

During FY 2021, the COVID-19 pandemic temporarily interrupted Exam Branch operations and services, which initially included the cancellation of examinations proctored by the branch. Additionally, the COVID-19 pandemic added its share of operational and technological challenges to the effective management of the Exam Branch. One such challenge was the need to increase the number of exam offerings due to social distancing. Where the branch was able to offer a single exam room, date and time prior to the pandemic, it now offers multiple exam times and examination rooms. Additional challenges included the re-development of processing guides

based on a new work model and work arounds related to the existing telephone system. However, with the assistance of the Department's IT office and the branch staff's willingness to overcome the challenges presented, the branch was successful in maintaining its core services.

The Examination Branch processed applicant eligibility for testing as well as post-examination results, in a timely manner, and in most cases, within 5 to 7 days of key triggering dates. The branch worked closely with testing organizations, applicants, and affected PVL staff, such as the Executive Officers and the Licensing Branch, to process requests from applicants for special testing accommodations. The Branch handled all requests in a timely and professional manner.

With the introduction of Hō`ala, the Examination Branch has been successful in incorporating branch processes into the new system, which resulted in a decrease of the files maintained by the branch.

Due to the everchanging nature of exams, the Examination Branch continues making necessary adjustments to integrate program requirements, testing agencies, and national organization changes into Hō`ala.

Real Estate Branch Accomplishments

In line with PVL's objectives of improving and expanding the division's online services, REB continued its implementation of online services, including condominium association registration and improving a continuing education system which provided real estate licensees the ability to view the number of CE hours required and earned for the current licensing period, their CE history, online renewal of their license, and the ability to search for future CE courses being offered by approved CE providers. Additionally, real estate principal brokers and brokers-in-charge may monitor and view the current CE hours, CE history, and license status of all licensees associated with the brokerage. The system is updated daily, is simple to use, and information may be found at <https://pvl.ehawaii.gov/rece/app/welcome.html>. The REB received national recognition from the Association of Real Estate License Law Officials for its Condorama educational event featuring a panel of speakers with topics ranging from the rights and duties of directors and owners, the importance of reserves, effective rule making, and the ABCs of condominium insurance. Due to the ongoing pandemic, the Condorama event was taken strictly online in a virtual meeting format and was subsequently able to reach an entirely new audience. The free Condorama event is now available to the neighbor island community immediately and on demand. Additionally, through a procured vendor, REB created a 15-part video education series to enhance the ongoing education of the condominium community, including both current and future owners. For a comprehensive report on the REB's and REC'S FY2022 goals and objectives, please refer to cca.hawaii.gov/reb/reports/ to view their Annual Report for fiscal year ending June 30, 2021.

POTENTIAL ISSUES, PROBLEMS, AND CHALLENGES

The Licensing Branch anticipates a continued increase in new applications and records requests. The branch has already seen about a 20% increase in the number of applications received from the last fiscal year, and thus, finds it difficult to maintain its current workload in addition to the

implementation of new licensing programs. The division's budget requests for FY23 includes a request for additional positions, and the division respectfully urges the legislature's favorable consideration of this request to ensure that regulated professions are not negatively impacted and to alleviate further burnout and turnover with current staff.

CRF FINANCIAL SUMMARY FOR FY 2021

| Personnel Expenses | Operating Expenses | Total Expenses | Revenues Received |
|--------------------|--------------------|----------------|-------------------|
| \$5,314,529 | \$1,668,875 | \$6,983,404 | \$6,592,978 |

TABLES

Table 1: PVL Statistical Overview

| | FY 2020 | FY 2021 |
|---|----------------|----------------|
| Applications received | 18,748 | 25,211 |
| Applicants licensed | 14,189 | 13,576 |
| Licenses renewed | 65,132 | 73,045 |
| Permits issued | 1,662 | 1,313 |
| Changes processed | 220,769 | 191,649 |
| Calls received by Licensing Branch | 72,467 | 139,240 |
| Current licensees | 161,951 | 154,862 |
| Total licensee population (all statuses, i.e., current, forfeited, delinquent) | 473,230 | 490,120 |

Table 2: Total Number of Current PVL Licensees

| Boards and Commissions (shown by asterisks) and Programs | FY 2020 | FY 2021 |
|---|----------------|----------------|
| Accountants* | 3,487 | 3,707 |
| Activity desks | 899 | 904 |
| Acupuncturists* | 758 | 704 |
| Appraisal management companies - license effective 1/1/2018 | 75 | 79 |
| Athletic trainers | 196 | 260 |
| Barbering and cosmetology* | | |
| Barbers | 1,504 | 1,598 |
| Barber shops | 236 | 259 |
| Beauty operators* | 9,148 | 10,052 |
| Beauty instructors | 113 | 119 |
| Beauty schools | 12 | 8 |
| Beauty shops | 1,406 | 1,584 |
| Behavior analysts | 338 | 510 |

