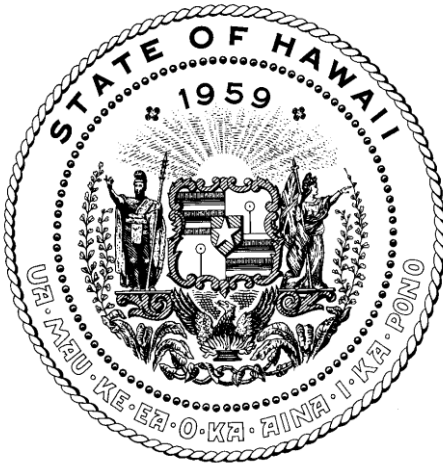


**2016 Annual  
Compliance Resolution Fund Report  
to the Legislature**



**DEPARTMENT OF COMMERCE  
AND CONSUMER AFFAIRS**

**STATE OF HAWAII**

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## INTRODUCTION

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### OVERVIEW

The Department of Commerce and Consumer Affairs (DCCA or Department) submits its Annual Compliance Resolution Fund Report as mandated by section 26-9(o), Hawaii Revised Statutes (HRS). The report describes the use of the Compliance Resolution Fund (CRF) for the fiscal year (FY) beginning July 1, 2015 and closing June 30, 2016 by presenting overviews of the functions and activities of core DCCA programs funded by the CRF, and provides a financial summary of expenditures from the CRF including personnel and operating expenses, as well as revenues received.<sup>1</sup> In addition, the report complies with the Department's reporting requirements contained in Act 100, Session Laws of Hawaii (SLH) 1999, regarding the statement of goals, objectives, and policies.

The CRF is the primary funding source for DCCA's programs, and it relies solely on fees and charges from DCCA's various programs without having to rely on general tax revenues. Pursuant to section 26-9(o), HRS, fees shall be assessed and deposited into the CRF for the issuance of a license, permit, certificate, or registration, subsequent renewals, together with all other fines, income, and penalties collected or reimbursement of costs or attorneys' fees assessed as a result of actions brought by the Department. The Director of 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 of operating the supporting offices of DCCA. Any other activity related to compliance resolution may also be funded by the CRF. As defined in section 26-9(o), HRS, "compliance resolution" means a determination of whether:

- (1) Any licensee or applicant under any chapter subject to the jurisdiction of DCCA has complied with that chapter;
- (2) Any person subject to chapter 485A, HRS, has complied with that chapter;
- (3) Any person submitting any filing required by chapter 514E, HRS, or section 485A-202(a) (26), HRS, has complied with chapter 514E, HRS, or section 485A-202(a) (26), HRS;
- (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 chapter 467B, HRS, 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.

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<sup>1</sup> CRF summary figures included in this report are pre-close numbers.

**GOALS and OBJECTIVES**

The Department’s goals and objectives may be found throughout this report explained in detail in the individual divisions’ respective sections.<sup>2</sup> A brief summary of these goals and objectives is included here:

- To ensure effective and timely oversight of regulated industries and greater promotion of consumer education by providing each of the Department’s divisions with adequate resources to carry out their respective responsibilities.
- To improve and upgrade, where necessary, existing operating systems and technologies used throughout the Department in order to advance the Department’s capabilities in responding to consumer issues and in supporting businesses in successfully navigating the regulatory environment, and to provide for transparency and accountability in its operations.
- To improve the regulatory environment for businesses and consumers, alike, by working in collaboration with fellow agencies to identify opportunities to support more effective, efficient regulation, as well as to foster opportunities to promote safe and appropriate economic development.

**Accomplishments**

The Department's overall CRF financial summary FY2016 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$29,833,362	\$10,018,776	\$39,852,138	\$47,167,828

The Department’s financial strategy requires that revenue-generating divisions secure revenues to cover division expenses, and contribute equitably to overhead costs, while ensuring that anticipated major improvements are addressed, and a portion of the next year’s operating expenses is available. Additionally, it is the Department’s longstanding financial goal to bring its beginning year cash reserves to nine (9) months of budget ceiling plus overhead. This ensures fund solvency and the continuation of mandatory public services. From the onset of the CRF, the Department’s primary fiscal goal has been to implement this strategy through conservative spending and adjusting our expenses to be aligned with projected revenues. Accordingly, the Department’s financial planning takes into account both current fiscal year expenses and future major projects and expenditures.

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<sup>2</sup> The Public Utilities Commission (PUC) is funded via the Public Utilities Commission Special Fund pursuant to Section 269-33, HRS, and not in any part by the Compliance Resolution Fund. The PUC is required by Section 269-5, HRS, to submit its own annual report (PUC Annual Report) to the Legislature. Please see the PUC Annual Report for additional information on PUC operations.

The CRF financial summary relating to ADMIN (Director’s Office, Personnel, Office of Administrative Hearings, Fiscal and Administrative Services Offices and the Information Systems and Communications Office) for FY2016 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,148,578	\$2,475,356	\$6,623,934	\$1,201,322

***Goals and Objectives of the Director's Office Agencies***

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

**ACCOMPLISHMENTS of the DIRECTOR's OFFICE AGENCIES**

**Director’s Office Consumer Education:** The Director’s Office consumer outreach program coordinates, partners, and participates in community education events throughout the State. In addition to participating in more than two dozen outreach events, the Director’s Office Consumer Education program sponsored the following programs.

The Director’s Office organized the 11th Annual National Consumer Protection Week Fair on March 9, 2016 at the King Kalakaua Building in downtown Honolulu. This event regularly has over two dozen organizations providing information about services that will help our consumers make educated decisions in the marketplace.

The Director’s Office organized the Consumer Fair celebrating the Month of the Military Consumer on June 29, 2016 at Windward Mall for our service members to provide them with free resources as a first line of defense against fraud. This celebration is a joint initiative with the Department of Defense, Federal Trade Commission, and the Consumer Financial Protection Bureau to empower active and retired service members, military families, veterans, and civilians in the military community.

The Director’s Office published a webpage providing disaster preparation information titled “Preparing for Natural Disasters.”<sup>3</sup> With numerous close calls, the DCCA felt it was beneficial to consumers to have information on how to prepare for and to be consumer wise during a natural disaster.

<sup>3</sup> <http://cca.hawaii.gov/preparing-for-natural-disasters/>.

This webpage contains information about the types of insurance coverages available, price gouging, how to file a claim for damage, and why consumers should deal with licensed professionals.

The Director's Office published a 14-page brochure called Consumer Guide to Healthcare Providers. This publication contains some general descriptions of the types of healthcare provider licenses issued by the DCCA; contact information for the healthcare provider boards and programs; some general tips on how to select your healthcare provider; and, finally, some information about what to do if you have problems, concerns or complaints.

The Department also continued its partnerships with Consumer Financial Protection Bureau, Federal Trade Commission, 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 (HPEAP):** In 2016, HPEAP issued four new school authorizations. The total number of authorized schools is 26. The program received no filed consumer complaints during the year.

HPEAP continues its efforts to assist former students of Heald College Honolulu who were displaced when the institution closed suddenly in 2015. HPEAP reached out through email to more than 2,500 former students, using a loan forgiveness eligibility list provided by the U.S. Department of Education, and provided information regarding loan forgiveness, borrower defense to repayment, transfer of credits, and the transcript request process. HPEAP receives hundreds of transcript requests from students and government and third-party background and education verification entities. In August 2016, to help streamline and expedite the process for the former students, HPEAP partnered with Hawaii Information Consortium to create an online ordering system. From the close of Heald in April 2015 through November 2016, HPEAP issued over 2,000 Heald transcripts.

After HPEAP submitted its application to join the Western Interstate Commission for Higher Education's State Authorization Reciprocity Agreement (SARA), Hawaii was approved as a SARA state member in May 2016. SARA is an agreement among member states that establishes comparable national standards for interstate offering of post-secondary education distance courses and programs. Participation as a member state is intended to make it easier for students to take online courses offered by post-secondary institutions based in another state. HPEAP has received and approved its first application from a Hawaii-based institution to become a SARA institution.

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

**Department Legislative Coordinator functions:** In 2016, the Director's Office, including the multiple DCCA administrative services and support offices, oversaw the Department's legislative activities involving budgetary or fiscal, personnel, general administrative, and other department-wide issues. This oversight role was in addition to assisting DCCA's multiple divisions with their own legislative operations, including coordination amongst and between divisions and serving as legislative point-of-contact when necessary. The Department submitted more than 530 testimonies on a variety of issues that ranged from

the creation of new vocational licensing programs to the improvement of the Hawaii Insurance Code. Several of the Department's primary legislative proposals – those introduced as part of the Governor's administrative package of legislation – were passed by Legislature and subsequently enacted. Following adjournment of the 2016 legislative session, the Department's Legislative Coordinator continues to support DCCA, as a whole, in implementing a wide-ranging set of legislative directives and in coordinating activities on a department-wide scale in preparation for the 2017 legislative session.

**Information Systems and Communications Office (ISCO):** For FY2016, ISCO continued to leverage technology to provide more efficient and expanded services to the Department. Old desktop computers continue to be replaced with high efficiency systems that draw 84% less power, but have even more computing capacity. Once these new high efficiency systems are deployed, the Department anticipates a significant reduction in overall energy consumption.

ISCO also continued efforts to expand the use of server virtualization technology, which has allowed for the expansion of the Department's capabilities to handle the new systems that will replace existing legacy applications. Expanding the use of server virtualization technology has resulted in energy savings from both the lower power draw of the equipment, and in the form of less energy needed to cool the DCCA server room.

In the applications area, ISCO was able to complete the second phase of the complex process of replacing the Professional and Vocational Licensing Division's Applicant/Licensee Integrated Automated System (ALIAS) software application. ALIAS is a legacy application that is very expensive to maintain, and will be replaced with a solution that provides modern tools and expanded capabilities, all while maintaining compliance with the statewide standards set by the Office of Enterprise Technology Services. In addition to this, ISCO completed the Insurance Division's Insurance Rate Review software application and this system is now in operation.

## **CONCLUSION**

During the past year, the Department through its various divisions, programs, and attached agency was responsible for making many critical decisions and taking several necessary actions to ensure Hawaii's consumers received adequate representation and protections. Major decisions deliberated throughout FY2016 included issues in high-profile proceedings that were significant to the local communications (Charter-Oceanic merger approval) and utilities (Next Era-Hawaiian Electric proposed merger) industries, as well as countless other critical determinations taken up by DCCA staff and affiliated board and commission members. Each decision reached is important for maintaining a strong and safe commercial environment in the State, covering the gamut of commercial matters like banking and financial institution regulation, insurance, securities and investments, and general consumer protection. The Department also took action throughout the year to lead, where appropriate, or to assist with efforts to protect consumers in areas like insurance and healthcare (assistance with the transition of the Hawaii Health Connector), and consumer recovery and restitution (prosecutions by the Office of Consumer Protection against widespread abuses by major automotive companies). To improve its operations and the level of service provided to the consumer and licensing public, the Department's programs also worked throughout the year on its ongoing initiative to overhaul its collection of outdated legacy computer systems with the aim of improving efficiencies and building an overall stronger DCCA system.



With these accomplishments and continuing efforts in mind, the Department and its dedicated staff remain focused on improving the safety of local consumers and the processes by which businesses are regulated. DCCA continues to look forward to facing a constantly evolving set of challenges, working every day at making Hawaii a safer place for consumers and a better place for businesses to operate.

## BUSINESS REGISTRATION DIVISION (BREG)

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

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

### **OVERVIEW**

The Business Registration Division (BREG) has three primary functions: (1) ministerial business registration, processing and maintenance of business formation documents for public access including corporations, general and limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies, trade names, trademarks, service marks and publicity rights; (2) one-stop point-of-service assistance to the public to help businesses apply for state business and employer registrations and state taxpayer IDs; and (3) substantive regulatory oversight of the securities industry and franchises in the state in the following areas: (a) registration of broker-dealers, securities agents, investment advisers, investment adviser representatives, investment companies and securities and franchise offerings for sale in the state; (b) field examinations of broker-dealers and investment advisers in the state; (c) review of securities and franchise offerings for sale in the state; and (d) the enforcement of the Hawaii Uniform Securities Act and state franchise laws.