Professional and Vocational Licensing Division (PVL)

| | | |
|---|--------|--------|
| Boxing (all categories)* | 21 | 3 |
| Cemeteries and pre-need funeral authorities | 21 | 22 |
| Chiropractors* | 602 | 642 |
| Collection agencies | 678 | 656 |
| Contractors* | 12,883 | 11,854 |
| Dentists* | 1,514 | 1,646 |
| Community service dentists | 22 | 25 |
| Dental hygienists | 1,117 | 1,210 |
| Community service dental hygienists | 1 | 1 |
| Dispensing opticians | 205 | 190 |
| Electricians (all categories)* | 3,907 | 3,684 |
| Plumbers (all categories)* | 1,287 | 1,163 |
| Electrologists | 17 | 16 |
| Elevator mechanics* | 239 | 238 |
| Employment agencies | 71 | 69 |
| Engineers, architects, surveyors, and landscape architects* | | |
| Engineers | 7,029 | 7,448 |
| Architects | 2,333 | 2,515 |
| Surveyors | 194 | 200 |
| Landscape architects | 142 | 147 |
| Hearing aid dealers and fitters | 105 | 117 |
| Marriage and family therapists | 540 | 610 |
| Massage therapists* | 8,558 | 8,021 |
| Massage establishments | 993 | 893 |
| Medical and osteopathy* | | |
| Physicians | 9,543 | 10,466 |
| Podiatrists | 88 | 98 |
| Osteopaths | 1,047 | 1,102 |
| Physician assistants | 469 | 567 |
| Emergency medical technicians | 811 | 866 |
| Emergency medical technicians -advanced | 37 | 40 |
| Mobile intensive care technicians | 557 | 600 |
| Mental health counselors | 607 | 681 |
| Midwives | | 21 |
| Mixed martial arts | 247 | 18 |
| Motor vehicle dealers* | 287 | 269 |
| Motor vehicle dealer branches | 45 | 37 |
| Motor vehicle distributors | 37 | 37 |
| Motor vehicle manufacturers | 51 | 50 |
| Motor vehicle salespersons | 1,667 | 1,434 |
| Motor vehicle others (auction, broker, consultant) | 12 | 9 |

Professional and Vocational Licensing Division (PVL)

| | | |
|--|----------------|----------------|
| Motor vehicle repair dealers* | 646 | 406 |
| Motor vehicle mechanics | 1,370 | 1,298 |
| Naturopaths* | 144 | 161 |
| Nursing* | | |
| Registered nurses (RN) | 27,728 | 25,787 |
| Licensed practical nurses (LPN) | 2,219 | 1,766 |
| Advanced practice registered nurses (APRN) | 1,867 | 1,914 |
| Nurse aides | 7,730 | 7,918 |
| Nursing home administrators | 178 | 168 |
| Occupational therapists | 775 | 712 |
| Occupational therapist assistants | 176 | 176 |
| Optometrists* | 426 | 455 |
| Pest control operators* | 183 | 163 |
| Pest control field representatives | 238 | 224 |
| Pharmacists* | 2,823 | 2,961 |
| Pharmacies | 277 | 273 |
| Wholesale prescription drug distributors | 55 | 57 |
| Miscellaneous permits | 656 | 766 |
| Physical therapists | 1,952 | 1,870 |
| Physical therapist assistants | 427 | 411 |
| Port pilots | 9 | 10 |
| Deputy port pilots | 3 | 3 |
| Private detective agencies* | 41 | 35 |
| Private detectives | 107 | 94 |
| Guard agencies | 84 | 78 |
| Guards | 108 | 94 |
| Guard employees | 15,565 | 10,140 |
| Psychologists* | 1,317 | 1,334 |
| Real estate appraisers | 553 | 610 |
| Real estate brokers* | 6,667 | 6,551 |
| Real estate salespersons | 13,175 | 12,612 |
| Real estate branch offices | 117 | 125 |
| Condominium hotel operators | 30 | 21 |
| Respiratory therapists | 814 | 761 |
| Social workers | 2,260 | 2,567 |
| Speech pathologists* | 640 | 833 |
| Audiologists | 95 | 105 |
| Travel agents | 1,017 | 1,035 |
| Uniform athlete agents | 7 | 4 |
| Veterinarians* | 655 | 679 |
| Veterinary Technicians | 99 | 157 |
| TOTAL | 169,352 | 162,780 |

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

| License Types | FY 2018 | FY 2019 | FY 2020 | FY 2021 |
|--------------------------------------|------------------|-------------------|-------------------|-------------------|
| Accountants | 2,533 (98.4%) | | 2,548 (98.7%) | |
| Accountancy firm permits to practice | 588 (94.8%) | | 653 (96.3%) | |
| Activity desks | 282 (96.6%) | | 279 (94.3%) | |
| Acupuncturists | | 642 (94.13%) | | 642 (96.4%) |
| Architects | 2,237 (97.3%) | | 2,259 (98.65%) | |
| Audiologists | 78 (100%) | | 90 (97.8%) | |
| Barbers | 1,016 (77.3%) | | 1,072 (77.5%) | |
| Barber shops | 143 (78.6%) | | 165 (77.1%) | |
| Beauty operators | 7,129 (91.1%) | | 7,318 (87.9%) | |
| Beauty instructors | 92 (89.3%) | | 90 (90.9%) | |
| Beauty shops | 983 (89.4%) | | 1,100 (87.3%) | |
| Behavior analysts | 164 (98.2%) | | 236 (91.8%) | |
| Chiropractors | 542 (96.3%) | | 542 (94.6%) | |
| Contractors | | 7,290 (72.01%) | | 8,153 (76.02%) |
| Community service dentists | 19 (100%) | | 18 (94.7%) | |
| Dental hygienists | 994 (95.9%) | | 1,029 (96.3%) | |
| Dentists | 1,381 (96.2%) | | 1,373 (93.7%) | |
| Dispensing opticians | 157 (94.01%) | | 171 (96.07%) | |
| Electrologists | | 14 (100%) | | 15 (100%) |
| Electricians | | | 3,362 (96%) | |

Professional and Vocational Licensing Division (PVL)

| | | | | |
|---|-------------------|-----------------|-------------------|-------------------|
| Elevator mechanics | 194 (94.63%) | | 217 (96.44%) | |
| Emergency medical technicians (basic) | 523 (73.04%) | | 600 (79.7%) | |
| Emergency medical technicians (paramedic) | 418 (84.3%) | | 464 (87.7%) | |
| Guards | 71 (85.54%) | | 86 (89.58%) | |
| Guard agencies | 48 (76.19%) | | 62 (88.57%) | |
| Guard employees | 8,284 (92%) | | | 8,542 (92.44%) |
| Hearing aid dealers and fitters | 106 (95.5%) | | 96 (99%) | |
| Landscape architects | 135 (97.83%) | | 136 (100%) | |
| Land surveyors | 190 (98.45%) | | 192 (99.48%) | |
| Marriage and family therapists | | | 454 (91%) | |
| Massage establishments | 649 (90.14%) | | 717 (93.48%) | |
| Massage therapists | 6,637 (91.42%) | | 7,002 (93.51%) | |
| Mental health counselors | | | 531 (94.15%) | |
| Motor vehicle auctions | 4 (100%) | | 4 (100%) | |
| Motor vehicle branches | 34 (97.14%) | | 36 (100%) | |
| Motor vehicle consumer consultants | 4 (100%) | | 5 (100%) | |
| Motor vehicle dealers | 224 (87.16%) | | 255 (95.15%) | |
| Motor vehicle salespersons | 1,294 (95.36%) | | 1,196 (95.22%) | |
| Motor vehicle distributors | 31 (100%) | | 33 (97.06%) | |
| Motor vehicle manufacturers | 40 (97.56%) | | 43 (100%) | |
| Motor vehicle repair dealers | | 506 (88.46%) | | 322 (90.45%) |
| Motor vehicle repair registered mechanics | | 214 (84.25%) | | 165 (91.16%) |

Professional and Vocational Licensing Division (PVL)

| | | | | |
|---|-------------------|--------------------|------------------|--------------------|
| Nurses, advanced practice registered (APRN) | | 1,419 (91.67%) | | 1,664 (95.41%) |
| Nurses, licensed practical (LPN) | | 1,650 (89.63%) | | 1,562 (95.89%) |
| Nurses, registered (RN) | | 21,760 (94.08%) | | 23,217 (97.94%) |
| Nursing home administrators | 143 (95.33%) | | 152 (96.2%) | |
| Occupational therapists | | 550 (95.32%) | | 560 (96.72%) |
| Occupational therapist assistants | | 123 (90.44%) | | 137 (96.48%) |
| Optometrists | 381 (97.4%) | | 396 (96.6%) | |
| Osteopaths | 659 (85.92%) | | 741 (85.07%) | |
| Pest control field representatives | 155 (92.81%) | | 181 (98.91%) | |
| Pest control operators (inactive status only) | 3 (37.5%) | | 2 (28.57%) | |
| Pharmacists | 2,596 (96.4%) | | 2,643 (96.5%) | |
| Pharmacies | 251 (92.3%) | | 257 (94.5%) | |
| Pharmacy – miscellaneous permits | 501 (83.1%) | | 476 (79.3%) | |
| Pharmacy – wholesale prescription drug distributors | 41 (82%) | | 43 (79.6%) | |
| Physical therapists | | 1,515 (96.01%) | | 1,606 (97.81%) |
| Physical therapist assistants | | 299 (93.73%) | | 346 (98.02%) |
| Physicians | 6,829 (83.1%) | | 7,258 (82.7%) | |
| Plumbers | 1,097 (90.24%) | | | 1,034 (93.2%) |
| Podiatrists | 63 (79.7%) | | 70 (81.4%) | |
| Private detectives | 85 (88.54%) | | 83 (89.25%) | |
| Private detective agencies | 30 (88.24%) | | 32 (88.89%) | |

Professional and Vocational Licensing Division (PVL)

| | | | | |
|----------------------------|----------------------------|----------------------------|----------------------------|---------------------------|
| Professional engineers | 6,522 (97.85%) | | 6,734 (98.99%) | |
| Psychologists | 1,093 (94.63%) | | 1,177 (96.08%) | |
| Real estate branch offices | | 84 (92.31%) | | 113 (99.12%) |
| Real estate brokers | | 5,800 (94.93%) | | 5,923 (96.78%) |
| Real estate salespersons | | 10,619 (95.88%) | | 10,824 (96.71%) |
| Respiratory therapists | | | 574 (96.15%) | |
| Social workers | | 18.79 (90.70%) | | |
| Speech pathologists | 553 (97.5%) | | 568 (98.4%) | |
| Travel agencies | 692 (91.7%) | | 607 (82.6%) | |
| Uniform athlete agents | 3 (100%) | | 2 (100%) | |
| Veterinarians | 534 (96.39%) | | 588 (96.24%) | |
| TOTAL | 59,348 (91.56%) | 54,364 (90.53%) | 57,022 (91.71%) | 64,825 (89.7%) |