The division's main office is located at 335 Merchant Street, Honolulu, Hawaii 96813 on the second floor. It also has three Business Action Center offices: 1130 North Nimitz Highway, Second Level, Suite A-220, Honolulu, Hawaii 96817; 70 E. Kaahumanu Avenue, Unit 9B, Kahului, Hawaii 96732; and 100 Pauahi Street, Suite 109, Hilo, Hawaii 96720. In October 2015, the Business Action Center began a pilot program to bring its services to Kona, partnering with Hawaii County's Research and Development Division at the West Hawaii Civic Center: 74-5044 Ane Keohokalole Highway, Building C, 2<sup>nd</sup> Floor, Kailua-Kona, Hawaii 96740. The once-per-month Kona Resource Days have been well-received and the program will continue through 2017.

### **Composition**

The **Documents Registration Branch (DRB)** maintains the business registry for corporations, limited liability companies, general partnerships, limited partnerships, limited liability limited partnerships and limited liability partnerships conducting business activities in the state. In addition, the registry contains trade names, trademarks, service marks and publicity rights. This branch consists of the Documents Information Section, the Documents Processing Section and the Records Section. The Documents Registration Branch is comprised of one branch supervisor, three section supervisors, 14 business registration assistants, and 16 office assistants.

The **Business Action Center (BAC)** operates business action center offices on Oahu, Maui, and Hawaii Island that provide point-of-service information and assistance to the public primarily to facilitate, coordinate, and simplify the application process with the state for business and employer registration and tax licensing purposes. The BAC accepts BREG filings and fees and also serves as an information clearinghouse that provides general information on county, state and federal licensing, permitting and filing requirements, and assistance programs related to business or commercial activities. Services are delivered in-person at the center and via phone, e-mail, mail, fax, and Live Chat (an instant messaging system which allows customers on the Hawaii Business Express website to obtain real-time assistance from a customer service representative). The BAC has a staff of one business registration supervisor and four business registration assistants to cover all three of its offices spread across the state.

The **Securities Enforcement Branch (SEB)** enforces state laws governing the securities industry under the Hawaii Uniform Securities Act and franchises under the Franchise Investment Law and other state laws, by investigating and taking legal action against those persons and/or firms, both registered and unregistered, who violate these laws or evade them. The SEB is comprised of one Senior Enforcement Attorney, four attorneys, one supervising investigator, six investigators, one legal secretary, three legal clerks, and one office assistant.

The **Securities Compliance Branch (SCB)** handles the registration activities for the securities industry operating in the state. This includes 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 is also responsible for conducting field examinations of broker-dealers and investment advisers in the state. The SCB is comprised of one securities compliance specialist, one examination supervisor, one licensing supervisor, five examiners, four licensing clerical staff, and one secretary.

The **Investor Education Program (IEP)**, which falls under the SCB, provides investor education and financial literacy outreach statewide. The IEP maintains outreach programs in the areas of: 1) kupuna (seniors); 2) working families/union members; 3) keiki (youths); 4) military; 5) Hawaiian and other ethnic communities; 6) caregivers; and 7) industry professionals. Free educational presentations and exhibits provided by the IEP include information to help consumers/investors detect and prevent securities fraud and how to report securities violations. The IEP is comprised of one education specialist, one program assistant, and one multi-media assistant.

## **GOALS and OBJECTIVES**

The goal of the **DRB** is to be an efficient, customer-oriented business registry. To accomplish this, the branch continuously strives to:

- Review and implement policies and procedures designed to achieve a level of efficiency in processing document filings and information requests in a timely manner consistent with industry best practices;
- Modernize the business laws so that they track as closely as possible the most current versions of the best uniform or model laws;
- Enhance the information systems to improve retrieval, processing and recording of public filing information while protecting the integrity of the data system; and
- Develop more online services and other innovations that will be useful to many.

The goal of the **BAC** is to be a responsive and helpful point-of-service business center for business registration and licensing assistance to as many businesses in Hawaii as possible. To accomplish this, the BAC strives to continually:

- Provide efficient customer service to the public who visit or otherwise contact the BAC for assistance;
- Develop relationships with the business community and seek ways to reach communities in need of business registration assistance; and

- Work closely with other state agencies (including cross-training) to improve customer service and help increase compliance with new laws.

The goal of the **SEB** is to be an effective state securities regulatory agency that is responsive, appropriately aggressive and efficient. The difficult nature and complexity of the cases being handled is increasing every year. Cases involving multiple respondents, multiple complainants, and multiple bank accounts are occurring with much greater frequency requiring extensive financial analysis. The SEB continuously works to:

- Investigate and prosecute state securities violations under the Hawaii Uniform Securities Act;
- Receive complaints from the public and respond quickly and appropriately;
- Reduce case backlog;
- Inform consumers of enforcement matters and investment scams through participating in investor education;
- Develop and implement internal procedures that will improve the timely and effective resolution of cases, improving the SEB's overall effectiveness;
- Ensure that staff understands the SEB's mission and purpose through internal and cross training;
- Attend and develop training to keep professional staff current on emerging investigative techniques, legal analysis and trends in securities fraud and other securities violations;
- Draft and assist with securities legislation; and
- Work with the media to raise public awareness of securities fraud.

The goal of the **SCB** is to be an effective state securities regulatory agency that is responsive, appropriately aggressive and efficient. There are several significant changes in securities regulation under the federal Jumpstart Our Business Startups or JOBS Act that staff are currently carefully monitoring. The SCB continuously works to:

- Keep current with regulatory changes and updates by providing ongoing training for professional staff;
- Implement a regular field examination cycle for registered broker-dealers and state registered investment advisers; and
- Develop and implement internal procedures that will improve the efficiency of processing applications.

The goal of the **IEP** is to develop meaningful investor education programs, materials, and active outreach programs that are responsive to the public's needs and current with the financial problems investors face and to reach communities throughout Hawaii with practical and helpful information timely. To accomplish this, the IEP is committed to:

- Continuing to develop partnerships with federal, state and county agencies, nonprofit organizations and private companies to provide outreach throughout Hawaii to various audiences; and
- Expanding statewide outreach by conducting fraud prevention presentations, exhibiting investor education materials at various community events, and utilizing multimedia technology to reach audiences in a current and relevant manner.

## **ACCOMPLISHMENTS**

### *Documents Registration Branch*

- The DRB continues to work to ensure that business registration information on file is readily available, accessible, and current in order to support commercial activities in the state.
- Filings continue to increase yearly as over 146,800 documents were filed during FY2016. The DRB also maintains the public registry of over 173,400 active businesses, trade names, trademarks and service marks.
- The Hawaii Business Express business registration portal at [hbe.ehawaii.gov](http://hbe.ehawaii.gov) continues to be a popular service among users with over 6.6 million unique hits a year.
- The DRB has reached an 88% voluntary online adoption rate for annual renewals. The online adoption rate reduces paper, postage and other costs for the customers, helps keep our community green and reduces BREG's manual handling, thereby allowing faster automated processes.

### *Business Action Center*

- The BAC offices on Oahu, Maui, and Hawaii Island provided personal assistance to customers 20,600 times this FY via its counter service, phone, email, regular mail, and Live Chat (online assistance through the Hawaii Business Express website).
- The BAC offices provided personal assistance to customers filing nearly 8,000 paper documents at its counters.
- The pilot program brought BAC services to the West Hawaii County Civic Center once per month and was successful in reaching small business owners in rural communities and will therefore continue through 2017.
- On Oahu, the BAC continues to host sessions where customers can receive free expert assistance. Participating organizations include volunteer attorneys from the Hawaii State Bar Association's (HSBA) Business Law Section (99 customers served); and representatives from the federal Small Business Administration who explain financing options with customers (18 customers assisted). The BAC also facilitated three counseling sessions this year with business counselors from the small business assistance nonprofit, SCORE.
- Through outreach efforts at 33 events, the BAC reached over 1,600 members of the public who received information on BAC services as well as educational instruction on forming and registering their businesses, how to properly maintain those registrations, and other obligations such as general excise tax return filings. Outreach efforts were focused on rural areas including Waianae, Ewa Beach/Kapolei, Kauai County, Hawaii County, and Maui County. Other groups such as veterans, military personnel, Native Hawaiian chambers of commerce, and young entrepreneurs were also a focus of this FY's outreach efforts.
- The BAC continues to participate in the organization of the twice-per-year Hawaii Small Business Fair (August 2015 and February 2016), which offers more than 24 free classes on various topics of interest to new entrepreneurs. Partners included the Department of Business, Economic Development & Tourism, the Small Business Development Center of Hawaii, Honolulu Community College, Leeward Community College, and the Internal Revenue Service. The Fairs have grown to draw over 300 entrepreneurs in various stages of business formation.

*Securities Enforcement Branch*

- In addition to supporting investor education, the SEB attorneys and investigators presented to new audiences including:
  - The Business Law Section of the HSBA that includes attorneys who advise investors and issuers,
  - Hawaii accountants who may become aware of anomalies in their clients' investment portfolios,
  - Financial advisers who may know the SEB as their regulators, but will now see the SEB as a partner in pursuing fraud and bad actors who harm their industry, and
  - Certified fraud examiners who already fight financial fraud in their work in Hawaii.
- The SEB has emphasized internal training and cross-training for professional and support staff through presentations given by fellow experienced BREG staff. Topics covered thus far include: an overview of the securities industry, the philosophy of securities regulation, updates on securities law, and how to run a complete investigation. These presentations also afforded attendees the opportunity to share their own experiences and tips for effectively and efficiently getting the work done.

*Securities Compliance Branch*

- The SCB currently regulates approximately 108,000 securities agents, and 1,300 broker-dealer firms registered to sell securities in Hawaii. In addition, the SCB has 73 state-registered investment advisory firms, approximately 1,300 federally covered investment advisers, and an estimated 2,100 registered investment adviser representatives on record. The SCB also processed an estimated 600 franchise disclosure document filings, conducted 20 exams and received approximately 700 federal Regulation D notice filings for the private placement of securities and approximately 7,600 initial and renewal mutual fund notice filings in FY2016.
- Staff continues to efficiently process the volume of applications and renewals received each year. Examinations of broker-dealers and investment advisers throughout the state are conducted on a continuing basis to provide onsite review of compliance with state securities laws.
- The SCB continues its comprehensive training program for professional development of its securities examiners staff with an additional emphasis on the new requirements included in the JOBS Act.

*Investor Education Program*

- The IEP continues to expand outreach to audiences through various community events across the state. The program completed 67 investor protection presentations in FY2016, and the IEP participated in 69 community events statewide, through which an estimated 30,000 consumers in Hawaii were reached.
- In FY2016, the IEP completed 45 senior presentations and participated in 15 senior-focused community events.
- The IEP continues to maintain federal partnerships with the CFTC, SEC, Financial Industry Regulatory Authority (FINRA), and the Consumer Financial Protection Bureau to educate Hawaii

residents on investor protection. In March 2016, the IEP worked with FINRA, AARP, BBB and the Department of the Attorney General to create a panel of experts to speak to Kupuna, caregivers, and working adult groups. The panel reached approximately 700 seniors in three days.

- The IEP continues its local outreach partnerships with the Community and Crime Prevention Branch of the Department of the Attorney General’s Crime Prevention and Justice Assistance Division, the Senior Medicare Patrol (SMP) Hawaii program within the Department of Health’s Executive Office on Aging, and the Kupuna Alert Partners (KAP) program of the Department of Public Safety’s Narcotics Enforcement Division. KAP provides presentations to Kupuna groups on Medicare fraud, securities fraud, and prescription drug misuse. Since the program began in April 2013, the partnership has completed 46 presentations, reaching over 2,000 seniors, caregivers and senior program providers.
- Another partnership is the “Is this for Real” campaign led by the Hawaii Bankers Association. This campaign brings together state, county, private, and nonprofit organizations and focuses on raising awareness of financial fraud and scams targeting our Kupuna.
- The IEP continues to create new materials to protect Hawaii investors. The second edition of Hawaii’s Fraud Prevention and Resource Guide was released in November of 2015. The revision of the original guide, which covers popular scams in Hawaii, prevention tips, and helpful resources, was coordinated, developed, and designed by the IEP in partnership with the Department of the Attorney General, and the Department of Health. The partnership printed approximately 2,300 hard copies of the guide, and the electronic version is available on the IEP website.
- The IEP continues to be the state coordinator for LifeSmarts, a national educational program that helps youth develop consumer and life skills. In the IEP’s third year as the state coordinator, the state champion high school team (Iolani High School) competed in the national LifeSmarts competition in Denver, CO. The team tied with Tennessee, placing third in the nation, and this is only the second time a Hawaii team has placed in the top three since the program was brought to the state 12 years ago. This free, competition-based program is brought to Hawaii in partnership with the National Consumer League and Hawaii Credit Union League. This year, the IEP partnered with the Hawaii State Teachers Association, credit unions, labor unions, and others to provide prizes to participants at the state competition.
- The IEP continues its partnership with the Hawaii Council on Economic Education to support financial literacy and investor education for students via the Stock Market Simulation (SMS) program. The SMS program is an interactive, educational tool that trains teachers on how capital markets work and how to make wise investment decisions. The teachers are then expected to pass on the knowledge to their students who participate in the SMS. The program has reached nearly 1,255 teachers and 53,360 students.