Table 4: Total Number of Email Inquiries

| Boards and Programs | FY 2018 | FY 2019 | FY 2020 | FY 2021 |
|---|----------------|----------------|----------------|----------------|
| Accountancy | 1,656 | 1,482 | 1,881 | 2,794 |
| Activity desk | 125 | 106 | 138 | 330 |
| Acupuncture | 194 | 321 | 393 | 816 |
| Appraisal management company – effective 1/1/2018 | 402 | 124 | 123 | 271 |
| Athletic trainer | 92 | 200 | 285 | 417 |
| Barbering and cosmetology | 2,011 | 1,658 | 2,308 | 5,546 |
| Boxing | 83 | 90 | 124 | 30 |
| Behavior analyst | 85 | 135 | 257 | 464 |
| Cemetery and pre-need funeral authority | 55 | 101 | 50 | 16 |
| Chiropractor | 427 | 380 | 440 | 1,106 |
| Collection agency | 529 | 650 | 856 | 1,585 |
| Contractor | 3,226 | 3,860 | 4,319 | 13,388 |
| Dentist and dental hygienist | 454 | 670 | 2,005 | 2,981 |
| Dispensing optician | 59 | 94 | 74 | 62 |

Professional and Vocational Licensing Division (PVL)

| | | | | |
|--|---------------|---------------|---------------|----------------|
| Electrician and plumber | 655 | 778 | 686 | 1,501 |
| Electrologist | 5 | 9 | 133 | 317 |
| Elevator mechanic | 81 | 167 | 192 | 228 |
| Employment agency | 60 | 33 | 149 | 421 |
| Engineer, architect, surveyor, and landscape architect | 1,152 | 1,715 | 2,169 | 2,872 |
| Exam Branch | 1,166 | 1,695 | 1,436 | 1,777 |
| Hearing aid dealer and fitter | 110 | 137 | 295 | 349 |
| Marriage and family therapist | 366 | 389 | 744 | 1,475 |
| Massage therapy | 1,400 | 1,085 | 1,826 | 2,775 |
| Medical and osteopathy | 6,957 | 9,131 | 8,905 | 11,050 |
| Mental health counselor | 447 | 781 | 1,184 | 2,242 |
| Midwives – effective 7/1/2020 | | | 7 | 295 |
| Mixed martial arts | 209 | 280 | 144 | 11 |
| Motor vehicle industry | 432 | 210 | 301 | 466 |
| Motor vehicle repair | 213 | 134 | 89 | 253 |
| Naturopathy | 381 | 490 | 638 | 395 |
| Nurse aide | 149 | 525 | 620 | 1,608 |
| Nursing | 6,837 | 8,567 | 16,815 | 30,005 |
| Nursing home administrator | 73 | 151 | 462 | 1,123 |
| Occupational therapist | 208 | 166 | 222 | 782 |
| Optometry | 277 | 544 | 781 | 820 |
| Pest control | 368 | 404 | 387 | 932 |
| Pharmacy and pharmacist | 2,247 | 2,430 | 4,717 | 8,196 |
| Physical therapy | 1,022 | 1,174 | 1,613 | 3,172 |
| Port Pilot | | 13 | 8 | 26 |
| Private detective and guard | 1,099 | 863 | 968 | 3,315 |
| Psychology | 824 | 1,276 | 1,557 | 2,761 |
| Professional and Vocational Licensing (PVL) | 22,226 | 9,373 | 5,419 | 11,567 |
| Real estate | 5,810 | 8,141 | 13,271 | 36,599 |
| Real estate appraiser | 666 | 412 | 871 | 737 |
| Respiratory therapist | 155 | 284 | 371 | 511 |
| Social worker | 860 | 1,187 | 1,065 | 2,155 |
| Speech pathology and audiology | 262 | 320 | 382 | 772 |
| Subdivision | 61 | 49 | 106 | 192 |
| Time share | 453 | 457 | 466 | 577 |
| Travel agency | 150 | 106 | 198 | 168 |
| Uniform athlete agent | 6 | 18 | 132 | 149 |
| Veterinary | 372 | 463 | 647 | 2,082 |
| Veterinary technician – license effective 7/1/2018 | 51 | 110 | 264 | 596 |
| TOTAL | 67,208 | 63,936 | 83,561 | 165,078 |

REGULATED INDUSTRIES COMPLAINTS OFFICE

OVERVIEW AND COMPOSITION

The Regulated Industries Complaints Office (RICO) investigates and prosecutes licensing law violations by Hawaii licensees and unlicensed persons engaging in work performed by professions and vocations²¹ that require a license. As such, the division is the enforcement arm for the boards, commissions, and programs that are administratively attached to the PVL. RICO also assists the general public and licensees with understanding the importance of consumer protection and licensure compliance through an education campaign that interfaces with the community and is available online. In addition, RICO administers the State Certified Arbitration Program (SCAP) for “lemon” motor vehicle claims, which consumers of newer cars can bring against vehicle manufacturers for serious suspected defects covered by the car’s warranty.

RICO receives complaint-related information from a variety of sources, including individuals, businesses, professionals, consumers, competitors, government officials, other jurisdictions, other licensing authorities, out-of-state agencies, law enforcement agencies, professional affiliations and associations, hospitals, employers, workers and employees of organizations, and persons who choose to remain anonymous. The division receives tips or reports of unlicensed activity from industry members and the public. While most complaints are initiated by individuals, RICO itself can initiate complaints when, for example, based on information observed during compliance checks or site inspections, RICO has reason to believe that licensing violations may have occurred.

Contact information:

RICO is located in five separate offices throughout the State: Honolulu (Oahu), Hilo (Hawaii), Kailua-Kona (Hawaii), Wailuku (Maui), and Lihue (Kauai). The Hilo, Kailua-Kona, Wailuku, and Lihue offices are commonly referred to as RICO’s neighbor island offices. The Oahu location serves as RICO’s main hub.

Main office address:

State Office Tower
Leiopapa a Kamehameha Building
235 S. Beretania Street, 9th Floor
Honolulu, Hawaii 96813
Phone: (808) 587-4272

Kauai office address:

3060 Eiwa Street
Room 204
Lihue, Hawaii 96766
Phone: (808) 241-3300

²¹ Currently, 52 different industries require a professional or vocational license from the PVL. All 52 industries affect the health, safety, and welfare of Hawaii’s citizens.

| | |
|----------------------|---|
| Maui office address: | Wells Professional Center 2145 Wells Street Suite 106 Wailuku, Hawaii 96793 Phone: (808) 243-5808 |
| Hilo office address: | 120 Pauahi Street Suite 212 Hilo, Hawaii 96720 Phone: (808) 933-8846 |
| Kona office address: | Hualalai Center, Room C-309 75-170 Hualalai Road Kailua-Kona, Hawaii 96740 Phone: (808) 327-9590 |
| Website: | cca.hawaii.gov/rico |
| Email: | rico@dcca.hawaii.gov |

RICO has a complaints and enforcement officer, intake investigators, field investigators, attorneys, and administrative and support staff. Approximately one-fifth of RICO's full-time positions are located in the four neighbor island offices.

RICO's Intake Section, or the Consumer Resource Center (CRC), is often the first contact a consumer will have with the division. The CRC handles the intake functions for RICO and the Office of Consumer Protection (OCP). CRC staff includes intake investigators and clerical support.

Consumers calling the CRC can speak directly with an intake investigator. If the call pertains to a matter outside RICO's jurisdiction, the intake investigator will refer the caller to a more appropriate agency. If the call is to seek more information about RICO matters or to file a RICO complaint, the intake investigator will answer questions, provide information, and walk the consumer through the complaints process. In FY 2021, as part of its intake function, the CRC distributed 648 RICO complaint forms to interested consumers from the Oahu office alone. If the call is to file an OCP complaint, the intake investigator will walk the consumer through the OCP complaint process or refer the consumer to an OCP investigator for more information. In FY 2021, the CRC distributed 294 OCP complaint forms.

The CRC contributes to the resolution of customer inquiries and complaints even before official RICO action commences. The CRC assists consumers before they submit a formal complaint form to RICO by providing consumers with a templated self-help letter to communicate their concerns to licensees or unlicensed persons. Sometimes intake investigators will solicit an explanation or a response from a licensee and the response can often end the matter since many disputes result from

misunderstanding or inadvertent neglect. Even if the CRC receives a formal complaint form, an intake investigator may still allow the parties more time to resolve their dispute. If the parties opt for additional time and subsequently resolve the dispute, the matter will end in the CRC without the need for official action such as a formal RICO investigation or review. During FY 2021, the CRC closed approximately 1,045 complaints and complaint inquiries without having to initiate official action by RICO.

While many formal complaints can be closed by the CRC for various reasons, including matters being outside of RICO's jurisdiction, or they lack a sufficient basis for further investigation, or the filer withdraws the complaint, refuses to cooperate, or is no longer locatable, most often when the CRC receives a formal complaint form, the intake investigator will conduct a preliminary investigation or review and if enough information exists for more official action by RICO, an investigation or referral to the Legal Section will occur. Official action can include intake investigators conducting limited investigations of complaints that cover certain subjects, pursuant to RICO's Early Complaints Resolution program, and then referring the complaints with probable violations directly to the Legal Section for possible enforcement action. Official action can happen too when, upon completing a preliminary investigation or review, the CRC refers the complaint to the Field Investigation Section for a more formal investigation. In FY 2021, 2203 RICO complaints were officially processed against licensees and unlicensed persons and many began as formal complaint forms that were received in the CRC before being investigated and/or referred to the Field Investigation and/or Legal Sections for further handling.

Licensing and Business Information Section

The Licensing and Business Information Section (LBIS), is a call center within the CRC that is available to the public by telephone (587-4272 or 587-4CRC) Monday through Friday, from 7:45 A.M. to 4:30 P.M. The LBIS provides business registration information, RICO complaints history information, OCP complaints history information, and information on whether a business or an individual has a professional or vocational license. In FY 2021, the LBIS answered over 8631 telephone calls, in which they had assisted customers with 36,420 inquiries concerning the regulated industries and prior complaints history information.

Field Investigation Section

The Field Investigation Section contains the largest concentration of RICO employees and has investigators and clerical support staff on Oahu and in RICO's Hilo, Kailua-Kona, Wailuku, and Lihue offices.

Field investigators conduct formal investigations of complaints against licensees and unlicensed persons who engage in industry work that requires a license. Formal investigations consist of communicating with the parties and may also include obtaining and analyzing information and records, site visits, and interviews. If needed, during the investigation, a field investigator may consult with an industry expert for assistance in evaluating the merits of a complaint.