The IEP continues to use technology to promote its investor education program by providing access to investor education materials online and increasing its social media presence on Twitter, Facebook, and Instagram. LifeSmarts is also promoted on social media; questions of the week are posted on each Monday and answers are provided on the following Thursday.

**CRF Financial Summary**

The CRF financial summary relating to BREG for FY2016 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,651,844	\$932,060	\$5,583,904	\$6,752,319

**CONCLUSION**

BREG continues to receive business filings, requests to purchase business documents, business registration inquiries, securities and franchise registration filings, securities and franchise inquiries and securities and franchise complaints that indicate an enduring need for the essential government services involving BREG’s business registry, BAC, securities law enforcement, securities registration and investor education outreach functions. BREG also continues to investigate and take legal action on securities fraud in the state. The demand for all parts of BREG’s various services has necessitated improved information systems to handle the workload, more sophisticated online support, increased training to improve the quality of regulatory oversight, and constant attention and commitment to the changing, increasingly complex needs for service. In addition, BREG has worked extensively with the North American Securities Administrators Association or NASAA to assist in the national regulatory reform effort and to promote and advocate positions that best support Hawaii’s consumers.



## CABLE TELEVISION DIVISION (CATV)

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

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

### OVERVIEW

The Cable Television Division (CATV) supports the Director in the issuance of cable franchises and the regulation of cable operators, and in the facilitation of expanded access and usage of broadband services throughout the State.

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, CATV carefully considers the public need for the proposed service; the legal, technical, financial, and operational ability of the applicant/franchisee to provide safe, adequate and reliable service at a reasonable cost to the subscribers; the comments arising from public hearing and from the Cable Advisory Committee (CAC) appointed by the Governor pursuant to Chapter 440G, HRS; and other matters deemed appropriate under the circumstances.

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

Included within the responsibility of overseeing all franchised wireline cable operators within the State, and as an integral part of the cable regulatory scheme, CATV responds to public inquiries, concerns, and complaints. As applicable, CATV staff respond to consumer inquiries, refer complaints to the appropriate cable operator in the franchised area, or otherwise inform the general public of complaint-filing procedures. It is CATV's mission to ensure that all complaints and concerns are researched and appropriately resolved. In furtherance of this goal, CATV will continue to monitor resolution of customer service concerns and to examine customer satisfaction by conducting and reviewing surveys and reports. CATV continues to encourage cable operators to develop new, improved, or more effective utilization of cable communications services and facilities that enhance customer-based services to the people of Hawaii.

CATV is also responsible for the expansion of the State's Institutional Network (INET) in a manner that is efficient and effective for the State. The INET provides broadband telecommunications capabilities among government and educational organizations and is constructed for two-way operation as part of the State's current cable television network. The tremendous growth in the State's telecommunications, information processing, storage, and retrieval needs require high transmission capacity with a more flexible network configuration. The INET is a substantial benefit of the cable television franchises that includes network capacity, connecting state and county government and State education facilities, and INET service connections "free of charge" and "at cost," all of which is primarily maintained and repaired at no cost to

state and county government. DCCA/CATV negotiates these INET benefits and administratively manages the INET while the other INET Partners<sup>4</sup> manage and operate the State's telecommunications networks.

In the issuance of a cable franchise, CATV also requires that cable operators support PEG access facilities and services. Support may be provided in various ways including a set aside of a number of channels for PEG access and through provision of a percentage of gross revenues for PEG use. DCCA, through CATV, has contracted oversight of the access channels to nonprofit entities located in each of Hawaii's four counties. CATV supports the Director in the designation of these PEG access organizations. Designation is based upon written application or proposal and after public hearing, taking into consideration the public need for the proposed service; the 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; the comments arising from public hearing and from the CAC; and other matters deemed appropriate under the circumstances.

CATV is cognizant of the increasing importance of the ancillary services that are 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, civic engagement, and others. CATV therefore recognizes that the extension of cable service to all communities within franchise service areas and the strengthening of cable television systems infrastructure is a high priority to provide access to these services and resources.

In 2010, the Legislature passed Act 199, SLH 2010 (Act 199), which charged 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, DCCA/CATV convened the Broadband Assistance Advisory Council (BAAC) and continues to utilize 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.

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 DCCA's activities, Chapter 440J, HRS, was enacted in 2012, requiring that cable operators, telecommunication carriers, and telecommunication common carriers file with DCCA confidential annual reports on broadband service availability and pricing.

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<sup>4</sup> The INET Partners consist of the following state agencies: (1) Department of Accounting and General Services through its Office of Enterprise Technology Services (ETS); (2) University of Hawaii (UH); (3) Department of Education (DOE); and (4) DCCA/CATV (collectively the "INET Partners").

### **Composition**

The CATV staff currently consists of an administrator, two staff attorneys, four program specialists (one cable television specialist and three broadband specialists), and a secretary. The CATV office is located on the first floor of the King Kalākaua Building at 335 Merchant Street, Room 101. Contact and website information is as follows:

Mailing address: P.O. Box 541  
Honolulu, HI 96809  
Telephone: 586-2620  
Email address: [cabletv@dcca.hawaii.gov](mailto:cabletv@dcca.hawaii.gov)  
Website: [cca.hawaii.gov/catv](http://cca.hawaii.gov/catv)

### **GOALS and OBJECTIVES**

CATV's goals and objectives are as follows:

- 1) 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 regular CAC meetings.
- 2) Monitor and participate in federal telecommunications legislation and rulemaking.
  - Work with Hawaii's congressional delegation on applicable federal legislation.
  - Participate in relevant FCC proceedings on Direct Broadcast Satellite service, universal service support, broadband, and other cable and 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 State broadband-related activities.
  - Monitor federal issues that may have an impact on Hawaii cable television subscribers and broadband consumers.
  - Ensure that DirecTV and Dish Network comply with the FCC's order regarding service to Hawaii.
- 3) Utilize DCCA regulatory function to strengthen the INET and provide benefits for state and counties.
  - Require cable operators to invest in infrastructure as part of a cable franchise award to provide capacity and connections for public, educational and government facilities to expand and strengthen the INET.
  - Provide efficient management of the INET to best utilize negotiated INET benefits for the benefit of state and county government and educational facilities.
- 4) Bridge the broadband availability gap by advancing broadband infrastructure deployment and supporting a competitive marketplace.

- Work with federal, 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.
  - Identify and pursue methods of funding to extend broadband infrastructure to service unserved and underserved areas of the State.
  - Work with the BAAC to identify means to streamline government permitting and approval processes.
  - Monitor development and deployment of new advanced services.
- 5) Support and facilitate broadband adoption initiatives and programs to drive use of high speed broadband.
- Support and facilitate government programs and applications, including telework and consumer applications.
  - Support other state agencies' efforts to increase use of broadband through various digital literacy, computer ownership, and other adoption programs.
  - Work with the BAAC to identify programs and policies to advance broadband adoption and use of applications.

## **ACCOMPLISHMENTS**

**Institutional Network** – DCCA/CATV continued its leadership role in the development, expansion, and enhancement of the INET. Working with the INET Partners, DCCA/CATV continued its role under the existing cable television franchises in the upgrade and expansion of the INET, administration of the INET on-island and interisland network, and deployment of broadband infrastructure for education and government applications. As the INET partner providing the non-technical administration of the INET interisland network, DCCA/CATV continued during FY2016 to meet with the INET Partners through their technical team members to update and revise the master plan for statewide infrastructure development and to develop and implement a plan to increase the interisland capacity of the INET from 10 Gigabits to ultimately 200 Gigabits via two networks (one shared between UH and ETS (including the Hawaii State Public Library System (HSPLS)) and a separate one for DOE). The UH/ETS/HSPLS shared network upgrade is expected to be completed during the second half of FY2017 while the DOE's network upgrade is expected to be completed sometime in FY2018. In addition, DCCA/CATV continued to develop an online system that coordinates and tracks the "at cost" and "free of charge" INET requests and connections for state and county government. The IROC (INET Request Online Coordination) system was completed and made live on December 1, 2016.

**Charter/Time Warner Cable Proposed Merger Transaction Review** – On July 15, 2015, Oceanic's parent company, Time Warner Cable Inc. (TWC), and Charter Communications, Inc. (Charter) submitted their joint State Transfer Application with DCCA/CATV requesting approval to transfer control of all of Oceanic's cable franchises in the State from TWC to Charter (Charter/TWC Proposed Merger). The FCC's Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise (Form 394) was attached and made part of the State Transfer Application. According to the applicants, their proposed merger transaction would result in new jobs and investments, a faster Internet experience at a better value, increased innovation and quicker rollout of advance technologies, and other public benefits. Charter/TWC also represented that they are committed to, among other things: (1) protection of a "free and open Internet"; (2) investment in infrastructure and customer service; and (3) a

broadband program for low-income consumers. Upon submittal of the application, DCCA/CATV reviewed the filed documents; conducted nine public hearings statewide that collectively covered each franchise service area<sup>5</sup>; received written or verbal comments, views, and/or arguments from Oceanic's customers, interested persons, and the general public regarding the transaction; issued two sets of information requests to the applicants; and held discussions with the applicants regarding the Charter/TWC Proposed Merger.

Federal regulations require local franchising authorities (LFAs), such as DCCA/CATV, to act within 120 days of the submission of the FCC's Form 394, various exhibits, and any additional information required by the terms of the franchise agreement and state laws. If an LFA fails to act within that prescribed time, the transfer is deemed approved.

On December 17, 2015, DCCA/CATV issued Decision and Order No. 366 (Decision & Order No. 366) conditionally approving the Charter/TWC Proposed Merger transaction. While the initial deadline to issue a decision was November 12, 2015, Charter/TWC and DCCA/CATV mutually agreed to extend the deadline to December 17, 2015. In Decision & Order No. 366, DCCA/CATV requires Charter/Oceanic to, among other things:

- Adhere to all terms, requirements, conditions, and obligations of the current Cable Franchise Decisions & Orders, and any other orders and directives issued by the Director, including obligations related to system upgrades; institutional network connections; franchise fees; PEG access; Hawaii Public Television Foundation; and all other existing cable franchise obligations.
- Provide a broadband service for low-income consumers in Hawaii (providing families with children participating in the National School Lunch Program and seniors, age 65 and older who are eligible and receive federal Supplemental Security Income benefits, with broadband service initially for \$14.99/month, at speeds up to 30 Megabits per second (Mbps) download, and 4 Mbps upload) within three years of the close of the merger transaction.
- Invest \$10 million to build out its networks in Hawaii; and build out 1,000 new line extensions of its networks to homes in its Hawaii cable franchise areas within four years of the close of the merger transaction.
- Provide 1,000 new public WiFi access points within four years of the close of the merger transaction with a 100 of these new access points to be deployed at public parks, civic and community centers, and other public open areas and gathering places at the direction of DCCA/CATV.
- Obtain a \$1 million performance bond payable to DCCA on, among other matters, a determination that Charter/Oceanic failed to comply with the build out requirements or the WiFi obligations of Decision & Order No. 366.
- Within thirty months after the close of the merger transaction, transition virtually all of Oceanic's cable systems to all-digital networks and, upon the conversion, Charter/Oceanic

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<sup>5</sup> In particular, DCCA/CATV held public hearings in Hilo and Kailua-Kona on Hawaii Island; Lanai City on Lanai; Kaunakakai on Molokai; Lahaina, Wailuku, and Hana on Maui; Honolulu on Oahu; and Lihue on Kauai.

shall provide, among other things, subscribers two digital transport adaptors or “basic boxes” free of charge for a period of two years and make them available at Oceanic’s customer service centers and delivery by mail (including pre-paid return service).

- Promote and make available energy efficient set-top boxes (within three years of close of merger transaction, at least 90% of newly deployed boxes shall meet energy star requirements), and Charter/Oceanic is encouraged to: (1) partner with community organizations to educate and promote the use energy efficient set-top boxes; and (2) develop an economically feasible program to trade out old boxes with efficient ones.

Beside the conditions noted above, DCCA/CATV’s approval was subject to various other terms and conditions including approval of the Charter/TWC Proposed Merger by the FCC and the Department of Justice (DOJ), and other federal agencies, and adherence to all conditions imposed at the federal level. In early May of 2016, the FCC completed its review of the Charter/TWC Proposed Merger and consistent with other federal agencies including the DOJ, approved the proposed merger transaction. On May 18, 2016, the Charter/TWC Proposed Merger was completed and the proceeding was officially closed. During FY2017 and the years to follow, DCCA/CATV will monitor the implementation of the transaction and ensure compliance with the provisions of Decision and Order No. 366.

**Oceanic Time Warner Cable – Hawaii Island Franchise Renewal** – On July 20, 2011, Oceanic submitted an application to renew its cable franchises for the island of Hawaii. DCCA/CATV along with its consultant held numerous meetings with various stakeholders and groups for comments on the renewal of these franchises. In addition, DCCA/CATV held four public meetings to ensure that the public had ample opportunity to provide input into the renewal process. On February 8, 2013, Oceanic submitted its First Amended Application of Cable Television Franchise for the East Hawaii and West Hawaii cable franchise systems franchises. After numerous discussions with Oceanic, on March 15, 2016, DCCA/CATV issued Decision and Order No. 368 (Decision & Order No. 368) renewing Oceanic’s cable franchises for the County of Hawaii and approving Oceanic’s request to consolidate its East and West Hawaii cable franchises for Hawaii County into a single cable franchise. Under Decision and Order No. 368, Oceanic is required, among other things, to provide: (1) reliable and responsive customer service to subscribers on Hawaii Island; (2) support of PEG access services on Hawaii Island and services provided by Hawaii Public Television Foundation, dba PBS Hawaii; (3) “at cost” INET connections within six months of a request by the DCCA Director, provided certain conditions are met; (4) \$1 million in new INET connections at no cost, applicable throughout Oceanic’s cable franchises statewide; (5) up to three INET connections per each year of the 20-year franchise term (at an amount not to exceed \$18,000 per connection) to Hawaii Island fire stations, police stations, schools, institutions of higher learning, and libraries, at no charge and to maintain such connections; and (6) high-speed broadband service at one point of demarcation to each DOE school, institute of higher learning, and library on Hawaii Island existing on the effective date of Decision and Order No. 368 with speeds equivalent to the FCC’s definition of broadband service (as revised from time to time), at no charge.

**Oceanic Time Warner Cable – Maui Franchise Renewal** – Oceanic filed its intent to consolidate the Renewal Applications for its Maui County and Lahaina cable television franchises on June 2, 2011. Since that time, DCCA/CATV conducted an initial round of discovery and ascertainment meetings across Maui County; held four public meetings in Kaunakakai, Lanai City, Lahaina, and Kahului to receive public comment on Oceanic’s application; conducted numerous discussions in and about Hana regarding service reliability and customer service issues; and reviewed the application and public comments. DCCA/CATV

began discussions and negotiations with Oceanic during the second half of FY2016 and further discussions/negotiations are on-going. DCCA/CATV expects to conclude this proceeding by the end of FY2017.

**Oceanic Time Warner Cable – Kauai Franchise Renewal** – On April 24, 2014, Oceanic submitted a letter to notify DCCA/CATV of its intent to seek renewal of its Kauai cable television franchise. Oceanic’s current cable television franchise for the island of Kauai expires on December 31, 2016. Upon receipt of the letter, DCCA/CATV began planning and developing the Community Ascertainment and Related Activities Report for the Kauai cable franchise. As part of this process, DCCA/CATV held two community meetings on Kauai (Waimea on August 26, 2015 and Lihue on August 28, 2015) and continue to meet with community leaders and public sector representatives to obtain input and comments regarding services provided by Oceanic and feedback regard the services provided by Ho`ike: Kauai Community Television (Ho`ike), the Kauai Island PEG. In addition, through consultants hired by DCCA/CATV, technical, engineering, franchise compliance, and financial reviews of Oceanic have been or are being conducted. The Community Ascertainment and Related Activities Report was completed and Oceanic is expected to submit its application for renewal of its Kauai cable television franchise by the end of the second quarter of FY2017.

**Franchise Fee Reviews** – CATV contracted with a certified public accounting firm to conduct annual reviews of the franchise fee payment process in each of the different franchise areas. CATV continues these annual reviews to ensure that the franchise fee collection process is being conducted accurately.

**Federal Legislation and FCC Rulemaking** – CATV continued to monitor developments in Congress and at the FCC related to telecommunications, cable television, and broadband. CATV continues to meet and work with Hawaii’s congressional delegation to support efforts to obtain funding for broadband for the State.

**Designation of PEG Organizations to Provide PEG Services** – DCCA/CATV is responsible for reviewing the applications and negotiations required for the PEG access organization designation process. Since Act 19, SLH 2011, was signed into law, all four existing PEG access organizations, `Ōlelo Community Media on Oahu; Nā Leo `O Hawaii Community Television on Hawaii Island; Ho`ike on Kauai; and Akakū: Maui Community Television on Maui, Molokai, and Lanai, have filed applications for designation as the PEG access provider in their respective service areas. DCCA/CATV review of the filed applications are on-going, and discussions regard PEG designation contracts have started.

**Broadband Initiatives and Projects** – During FY2016, DCCA/CATV continued to: (1) work with the FCC to expand an existing FCC program, Measuring Broadband America, to gather data about subscriber broadband service performance across the State; (2) monitor and support a project to close the fiber optic network gap on Hawaii Island for which DCCA/CATV had convened a stakeholder group, consisting of the County of Hawaii, the U.S. National Park Service, public utilities, and broadband and cable providers; (3) work towards the establishment of a broadband utilities and project coordinator position to expedite the deployment of broadband infrastructure; (4) gather data on unserved and underserved areas across the State and to map those areas; and (5) maintain contact with stakeholders to identify possible opportunities to partner on, facilitate, or support projects to extend broadband access and increase broadband adoption.

DCCA/CATV activities also included: (1) developing a DCCA/CATV WiFi project intended to provide community access to WiFi at government locations in unserved and underserved areas statewide; (2) disseminating information to stakeholders on funding opportunities for broadband projects and other resources; (3) submitting the Report on Act 151, SLH 2011, Relating to Telecommunications, to the 2016 Legislature, which includes a report on the State of Broadband in Hawaii (Act 151 Report); (4) providing assistance on legislation that, among other things, added the Director of the Department of Business, Economic Development and Tourism as a permanent member of the BAAC; and (5) supporting the activities of the BAAC.

**Broadband Assistance Advisory Council** – During the first half of FY2016, the DCCA/CATV convened the BAAC to obtain input and assistance with the creation of a Broadband Assessment to respond to requests made by House Concurrent Resolution No. 189, H.D. 1, S.D. 1, adopted during the 2015 legislative session. The resulting Report on House Concurrent Resolution No. 189 (HCR 189 Report) was filed with the 2016 Legislature. DCCA/CATV again convened the BAAC during the second half of FY2016 to discuss: (1) the Act 151 Report; (2) broadband-related measures introduced during the 2016 Legislative Session; and (3) the recommendations and best practices included in the HCR 189 Report, including comments and possible next steps. DCCA/CATV thereafter convened a meeting of the BAAC’s Permitting Work Group to further review the best practices prioritized by the BAAC, which included a broadband projects database and coordination system; an online pole attachment project notification system;

### ***CRF Financial Summary***

The CRF financial summary relating to CATV for FY2016 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$748,378	\$770,827	\$1,519,205	\$2,873,488

### ***CONCLUSION***

This past fiscal year was a very active one for CATV because of the application submitted for transfer of Oceanic’s cable television franchises across the State (i.e., Charter/TWC Proposed Merger); the multiple cable franchise renewals at issue across the State; the activity surrounding the designation of all four PEG access organizations; the rapid development of telecommunications technology and its implications to the provision of cable television and Internet and other related services; the changing dynamics related to content distribution and the resulting impact to subscriber services; and the many broadband-related DCCA/CATV activities. Through its many regulatory activities and its additional responsibilities to facilitate broadband access, CATV strives to ensure fairness to the public in the provision of improved cable television services, to provide valuable INET benefits to state and county agencies, and to provide access to reasonably priced broadband services to residents statewide.



## DIVISION OF CONSUMER ADVOCACY (DCA)

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

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

### OVERVIEW

The Division of Consumer Advocacy (DCA) represents, protects, and advances the interests of consumers of utility and transportation services before regulatory agencies, primarily the Hawaii Public Utilities Commission (PUC) and the Federal Communications Commission (FCC). 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 PUC, 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 the information, DCA files either written statements of position or testimonies explaining its analyses, findings, and recommendations with the PUC. The PUC does not require oral testimonies by DCA analysts, subject to utility company cross-examination, in contested case evidentiary hearings to resolve differences among the parties in utility proceedings.

### *Composition*

DCA consists of 19 employees, ranging from an Executive Director, a secretary, a utilities/transportation officer, a utilities/transportation specialist, an education specialist, rate analysts, researchers, engineers, attorneys, and clerical support. DCA is located on the third floor of the King Kalakaua Building, 335 Merchant Street, Room 326. The division's contact information is as follows: mailing address, P.O. Box 541, Honolulu, Hawaii 96809; phone number, 586-2800; internet address, [cca.hawaii.gov/dca](http://cca.hawaii.gov/dca).

The majority of DCA's professional staff is comprised of the Rate Analysis Branch, the Engineering Branch, the Research Branch, and the Legal Branch.

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

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

The **Research Branch** analyzes and advises on matters imposed 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.

## **GOALS and OBJECTIVES**

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

### ***Consumer Advocacy***

#### *Goal*

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

#### *Planned Approach/Methods*

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

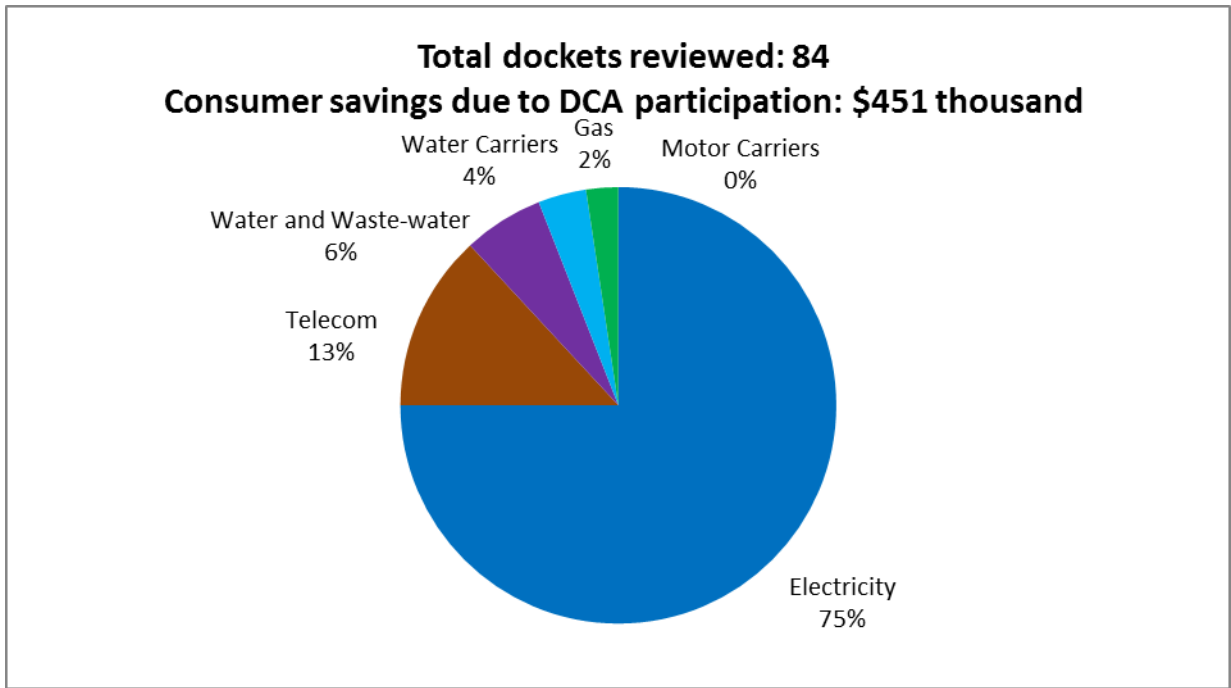
1. Review of applications to ensure compliance with regulations;
2. Participation at PUC public hearings;
3. Procurement of consultant services to manage workload and for complex cases;
4. Completion of discovery;
5. Analysis of applications and supporting documents to determine the accuracy and the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