The purpose of a formal investigation is to determine whether sufficient evidence of a possible licensing violation exists. If so, the complaint will be referred to the Legal Section for further review and consideration of enforcement action. Complaints may end in the Investigations Section for a variety of reasons, including: the absence of sufficient evidence to prove a possible licensing violation; the investigation establishes that no violation has occurred; or an education contact or a warning serves as an appropriate disposition. In FY 2021, the Field Investigation Section completed 1,176 licensed and unlicensed investigations statewide.

Field investigators may initiate complaints when they encounter possible licensing law issues by a person or business that may relate to a current investigation. In FY 2021, the Field Investigations Section initiated and commenced investigations of at least 194 complaints.

Field investigators may continue working on complaints during the prosecution stage by assisting RICO staff attorneys with pre-trial and trial work, which includes gathering additional information for litigation purposes; serving hearing notices on parties; and testifying as a witness in a contested case proceeding.

The Hilo, Kailua-Kona, Lihue, and Wailuku offices handle a high volume of telephone calls and walk-ins, many of which involve non-RICO concerns such as directing customers to other state or county agencies and providing referrals, license application materials, brochures, forms, and other information pertaining to other DCCA divisions. In FY 2021, RICO's neighbor island staff collectively expended more than 290 hours assisting consumers, the public, and others with at least 2,031 non-RICO matters. The neighbor island staff also provided at least 416 RICO complaint forms to the public during the FY.

Legal Section

The Legal Section has attorneys and legal clerical support staff who handle formal enforcement action, or prosecutions. The section reviews the complaints received from the Intake and Field Investigation Sections to determine if sufficient grounds exist to pursue formal enforcement action: disciplinary action in the case of licensees, and legal action in the case of unlicensed persons.

Enforcement cases against licensees are handled administratively, with the PVL boards, commissions, and programs serving as decision makers when they issue final orders. Administrative actions in the form of contested case proceedings begin with the filing of a petition for disciplinary action against the licensee, which sets forth the basis for the enforcement action and the disciplinary action requested. Contested case hearings are then heard by an OAH hearings officer in accordance with Hawaii's Administrative Procedures Act, HRS chapter 91. After the formal hearing concludes, the hearings officer issues a recommended decision with findings of fact, conclusions of law, and any proposed disciplinary action. The recommended decision is then reviewed by the appropriate board, commission, or program, which can vote to accept, modify, or reject a recommended decision. If a board, commission, or program vote to accept a recommended decision and issues a final order imposing disciplinary action on the licensee, the licensee has a right to appeal the final order to the Circuit Court.

Not all cases referred to the Legal Section will result in a contested case proceeding. Most complaints against licensees are resolved through negotiated settlements that are reviewed and approved by a board, commission, or program before a petition for disciplinary action is filed or, in some cases, after a petition has been filed but before the contested case hearing occurs. Many factors influence whether a complaint can or should be settled without a contested case hearing, including: the underlying conduct at issue; the type of violations alleged; the credibility and reliability of RICO's evidence; and the likelihood of obtaining at a hearing the same or greater sanction as that proposed in a settlement. All approved settlements constitute formal disciplinary action and can consist of license revocations, suspensions, monetary fines, professional evaluations, professional education, monitoring, treatment and, in a few cases, restitution to consumers. In FY 2021, the Legal Section filed 216 disciplinary actions against licensees, and 3 additional actions to enforce pre-existing discipline.

The citations issued by RICO investigators are appealable. If the citation is appealed, RICO can either negotiate a settlement with the recipient or defend the citation in a contested case proceeding. Although no citations were issued by investigators in FY 2021 because of the pandemic, during the year 7 pre-existing citations were paid in full by the offending party.

For more formal or complex complaints involving unlicensed activity, RICO can pursue fines, costs, and injunctions prohibiting future unlicensed behavior by filing a lawsuit with the Circuit Court for monetary fines and a permanent injunction prohibiting future unlicensed activity or through assurances of voluntary compliance. In FY 2021, the Legal Section filed an additional 85 legal actions involving unlicensed activity.

State Certified Arbitration Program

SCAP, through RICO, administers Hawaii's "Lemon Law" and provides a low-cost arbitration forum for consumers to resolve car warranty²² complaints with manufacturers.

RICO urges consumers to first read the Lemon Law Consumer Handbook for information and instructions and then to write to the manufacturer. If the consumer is unable to reach a resolution, the consumer can file a demand for arbitration. SCAP will evaluate the demand, and, if appropriate, schedule an arbitration hearing. The consumer pays a \$50 filing fee that is refunded if the consumer prevails in arbitration. Before an arbitration hearing can be scheduled, the manufacturer or its authorized repair dealership must be given a reasonable opportunity to repair the vehicle.

In FY 2021, 20 claims were initiated, making it one of the busiest years in recent history. Nine decisions were issued in favor of consumers, four decisions were issued in favor of manufacturers, six cases were settled after filing, and one case was withdrawn after filing. A total of \$495,841.00 in consumer refunds and bank loan payoffs were issued in FY 2021. The Program also provided

²² Under certain conditions, a consumer may be entitled to receive a refund or replacement of a car that has a nonconformity, defect, or condition that is covered by the car's warranty and that substantially impairs the use, market value, or safety of the car.

two separate training classes to assist SCAP arbitrators with fulfilling their duties, and one training class for CRC personnel.

In recent years, SCAP cases have become more complex due to class action lawsuits and settlements, multiple national recalls, technological advances, and increased attorney involvement. SCAP cases also increasingly involve leased cars and neighbor island arbitrations. SCAP is committed to addressing new consumer issues and will continue to provide high-quality consumer information whenever possible.

As government continues to operate in the midst of the pandemic, SCAP implemented several strategies during FY 2021 to effectively manage claims, including using virtual hearings, emailing communications with parties where allowed by law, use of electronic signatures, and secure cloud storage for submission and sharing of key pieces of evidence, all of which have proven to be effective and satisfactory for consumers and manufacturers too. During the FY, the SCAP administrator was also able to conduct virtual training courses virtually.

SCAP operates under the direction of a lemon law administrator and maintains a membership with the International Association of Lemon Law Administrators. Participation in this association allows SCAP access to current information on lemon law legislation and best practices, recalls, flood damage vehicles, class action lawsuits, and technological advancements. More information, including an educational video about the SCAP process, is available at cca.hawaii.gov/rico/lemon-law.

Education Campaign

RICO is committed to making available a broad and diverse amount of information for consumers and licensees. Pre-pandemic, RICO personnel appeared at widely-attended community, licensee, and public events including home shows, senior fairs, and industry group gatherings and meetings, to engage and educate attendees about licensing regulation and consumer protection. During FY 2021, RICO was unable to interact directly with consumers and licensees in large gatherings, but was able to conduct a few virtual appearances.

FY 2021 saw RICO referring more members of the public and licensees to its website where more and more information about the regulated industries and consumer protection are readily available and downloadable for free. During FY 2021, the RICO website received 156,073 hits. Many who visit RICO's website are interested in knowing if someone has a record of discipline with RICO. During FY 2021, RICO's complaints history web portal received 39,129 visits, and 137,542 queries were conducted. Finally, consumers can verify the licenses of businesses or individuals at cca.hawaii.gov/businesscheck/, a department service that allows convenient access to licensing, complaints history, and business registration information from a single page. In FY 2021, users accessed the Business Check website 418,399 times.

RICO's investigative and legal staff also participate in RICO's education campaign by counseling parties about licensure requirements through warnings, education contacts, and brochures and by answering questions from complainants, licensees, or unlicensed persons while they are reviewing,

investigating, or processing complaints. Likewise, the SCAP team confers with consumers regularly about whether their dispute is appropriate for arbitration and provides tips for proceeding.

GOALS AND OBJECTIVES

- Continue informal collaborations with state and federal enforcement agencies to better regulate the professions and vocations within RICO's jurisdiction.
 - Continue to monitor and track criminal proceedings involving licensed persons so that a conviction can be acted upon quickly.
 - Continue to pursue, on the civil side, licensees who have already been proven to have run afoul of wage and standard laws.
- Continue modernizing complaints processing through:
 - Enhancements in IMPACT, RICO's new complaints management system, including incorporating the SCAP into IMPACT,
 - Regularly updating RICO's website and information,
 - Updating equipment and accessories used by RICO staff, including installing VoIP for all offices statewide, so that efficient and productive in-office and remote work can continue throughout the division.
- Continue staff professional growth and development.

ACCOMPLISHMENTS IN FY 2021

Consumer Resource Center

A paper form, similar to a formal complaint form, has been traditionally used by the CRC to receive anonymous tips of unlicensed activity witnessed by the reporter. The form had to be printed or picked up, filled in manually by a person, and then returned to RICO. During FY 2021, RICO debuted an electronic unlicensed tip portal which allowed the public to anonymously report tips of unlicensed activity that they witnessed, in real time, for RICO's consideration. In FY 2021, the CRC was able to receive 182 electronically-filed tips through the portal, which reduced the time spent by intake investigators in managing paper files and information.

CRC intake investigators are key to the Early Case Resolution Program, where they conduct investigations in limited areas, and then the investigations are expedited to the Legal Section for quicker processing, such as formal complaints involving a licensee's failure to complete CE courses on time or suspected advertising violations by licensees. In FY 2021, 116 complaints were officially processed through the Early Case Resolution Program, which reduced the number of complaints referred for a full field investigation and increased the number of complaints available for quicker resolution by the Legal Section.

CRC investigators can also conduct limited licensure compliance checks based on tips that certain advertisements have offered specialized services but did not contain license information that may be required by law. During FY 2021, 48 such advertising compliance checks were conducted by intake investigators, which helped to reduce the number of referrals to the FIELD section.

In FY 2021, CRC intake investigators and support staff participated in at least 11 different in-house, in-person, or virtual courses to further their professional growth and development.

Field Investigation Section

The Field Section has two full-time Unlicensed Task Force (UTF) teams that are based on Oahu and respond to tip information about unlicensed jobs or unlicensed activity. On occasion, the UTF will travel to assist RICO's neighbor island investigators with "sweeps," which are large-scale, community-wide site inspections (also known as licensure compliance checks) that are conducted at once. Licensure compliance checks include instances where the UTF and neighbor island investigators scour and review advertisements for suspected unlicensed activity and then take appropriate action.

If a person is performing the work of a regulated business or profession without a license, then during a site inspection or compliance check, the UTF or a neighbor island investigator will serve the person with a formal citation for engaging in activity requiring licensure. The citation includes a monetary fine and an order of abatement for the prohibited activity. Citations may also be issued to massage and beauty culture licensees who fail to display their proof of licensure to the public.

In FY 2021, the UTF and neighbor island investigators conducted a minimum of 749 site inspections²³ or licensure compliance checks statewide. Due to health and safety concerns during the Pandemic, however, no citations were issued during the FY because they require investigators to be present inside of an establishment for an extended period of time, where they must interact with and interview employees and owners, and handle and study tangible objects and documents, in a confined area.