#### *Measures*

To measure DCA's performance in advocating consumer interests, DCA tracks various categories of information. DCA monitors consumer savings resulting from its participation in PUC proceedings, the percentage of PUC decisions that adopt settlements reached amongst the parties to a proceeding, the number of service quality investigations DCA participates in, and the number of filings before the PUC reviewed

by DCA. Chart 1 describes the total number of docket 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, FY2016

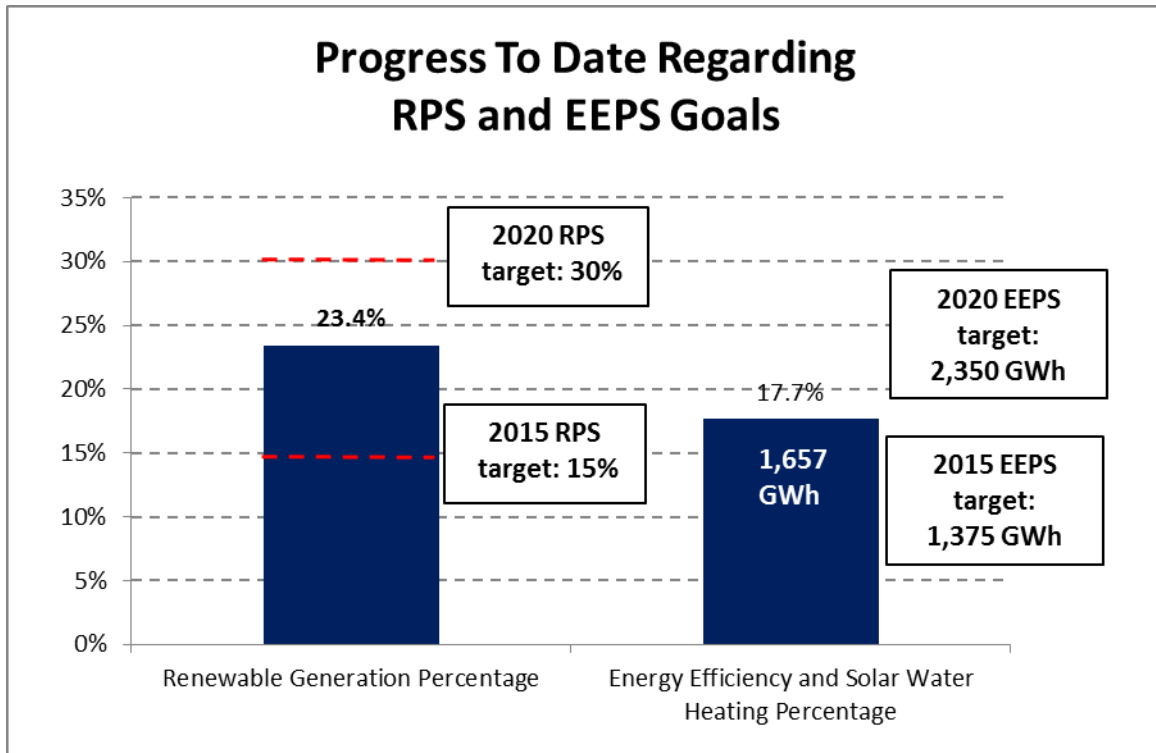


***Policy Advancement***

*Goal*

DCA will remain active in promoting policies to protect and advance the interests of utility and transportation consumers on the local, state, and national levels. Two of the major objectives that DCA will pursue are the advancement of federal and state broadband initiatives, as well as continued efforts to promote and facilitate Hawaii’s transition away from imported fossil fuels towards clean renewable energy. As shown in Chart 2, Hawaii appears to have met its 2015 Renewable Portfolio Standard (RPS) and Energy Efficiency Portfolio Standard (EEPS) goals and is progressing towards the 2020 goals.

Chart 2. Hawaii's 2015 and 2020 RPS and EEPS Goals



Note: Data for calendar year 2015. Due to changes in reporting requirements, it is necessary to discuss how progress toward EEPS goals will be monitored and reported in the future.

#### *Planned Approach/Methods*

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

- After 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;
- DCA then provides PUC with a recommendation that it believes is in the best interest of consumers; and
- DCA participates in evidentiary or panel hearings conducted by PUC. DCA presents its evidence by way of expert testimony on specific technical issues.

DCA monitors congressional activity in the energy and telecommunications areas. 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.

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

DCA is actively involved with the State Legislature and provides testimonies that detail consumer benefits or detriments of specific proposals and bills being considered by the various legislative committees. In the 2016 legislative session, DCA monitored and/or testified on 53 bills and submitted written testimony on 41 occasions.

### *Measures*

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

### *Education & Outreach*

#### *Goal*

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 DCA aims to gather consumer input on utility issues and to encourage consumers to be more involved in utility proceedings. DCA attends public meetings and hearings to learn of consumer complaints and concerns.

#### *Planned Approach/Methods*

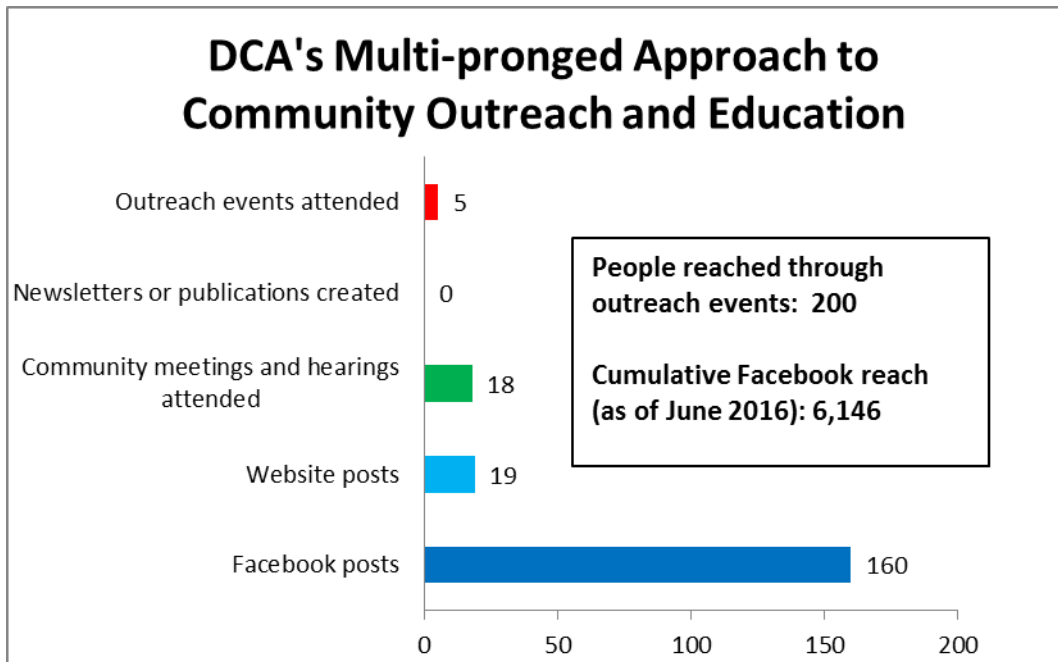
DCA can accomplish its goal of positively affecting the habits of consumers on a statewide basis through the use of its web site and public outreach activities. DCA established the following action plan to accomplish its goals and objectives:

1. Update and improve its website with consumer-friendly and useful content;
2. Use social media, such as Facebook, to reach a greater number of consumers;
3. Attend public hearings and meetings to listen to consumer complaints and concerns;
4. 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;
5. Improve communications with consumers and the public through expanded distribution and publication of its newsletter; and
6. Hold informational seminars or use public service announcements to highlight different utility issues and topics.

*Measures*

To measure DCA’s performance and progress of its education and outreach activities, it 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 DCA engaged in community outreach and education in Fiscal Year 2016.

Chart 3. DCA’s Multi-pronged Approach to Community Outreach and Education



***Accomplishments***

Results of DCA’s efforts to protect and advance the interests of consumers in FY2016 are summarized below for some of the more significant matters in which DCA was involved:

**Advocacy before the Public Utilities Commission**

***Energy Dockets***

*NextEra Energy / Hawaiian Electric merger*

On December 3, 2014, it was announced that NextEra Energy (NEE) and the Hawaiian Electric (HECO) Companies would merge and, as a result, NEE and the HECO Companies filed an application to seek PUC approval of the proposed transaction (Docket No. 2015-0022). Given the significance of this proposed transaction, a number of parties sought to become parties and the PUC allowed 29 intervenors, including, but not limited to, two state agencies (the State Energy Office and the Office of Planning) county agencies, and a federal agency (the U.S. Department of Defense).

The schedule for this proceeding required a number of pre-filed documents from the Applicants (NEE and the HECO Companies) and the other parties. Extensive discovery was conducted as part of this proceeding to determine the reasonableness of the proposed transaction. In its testimonies, the Consumer Advocate pointed out that the proposed transaction did not clearly articulate how PUC approval would benefit consumers, debunked a number of the Applicants' claims, and recommended that, in the absence of clear commitments to deliver benefits to customers, the PUC should not approve the proposed transaction. As part of this recommendation, the Consumer Advocate identified a number of conditions that would support a finding that the proposed transaction would be in the public interest.

Due to the number of parties and issues, extensive evidentiary hearings were held in the months of November and December 2015 as well as in February and March of 2016. The Consumer Advocate fully participated in the hearings and raised a number of issues that were key areas of interest for the Commission. Ultimately, the Commission determined that the Applicants did not meet its burden of proof and did not identify and support how customers would benefit from the proposed transaction.

#### *Power Supply Improvement Plans (PSIPs)*

The PUC required the HECO Companies to file respective PSIPs in order to facilitate the review of long-term energy planning objectives. These PSIPs were incorporated into Docket No. 2014-0183. After the review of the HECO Companies' initial PSIPs, the Consumer Advocate and many other parties commented on that a number of revisions and supplements were required. The Consumer Advocate also advocated that, instead of the undue focus on a detailed 30 year plan, the focus should be on a detailed five-year action plan that would be consistent with a reasonable long-range plan. Otherwise, the Consumer Advocate was concerned that if other parties continued to focus on a detailed 30 year plan, there would be no approved plan at all, similar to the outcome of integrated resource planning efforts in Docket No. 2012-0036. The Commission expressed their position that an approved PSIP was necessary and that the focus should be on an actionable short-term plan.

The parties are working with the HECO Companies to discuss how the PSIPs should be revised and supplemented so that, by December 2016, the revised and supplemented PSIPs can be reviewed by interested stakeholders, including the Commission.

#### *The Investigation of Distributed Energy Resources (DER)*

The PUC opened Docket No. 2014-0192 in August, 2014, to review the various issues related to distributed energy resources (e.g., photovoltaic rooftop systems, etc.) and what measures might be required to not only facilitate the continued adoption of these distributed energy resources, but to also insure that a sustainable market for those resources would exist while not adversely affecting other renewable energy markets or consumers. Due to the urgent need to review certain issues related to DER, the PUC set forth an accelerated timetable to be analyzed in Phase 1 of this proceeding, with other issues to be analyzed in Phase 2.