In FY 2021, the field investigators and support staff presented or completed at least 68 webinar courses covering areas regulated by RICO, professionalism, ethics, safety, work practices, or substantive investigations.

Legal Section

During FY 2021, over 300 civil and administrative actions were filed by RICO staff attorneys, and \$661,707.17 in assessed fines and penalties were paid by licensees and unlicensed persons. The prosecutions also resulted in the revocation of 23 licenses and the suspension of 6.

Recognizing the need to address more expeditiously licensees who have been seriously disciplined by another state's licensing authority, Act 38 (SLH 2016) enabled certain Hawaii health care boards to notify licensees of proposed disciplinary action based on the discipline that had been imposed in another state, and to have the proposed discipline imposed automatically if the licensee failed to timely contest the board's proposal. Act 38 cases can effectively "leapfrog" the RICO complaints processing system if the licensee does not contest the board-proposed action, which effectively preserves investigative and legal resources for more complex matters. During FY 2021, RICO screened at least 18 separate health-related complaints that involved serious discipline in other jurisdictions, resulting in the issuance of at least 1 final order imposing disciplinary action,

²³ This number includes inspections of publications and licensee business websites for advertising compliance.

1 final order imposing discipline through a hearing after a licensee appealed the Act 38 notice, and other complaints becoming the subject of immediate disciplinary proceedings or being targeted by attorneys for immediate scrutiny.

During FY 2021, the Legal Section disciplined at least 18 licensees upon entry of a judgment of criminal conviction, and at least 7 licensees for violations of the State's wage and labor laws.

RICO receives numerous formal and informal requests for complaints-related information from parties, individuals, litigants, employers, educational and professional institutions, credentialing organizations, reporters, researchers, and government agencies too. During FY 2021, the Legal Section processed at least 163 requests for information that resulted in the release of approximately 3,173 pages of publicly disclosable records.

Because RICO is responsible for enforcing thousands of individual licensing laws that cover 52 separate industries, the Legal Section continues to take courses and conduct in-house meetings and education sessions for newer attorneys especially, and staff to ensure the section remains current and competent. In FY 2021, the Legal Section attorneys took 50 virtual courses on a variety of subjects, and staff conducted 40 in-house trainings for the attorneys who were new to RICO.

CRF FINANCIAL SUMMARY FOR FY 2021

| Personnel Expenses | Operating Expenses | Total Expenses | Revenues Received |
|--------------------|--------------------|----------------|-------------------|
| \$5,681,351 | \$601,118 | \$6,282,469 | \$7,296,389 |

RICO is 100% special-funded through licensing fees primarily, and fines and assessments paid during the fiscal year. Licensee fee collections vary annually because of licensee retirements and resignations, and because most renewal fees are assessed biennially and collected at different times of the year depending on the profession. The amount of fines that are paid annually through the enforcement process vary too according to the timing of different legal actions and the solvency of individuals and entities. Despite these variables, RICO's revenue source and resulting operations have continued to remain stable.

CONCLUSION

RICO is responsible for enforcing the licensing laws of 52 industry boards, commissions, and programs. RICO continues to do so by maintaining a high level of productivity and responsiveness, its staff remain committed to professional growth and development, and the division's investment in technological advances that include receiving and processing information electronically while enabling employees to work remotely, helps to ensure a fair marketplace for Hawaii's consumers and licensed professionals.

TABLES

These tables illustrate the level of public interest in RICO-related information and the variety and complexity of work performed daily by division employees.

Table 1: Top 5 Complaints History Inquiries Processed by LBIS

| FY 2021 |
|---|
| 1. Contractor (4903) |
| 2. Is a person or business licensed? (1578) |
| 3. Real Estate (901) |
| 4. Nursing (507) |
| 5. Medical (454) |

Table 2: Top 5 Industries that are the Subject of Information Requests

| FY 2021 |
|--------------------------------------|
| 1. Real Estate (41) |
| 2. Contractor (40) |
| 3. Medical (38) |
| 4. Psychology (17) |
| 5. Dentist and Dental Hygienist (13) |

Table 3: Top 5 Public Internet Inquiry Areas Related to RICO

| FY 2021 |
|--|
| 1. Department's Business Check page (418,399 hits) |
| 2. RICO homepage (156,073 hits) |
| 3. RICO complaints history queries (137,542 hits) |
| 4. RICO complaints history portal (39,129 hits) |
| 5. RICO complaints history details (15,742 hits) |

Table 4: Top 5 Industry Complaints Processed by RICO

| FY 2021 |
|----------------------|
| 1. Contractor (460) |
| 2. Nursing (402) |
| 3. Real Estate (393) |
| 4. Medical (167) |
| 5. Massage (102) |

Table 5: Top 5 Industries with RICO Prosecutions – Licensees

| FY 2021 |
|---------------------|
| 1. Real Estate (42) |
| 2. Pharmacy (40) |
| 3. Contractor (32) |
| 4. Medical (29) |
| 5. Nursing (19) |

Table 6: Top 5 Industries with RICO Prosecutions – Unlicensed Persons

| FY 2021 |
|------------------------------------|
| 1. Contractor (51) |
| 2. Real Estate (9) |
| 3. Electrician and Plumber (7) |
| 4. Automobile Repair (5) |
| 5. Private Detective and Guard (3) |