In Phase 1, the Consumer Advocate sought to highlight concerns that current market conditions and prices were leading to inefficient decisions that adversely affected the grid and those customers who would not be able to take advantage of rooftop PV systems, such as renters and multi-family residents. In Decision and Order No. 33258, the PUC closed the Net Energy Metering (NEM) program for the HECO Companies,

but created grid-supply and self-supply options to allow the continued adoption of rooftop PV systems. Furthermore, the PUC also required the HECO Companies to provide time-of-use tariffs.

Contrary to concerns expressed early on that the end of NEM would signal the end of customer interest, the grid-supply capacity was rapidly exhausted and self-supply option is gaining interest as well. The parties have continued to meet and discuss how DER deployment issues can be resolved. The Commission has recently proposed issues for Phase 2 (October 3, 2016), but Phase 2 has yet to start.

#### *Green Energy Market Securitization (GEMS)*

Since its approval by the Commission in 2014, the GEMS program has not demonstrated successful uptake of its offering. As a result, concerns have been raised about how the funds should be used and what should be done with GEMS. Various program modifications and notifications have been filed by the Hawaii Green Infrastructure Authority (HGIA) on how to modify GEMS so that the funds might be used and the Consumer Advocate has been reviewing these proposals and working with the HGIA so that the original intent of GEMS – to provide the underserved, such as low- to moderate-income customers with a low-cost alternative financing option – is not forgotten.

#### *Community Based Renewable Energy Program (CBRE)*

In November of 2015, the Commission suspended a HECO Companies' tariff to open a proceeding to investigate CBRE issues. Subsequently, the Commission filed its staff proposal for a CBRE program and asked for comments on that proposal. The Consumer Advocate's proposal supported the need for a CBRE program but pointed out that the proposal did not include sufficient customer safeguards and may have been too favorable to industry and developer interests. The Consumer Advocate highlighted the need for low-cost options for renters, multi-unit dwelling residents, and low-income customers and for an initial program that would be relatively simple rather than a complex program that might doom any future CBRE efforts. Additional steps are pending Commission review of the comments on the staff proposal.

#### *Other industries*

The Consumer Advocate also 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, rate cases and the Annual Freight Rate Adjustment for Young Brothers, as well as eligible telecommunications carrier certification for various telecommunications companies. The Consumer Advocate also worked on various dockets related to Hawaii Gas, including their developing plans to convert their supply gas from synthetic natural gas to imported liquefied natural gas.

### **Advocacy through Participation on Committees and Boards**

#### *Enhanced Wireless 911 (E911) Services*

Act 168, SLH 2011 (Act 168), created an E911 Fund and established the E911 Board. Act 168 established the framework to implement the State's wireless E911 system to route emergency calls to emergency responders, along with the wireless callers' identification and location. Under Act 168, the E911 Board oversees the collection and distribution of money collected by the E911 Special Fund and designates the Executive Director of DCA as a member of the E911 Board.



*One Call Center Advisory Committee*

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

*Energy Policy Forum*

The Executive Director of DCA is a member of the Hawaii Energy Policy Forum (HEPF), which is a collaborative organization of the University of Hawaii at Manoa. HEPF consists of members from the business, government, and regulatory communities. Meetings are held quarterly to discuss Hawaii’s energy needs for both electricity and transportation. HEPF provides support to other organizations, such as the Hawaii Clean Energy Initiative Steering Committee. In FY2016, DCA continued to maintain its active role in the meetings providing input to HEPF concerning consumer concerns in the regulatory process before the PUC and the difficulties facing the state in achieving reliable electricity service at reasonable rates.

*Hawaii Clean Energy Initiative (HCEI)*

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

As part of HCEI, the Executive Director of DCA also participates in the Management Committee, which deals with the high-level planning associated with various aspects of the technical committees that are analyzing various areas (electricity, end-use efficiency, transportation, fuels, and outreach) that are expected to be integral to the success of HCEI.

DCA also participates in the Technical Advisory Group (TAG) that is responsible for evaluating the energy efficiency process that has been transitioned from the HECO Companies to a third-party administrator, also now known as Hawaii Energy. As part of this process, the TAG currently meets on a quarterly basis and evaluates various aspects of the measures being implemented to help plan, evaluate, and implement energy efficient programs in the service territories of the HECO Companies. Using the monies collected through the Public Benefits Fund surcharge, the TAG evaluates the use of the monies to help Hawaii’s efforts to reduce its over-reliance on imported fossil fuels.

The HCEI Management Committee, which includes the Consumer Advocate, is working on HCEI 2.0. A new Memorandum of Understanding between the State of Hawaii and the U.S. Department of Energy was drafted in FY2014, then executed in FY2015. Finally, the Management Committee

determined that the original HCEI entered into in 2008 contained a number of provisions that were no longer applicable and voted to rescind it.

### **Education and Outreach**

During the past year, DCA has continued to focus on expanding its education and outreach activities. This has allowed DCA to increase its ability to educate consumers and extend its reach into communities throughout the State. In addition to attending community fairs, DCA publishes its own newsletter and informational materials. However, the DCA is focusing on improving its web presence by keeping the online information relevant and informative.

#### *Consumer Advocate's Facebook page*

DCA continues to use its Facebook page to reach consumers more quickly through social media. Through Facebook, DCA educates consumers by posting energy and water saving tips and notifies 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. As of June 30, 2016, DCA's Facebook reach was 6,146.

#### **CRF Financial Summary**

The CRF financial summary relating to DCA for FY2016 as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,624,605	\$809,643	\$2,434,248	\$4,217,569

### **CONCLUSION**

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

## DIVISION OF FINANCIAL INSTITUTIONS (DFI)

website: <http://cca.hawaii.gov/dfi/>

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### OVERVIEW

The Division of Financial Institutions (DFI) addresses the safety and soundness of state-chartered and state-licensed financial institutions, and ensures regulatory compliance by state-licensed financial institutions, escrow depositories, money transmitters, mortgage servicers, mortgage loan originators and mortgage loan originator companies, by fairly administering applicable statutes and rules, in order to protect the rights and funds of depositors, borrowers, consumers and other members of the public. In order to effectively regulate a growing and diverse group of industries and implement state and federal regulatory requirements, the DFI made changes to its licensing and examination programs to focus its resources on risk-based supervision.

DFI provides regulatory oversight for our State's financial service providers which includes both bank and nonbank industries. 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, and financial services loan companies (both depository and non-depository), and credit unions. In supervising financial institutions authorized to take deposits, DFI works closely with the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve Bank of San Francisco (FRB), the Consumer Financial Protection Bureau (CFPB), and the National Credit Union Administration (NCUA).

DFI licenses and regulates, supervises and examines escrow depositories, money transmitters, mortgage servicers, mortgage loan originators and mortgage loan originator companies. DFI partners with other states and federal agencies to provide supervisory oversight on companies who operate and conduct business across the United States and outside the country. DFI also conducts examinations with the other states to pool resources and experience.

DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and re-accredited in 1995, 2000, 2005 and 2012<sup>6</sup>. The CSBS accreditation program sets high standards for state banking regulators nationwide. DFI will seek accreditation in 2018 for both banking and mortgage.

In 2Q FY2015, DFI was the eighteenth state in the nation to be accredited by the CSBS/AARMR<sup>7</sup> for mortgage supervision. The CSBS/AARMR accreditation program sets high standards for state mortgage regulators nationwide. The accreditation program includes the mortgage loan originator, mortgage loan

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<sup>6</sup> Hawaii did not seek reaccreditation in 2010. With the new commissioner appointed in 2011, updates made to the banking supervision, regulation and examination, DFI received accreditation in 2012.

<sup>7</sup> American Association of Residential Mortgage Regulators is a trade organization for mortgage regulators.

originator companies, and mortgage servicer programs. Hawaii was also recognized in having a robust regulatory scheme and oversight, as well as a mature examination program.<sup>8</sup>

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

**Composition:**

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

Within DFI, there are two branches: (1) the Field Examination Branch and (2) the Licensing and Regulatory Analysis Branch, each composed of financial institution examiners and supervised by its own Branch Manager. The *Field Examination Branch* is responsible for the on-site examination 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 the financial institutions. For example, examiners not only evaluate existing and projected financial information, but also assess the effectiveness of management, its policies, and implementation of those policies in administering the institution's risk management programs and practices. The field branch is divided into two sections, one to focus on the safety and soundness of our state-chartered banks and credit unions, the other section focuses on the compliance with federal and state regulatory laws and guidance for all industries.

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 review and analysis for all applications for new financial institutions (bank and nonbank), closure of any branches, opening or relocation of branches, addition of new or unique services to determine whether consumer may be harmed by the action of any licensee. The Licensing and Regulatory Analysis Branch Manager also assists the Deputy Commissioner in administrative matters such as legislation, training, and budgetary items. This branch has two sections, one focuses on banks, money transmitters and escrow depository matters and one focuses on the mortgage industry, including mortgage loan originators, mortgage loan originator companies, and mortgage servicers.

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<sup>8</sup> In 2009, the Hawaii Safe and Fair Enforcement for Mortgage Licensing or SAFE Act was passed giving authority to DFI to supervise, regulate and examine mortgage loan originators and mortgage loan originator companies. In late 2010/early 2011, DFI began its supervision. In 2011-2012, DFI provided training to the industry. In 2013, DFI began its examination program.

## **GOALS and OBJECTIVES**

### **Division Goals:**

DFI's mission reflects the increased focus of the division's role in not only protecting consumers, but in educating them to protect themselves. Recent legislation in the financial services area reflects the need to educate consumers about the risks they take in using financial products. Regulation and appropriate enforcement, hand in hand with consumer education and awareness are the best defenses in protecting consumers. DFI faces a number of challenges in the next few years including the increasing risk of cybersecurity fueled by the innovative uses of technology, the impact of the economy on financial service providers and consumers; dealing with increased complexity in our financial institution companies and their products which can lead to increased opportunity for fraudulent activity; and dealing with the threat of federal preemption of our regulatory authority at a time when our services are needed the most.

Over the last five years, DFI's staffing has undergone a tremendous change, with 20 new staff members who work with technology to meet DFI's goals and objectives. In FY2016, DFI added seven new examiners. DFI's goals and objectives center on the orientation, training, and effective deployment of its Examiners and providing best practices to our licensees in a professional manner. Federal programs administered by the FDIC and the Federal Reserve System are regularly used for this purpose, as are web-based programs provided by CSBS, the Risk Management Association, and the Hawaii Bankers Association. On-the-job training is also a valuable component of the training plan. DFI's goals also focus on the recruitment of new staff who 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 regulated and supervised by DFI. The delivery methods have also expanded with the use of the internet and mobile cellular telephones or other mobile devices and its concurrent impact of cybersecurity. Consequently, the orientation and training for examiners continues to be challenging to keep up to date with the latest iteration of products, services and delivery methods.

### **Objectives and Policies:**

As a part of the CSBS accreditation process, DFI established a strategic plan and developed policies and operating guidelines to achieve plan objectives. DFI updates the plan annually. DFI's strategic plan is to:

- Stay relevant in a changing environment;
- Provide value for the services the division offers;
- Expand employees' respective skill sets;
- Embrace the new regulatory and compliance environment;
- Deliver effective and timely services; and
- Communicate in a respectful, timely and meaningful manner.

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

**Action Plan:**

DFI's action plan is built around its strategic plan. The timetable calls for reaching its goals in a three to five year time frame as it must provide additional training for staff and provide new training to meet the regulatory needs required by the federal regulations and expected by consumers who use our financial institutions. DFI continues to explore various technology to improve its efficiency, databases, and outreach to consumers and licensees. In addition, DFI has joined other states in the supervisory oversight and examination of non-depository companies who conduct business in the United States and outside our country.

**Performance Measurement:**

DFI currently measures performance in two ways. The first is empirical – that is, absolute measurements based on the fiscal health and regulatory compliance of the State's DFI-regulated financial institutions using both regular financial- and examination-based measurements. The second is the measurement of DFI's internal throughput – that is, how many complaints have been answered, how many applications processed, etc. The first measurement is critical, especially in the current climate of global turmoil in the financial services industry, and demonstrates performance in DFI's key area of responsibility – to ensure the safety and soundness of Hawaii-chartered and licensed financial institutions. The second measurement is difficult to quantify since the complexity of the majority of the inquiries makes the review of both applications and complaints time and resource intensive. It takes many hours of research before a sound analysis of Hawaii's laws can be made to provide appropriate responses to inquiries. Likewise, consumer complaints or investigations are time consuming to work with the licensee about past practices, policies and procedures and determine whether the licensee acted appropriately with the consumer before DFI can determine whether the consumer was harmed. This second measurement provides DFI with insight related to innovations or original solutions taken by companies to address financial services. DFI is mindful that these measures alone do not necessarily provide complete indicators of the division's efforts or the activity happening at the various levels of regulation (state, federal).

**ACCOMPLISHMENTS**

1. Effective supervision – There are six Hawaii state-chartered banks in Hawaii, two out-of-state-chartered banks (CA and WA), two national banks, and one foreign bank. DFI directly supervises the six Hawaii state-chartered banks, oversees with its sister states the two out-of-state chartered banks, and oversees the one foreign bank. All state-chartered banks are operating in a safe and sound manner and complying with regulatory laws and guidance. As of 2Q FY2016, all state-chartered banks have reported increased earnings due in part to increased loan growth.
2. Use of technology for education – DFI used the technology of social media to provide free education to its licensees and consumers. DFI developed and maintains its website. DFI frequently updates its website with regulatory guidance or training videos and will “e-blast” the industry affected. DFI uses YouTube videos to provide education to licensees about regulatory compliance issues. Every year, DFI uploads a training session as a reminder to licensees about the renewal requirements, which has increased compliance and a quicker processing time to license renewal. Twitter has been used to quickly alert followers to new developments or information about fraud, elder financial abuse, cybersecurity, disaster planning, updates to our website, and upcoming training opportunities.

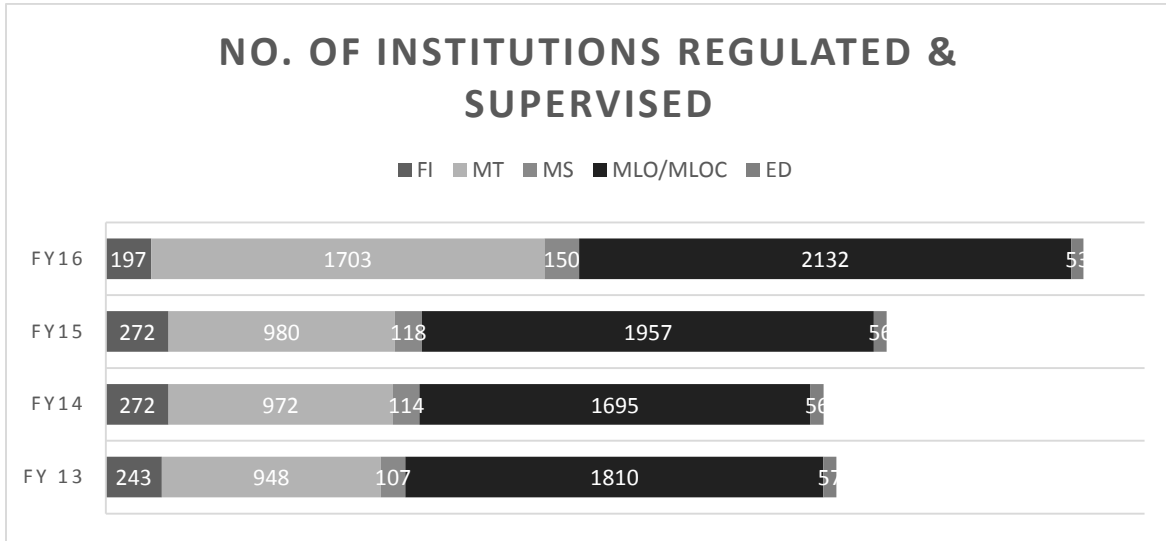
3. Use of technology for applications – DFI is using NMLS to process applications for mortgage loan originators, mortgage loan originator companies, mortgage servicers and money transmitters. In FY2016, DFI added escrow depository companies to NMLS, and worked with the State Legislature to ensure that the State’s laws assist DFI with the use of NMLS for this purpose. This technology requires licensees and applicants to provide a response to each question before submitting an application to DFI for review. DFI communicates with applicants through a secure email channel.
4. Use of technology for examination requests – DFI is using a secured email system to both send and receive examination request information from licensees. Use of this technology has eased the communication between the examiner and licensee and lessened the number of days DFI spends on-site at any location.
5. Licensing branch – In FY2016, the licensing branch is current in its processing of requests from licensees, applicants, and consumers. This improvement, from the historic 120-180-day backlog, is due to the use of technology and the hiring of an examiner.
6. Field branch – DFI continues to take the lead as the regulatory agency for at least one bank examination and one visitation with the FDIC. DFI conducts multi-state examinations with other states for non-depository companies who conduct business in the United States and abroad.
7. Business Continuity/Disaster Planning – The Commissioner continues to participate with the financial institutions (all banks and credit unions) to improve communication and disaster planning.
8. CSBS District V – The Commissioner serves as the Chairperson for the CSBS District V, consisting of the commissioners for banking departments in the Western states of the United States. As Chair, the Commissioner coordinates semi-annual meetings of the District V (Western) states and territories to discuss emerging issues in supervision, regulation and examination with emphasis on issues affecting Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, and Washington. The meetings also include representatives of the FDIC, FRB, CFPB, and the Office of the Comptroller of the Currency. The Commissioner also serves on several CSBS committees including the regulatory compliance, supervision, technology, and legislation with other Commissioners.

**Efficiency:**

The division continued its successful efforts to automate the initial application and renewal process for mortgage loan originators, mortgage loan originator companies, mortgage servicers, money transmitters and escrow depository companies. The automation effort includes the filing of additional documentation through the NMLS system. All states can share regulatory information with one another to assist in ongoing supervision, licensing and enforcement of multi-state licensees.

**Workload:**

DFI’s workload has increased dramatically, both in the type and number of institutions regulated (see chart below) and in the scope and complexity of the work.



The complexity and security and privacy of the money transmitter industry has increased exponentially. Money transmitter companies use the newest technologies and are innovative in the way they transmit funds from person-to-person (P2P), business-to-business (B2B) and person-to-business (P2B). Following trends in other states, money transmitter companies are no longer “mom and pop” stores, but money transfers via virtual wallets and mobile devices, expanding use of internet money transfers and prepaid cards, the rise of virtual currencies, and rapidly developing technology. DFI is working to address these issues as they impact cybersecurity, consumer security and privacy, potential money laundering and fraud, and others.

DFI has implemented its examination program for mortgage loan originator companies and mortgage servicers. With over 370 licensed companies that need to be examined at least once every five years, DFI added additional examiners to properly examine these companies. Currently DFI has four field examiners conducting the examinations. To improve efficiencies, DFI has teamed with other states to conduct multi-state examinations on the larger mortgage loan originator companies and mortgage servicers. In addition, DFI has teamed with CFPB in examining very large mortgage loan originator companies and mortgage servicers (licensed in 35 states or more).

**CRF Financial Summary**

The CRF financial summary relating to DFI for FY2016 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$2,511,836	\$422,794	\$2,934,630	\$5,115,594



## **CONCLUSION**

During FY2016, while DFI maintained its established regulatory, supervisory, and licensing programs, and devoted considerable resources to implementing the newer mortgage servicer and mortgage loan originator examination programs, the division continues to work to find solutions to overcome its resource challenges. DFI believes that recent appropriations by the Legislature to increase its staffing will help improve DFI's ability to provide appropriate ongoing supervision, regulation and examination of licensees for the protection of consumers. DFI continues to use technology to inform and educate licensees and consumers, process applications from applicants and licensees, and conduct examinations on our licensees.

The long-term impact of the "global financial crisis" of the last decade, with its disruption to the normal pattern of financial services product delivery, has had an equally long-lasting impact on both the local economy and all financial institutions operating in the State (depository and non-depository). Increased supervisory oversight continues to be mandated by new federal laws and expected by consumers.

DFI continues to aggressively respond to these rapidly changing global and local economic conditions and pursues the active regulation and supervision of Hawaii-chartered and Hawaii-licensed financial institutions to preserve their safety and soundness and protect the rights of depositors, borrowers, consumers and other members of the community.

**INSURANCE DIVISION (ID)**website: [www.cca.hawaii.gov/ins](http://www.cca.hawaii.gov/ins)e-mail address: [insurance@dcca.hawaii.gov](mailto:insurance@dcca.hawaii.gov)**OVERVIEW**

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

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

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

<u>Type of License</u>	<u>Licenses as of June 30, 2016</u>	<u>Licenses as of June 30, 2015</u>
Adjuster	2,467	2,119
Captives	208	193
Certificate of Authority (Insurer)	1,016	1,009
Foreign Risk Retention Groups (Registered)	58	57
Fraternal Benefit Society	7	7
HMO (Health Maintenance Organizations)	3	3
Independent Bill Reviewer	31	31
Life Settlement Broker	18	21
Life Settlement Provider	20	18
Limited Lines Motor Vehicle Rental Company Producer	32	31
Limited Lines Portable	17	16
Limited Lines Producers	1,220	1,118
Managing General Agent	37	34
Mutual Benefit Society	6	6
Nonresident Producers	46,237	43,193
Producers	7,305	7,040
Purchasing Group (Registered)	218	261
Reinsurance Intermediary Broker	30	33
Service Contract Provider Registration	160	152
Surplus Lines Broker	1,781	1,671
Vehicle Protection Product Warrantor Registration	33	29
<b>TOTAL:</b>	<b>60,904</b>	<b>57,042</b>

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

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

### **Composition**

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

**Captive Insurance Branch.** The Captive Insurance Branch (CIB) is currently led by the Deputy Commissioner and the Captive Insurance Administrator and includes a secretary, a captive program specialist, and thirteen captive insurance examiners. The CIB reports directly to the Insurance Commissioner and is responsible for all aspects of licensing, regulating, and developing the captive insurance industry for the State. With 197 active licenses as of December 31, 2015, Hawaii's captive insurance domicile is ranked 12<sup>th</sup> worldwide and 5<sup>th</sup> within the U.S. for largest captive domiciles.

The captive program cost is not funded by the CRF. Pursuant to Act 1, Session Laws of Hawaii (SLH) 2005, funds expended for ID's captive insurance program are defrayed from the Captive Insurance Administrative Fund.

**Compliance and Enforcement Branch.** When a complaint is filed with ID, the Compliance and Enforcement Branch (C&E) conducts an investigation to ensure compliance with the applicable statutes and rules. When violations are identified, C&E recommends appropriate disciplinary actions. In addition, C&E 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 § 1033 and HRS § 431:2-201.3. C&E is comprised of a chief investigator and three investigators.

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

- Licenses more than 1,300 domestic, foreign and alien insurers.
- Processes and collects more than \$159 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 Qualified High Technology Business Investment Tax Credits and Low Income Housing Tax Credits claimed against insurance premium taxes.
- Authorizes and monitors accredited 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.

ID is subject to periodic review by the National Association of Insurance Commissioners (NAIC) Financial Regulation Standards and Accreditation Program (FRSAP), which requires state insurance departments to regulate domestic insurers' corporate and financial affairs. FS&E introduces legislation and administrative rules to ensure ID has adequate statutory and administrative authority and the resources necessary to satisfy its regulatory obligation.

**Health Insurance Branch.** The Health Insurance Branch (HIB) is responsible for regulating health insurers, including health maintenance organizations and mutual benefit societies. HIB'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 FS&E to conduct financial surveillance of health insurers. HIB is headed by the Program Administrator and has sixteen other established positions.

**Insurance Fraud Investigations Branch.** The Insurance Fraud Investigations Branch (IFIB) conducts a statewide program for the prevention, investigation, and prosecution of insurance fraud cases and complaints relating to insurance fraud. Effective July 1, 2009, IFIB's jurisdiction includes all lines of insurance, except workers' compensation, pursuant to Act 149, SLH 2009. IFIB is responsible for reviewing referrals submitted by the insurance industry, other agencies, and members of the public and for initiating an investigation when a crime may have been or is currently 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 IFIB within 60 days. IFIB consists of an administrator, a staff attorney, five investigators, two forensic investigators, and a legal clerk. The administrator and staff attorney are both trained in criminal prosecution and, as a result, all cases receive the benefit of the staff's high level of expertise and ability to ensure representation in this area.

**Legal Branch.** The Legal Branch advises the Commissioner, the Chief Deputy, the Branch Chiefs, and ID on all legal matters and serves as the interface between ID and the Department of the Attorney General. The Legal Branch serves as hearings officers for administrative hearings as assigned by the Commissioner; researches insurance issues; provides interpretations of 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 ID branches in enforcing compliance provisions within HRS title 24; and provides assistance to FS&E, HIB, and CIB in supervision, rehabilitation, and liquidation proceedings. The Legal Branch is comprised of a supervising attorney, three staff attorneys, and a legal assistant.

**Licensing Branch.** The Licensing Branch (LB) oversees the examination process and continuing education and issues licenses to qualified applicants. The major license types are: producer, nonresident producer, surplus lines broker, and adjuster. LB maintains records of these licensees and is responsible for

issuing continuing education deficiency notices and license renewal notifications; processing remittance checks; processing amendments to licensees' status; preparing and updating fee schedules; assisting callers and walk-ins; and providing confirmation of insurance licenses. LB also works with the Commissioner's advisory board on continuing education requirements for producers. LB is comprised of a licensing assistant, six licensing clerks, and an office assistant.

**Office Services Branch.** The Office Services Branch (OS) is responsible for providing general reception services; answering and screening telephone calls; providing clerical, stenographic, typing, and other administrative services for ID; maintaining ID's central administrative files, including ID's memorandum, newspaper articles, documents, and reports; ordering office supplies and equipment for ID and maintaining its inventory; and handling the receiving and distribution of ID's general mail. OS is comprised of a clerical supervisor, a clerk-typist, and five office assistants.

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

## **GOALS, OBJECTIVES, AND POLICIES**

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

**Short- and Long-Term Goals of ID:** (1) meet its statutorily mandated requirements for compliance with the Patient Protection and Affordable Care Act (PPACA) of 2010; (2) develop a marketing strategy that will maintain Hawaii's world ranking as a leading captive insurance domicile; (3) continue to meet its statutorily mandated requirements; (4) maintain accreditation status with the NAIC; (5) continue to increase the efficiency of ID's operations; and (6) redevelop and redesign ID's database.

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

1. President Obama signed the PPACA into law in 2010. ID was the recipient of several grants from the Department of Health and Human Services beginning in 2010. The existing grant is being used to further develop effective rate review processes. A newly awarded grant will be used to ensure health insurance regulatory enforcement and to provide consumer protection and education. ID continues to review and qualify PPACA health plans.

2. Hawaii has long been an attractive domicile for the captive insurance industry because of its rigorous standards and geographical location. ID continues to review its existing marketing strategy and amend existing components to remain competitive in response to the maturing and dynamic captive market

in the U.S. Hawaii actively pursues opportunities in Asia and has been able to maintain its standing as a captive insurer domicile world leader.

3. ID will strive to meet the requirements of the Insurance Code and related statutes through proper personnel and caseload management.

4. 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, ID will ensure the required level of funding in the budget for its financial surveillance resources. In addition, ID will review and submit to the Legislature, when necessary, proposed legislation for the adoption of NAIC model laws required for accreditation.

5. ID continuously seeks to improve its computer systems and leverage the Internet in its regulation of insurance. This includes reviewing current operating systems and exploring the adoption and use of national insurance regulatory systems to increase efficiency. ID developed the Hawaii Insurance Division System (HIDS), an integrated database with a licensing module and subsystems to support other ID functions. HIDS has served ID well by providing better management of the large volume of transactions handled by ID. The result has been a reduction in manual processes, increased dissemination of information to the public, and increased efficiency from electronic receipt of premium tax submissions and electronic payment collections.

6. As ID looks to the future, it is focused on exploring turn-key systems to replace certain HIDS functions and to integrate with other divisions. Where necessary, these new systems will interface with the NAIC and the Hawaii Information Consortium, which provides the internet portal for the State of Hawaii's website. Keeping up with rapid technological changes in the insurance regulatory arena will improve ID's efficiency and provide better online services and information to consumers and insurance licensees.

## **ACCOMPLISHMENTS**

**Compliance and Enforcement Branch.** C&E assists consumers and carriers with a variety of complaints. Consumers and the insurance industry saved or recovered \$157,098 from insurers and agents with C&E's assistance. C&E received 393 complaints.

C&E initiated six (6) formal actions: license denials (2), license revocation (1), settlement agreements (2), and a stipulated agreement. \$56,000 was levied in fines.

**Financial Surveillance and Examination Branch.** An independent FRSAP conducts a comprehensive review of all accredited state insurance departments at least once every five years to ensure their compliance with NAIC standards. First accredited by the NAIC FRSAP in 1996, ID has been reaccredited in 2001, 2006, 2011, and successfully completed its most recent review in August 2016, receiving full five-year accreditation status.

A summary of activities administered by FS&E during the last two calendar years follows (dollar amounts are rounded to the nearest thousand):

	<u>2015</u>	<u>2014</u>
Direct premiums written in Hawaii – licensed companies*	\$11,116,736,000	\$10,818,331,000
Surplus lines premiums written in Hawaii	\$ 231,060,000	\$ 239,456,000
Foreign risk retention group premiums written in Hawaii	\$ 6,590,000	\$ 7,139,000
Premium tax returns processed	9,400+	9,000+
Premium taxes and levies collected**	\$ 159,280,000	\$ 153,041,000
Total Hawaii investments***	\$ 8,052,585,000	\$ 8,977,694,000

\* Includes annuities, fraternal benefit societies (FBS), mutual benefit societies (MBS), health maintenance organizations (HMO), and dental insurers (DI) that are not subject to premium taxes. Annuities, FBS, MBS, HMO, and DI premiums for 2015 and 2014 were \$6,465,400,000 and \$6,344,854,000, respectively.

\*\* Net of premium tax credits.

\*\*\* Includes bank balances as reported by insurers, unaudited.

**Active Company Licenses and Registrations**

Type of License	Companies Active as of December 31, 2015	Change During 2015		Companies Active as of December 31, 2014
		Admitted	Withdrawn or Merged	
Life	367	6	3	364
Health****	21		1	22
Fraternal benefit societies	7			7
Health maintenance organizations	3			3
Mutual benefit societies	6			6
Property and casualty	607	9	12	610
Title	13	1		12
Dental	1			1
Licenses authorized in Hawaii	<u>1,025</u>	<u>16</u>	<u>16</u>	<u>1,025</u>
Foreign risk retention groups (Registered)	58	2	2	58
Purchasing groups (registered)	219	17	57	259
Total active licenses and registrations	<u><u>1,302</u></u>	<u><u>35</u></u>	<u><u>75</u></u>	<u><u>1,342</u></u>

\*\*\*\*Includes five prescription drug plans

**Health Insurance Branch.** For FY2016, HIB received 145 complaints and written inquiries, with the resolution of complaints resulting in consumer savings of \$438,676. Also during the fiscal year, HIB reviewed 77 rate and policy form filings, resulting in a total savings to consumers of \$13,141,333. HIB conducts independent external reviews of managed care plan coverage decisions that are appealed by the plan member pursuant to HRS chapter 432E. For FY2016, sixteen (16) external reviews were received, resulting in a total award to consumers of \$1,645.

HIB was awarded a grant from the Department of Health and Human Services for improving its health insurance premium rate review program. Implementations of those improvements are underway. HIB has refined the policies and procedures governing the oversight of rates in small group and individual markets and is continuing to carefully review rate requests.

**Insurance Fraud Investigations Branch.** During FY2016, IFIB received 398 referrals from insurance companies, various agencies, and the public. Of the referrals accepted for prosecution, criminal indictments were obtained against 29 individuals who submitted fraudulent claims totaling \$248,982 for the fiscal year. IFIB obtained restitution orders totaling \$7,348 for the cases that reached final disposition. In addition, IFIB obtained fines payable to the State of Hawaii totaling \$12,918, payments in the amount of \$15,025 to the Crime Victim Compensation Fund, probation service fees in the amount of \$3,075, and other miscellaneous fees in the amount of \$500.

**Rate and Policy Analysis Branch.** During FY2016, filings reviewed decreased by 11% from the preceding year (FY2015). Review of property and casualty rate filings saved consumers over \$2 million.

### ***CRF Financial Summary***

The CRF financial summary relating to ID for FY2016 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,363,321	\$1,751,674	\$7,114,995	\$9,692,453

### ***CONCLUSION***

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



## OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

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

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

### OVERVIEW

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 divisions within DCCA that are required by law to provide contested case hearings under the provisions of HRS Chapter 91. The primary CRF caseload of OAH is composed of cases originating from: 1) the Regulated Industries Complaints Office and boards, commissions, and programs attached to the Professional and Vocational Licensing Division on licensee disciplinary actions, appeals from denials of licenses, and declaratory relief petitions; 2) citations issued to persons or businesses engaged in unlicensed activities; 3) trade name/trademark revocation and securities cases from BREG; 4) denials of no-fault and personal injury protection benefits; and 5) other matters from other divisions.

OAH also is responsible for conducting administrative hearings for 1) procurement cases from all agencies and divisions of the State and the four counties that arise under the State's Procurement Code, HRS Chapter 103D; 2) due process hearings involving the Individuals with Disabilities Education Act (IDEA) under a Memorandum of Agreement with the Department of Education; 3) certain kinds of motor vehicle dealer, distributor and manufacturer disputes under HRS Chapter 437, Part 2; 4) appeals of benefit determinations from the Employer-Union Health Benefits Trust Fund under a Memorandum of Understanding; and 5) appeals of benefits determinations from the Employees' Retirement System of the State of Hawaii under a Memorandum of Understanding. Lastly, OAH also provides administrative support to the Medical Inquiry and Conciliation Panel (MICP) and the Design Claim Conciliation Panel (DCCP). The MICP program is responsible for conducting informal conciliation hearings on inquiries regarding health care providers before any claims against those providers can be filed as lawsuits. Similarly, the DCCP program is responsible for conducting informal conciliation hearings on claims against design professionals (engineers, architects, surveyors, and landscape architects) before such claims can be filed as lawsuits. The MICP does not make any decisions on the merits of the parties' positions. The decisions of the DCCP panels are advisory in nature and are not binding on the parties, in the event that any party still wishes to pursue the matter via the courts. An annual report is separately produced regarding MICP and DCCP activities.

### *Composition*

OAH staff responsible for CRF related activities are: Senior Hearings Officer, division secretary, two additional hearings officers, one legal clerk, and an MICP/DCCP clerk. The office is physically located in the King Kalakaua Building, 335 Merchant Street, Suite 100. OAH's mailing address is: Office of Administrative Hearings, 335 Merchant Street, Suite 100, Honolulu, Hawaii 96813; phone number: 586-2828; fax number: 586-3097; internet address: [www.cca.hawaii.gov/oah/](http://www.cca.hawaii.gov/oah/); and e-mail address: [oah@dcca.hawaii.gov](mailto:oah@dcca.hawaii.gov).

## **GOALS and OBJECTIVES**

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

In order to track the processing of cases from the date of filing to the issuance of a final order, OAH has implemented additional processes and procedures to ensure that all cases are timely processed:

- (1) Revise OAH's database to include additional data fields so that all pending cases can be tracked for timeliness throughout the entire hearings process;
- (2) Inventory of all OAH cases in February and August of each year; and
- (3) Dispose of cases in which no action has been taken by the parties.

The secondary goal and objective of OAH is to make all of the decisions issued by the boards, commissions, programs, and divisions that are part of the CRF, available to the public. All procurement protest decisions are currently available online shortly after the parties themselves are notified of the decisions. All special education decisions are made available online by the Department of Education. All decisions in other areas since January 2009 have been posted online. The purchase of new software has allowed OAH to redact decisions of personal information protected by privacy laws and also make the online decisions ADA compliant. OAH now publishes all such decisions shortly after they are issued.

## **ACCOMPLISHMENTS**

The following table summarizes the CRF-related activities conducted by OAH for FY2016:

<b>Type of Proceeding Conducted</b>	<b>Number</b>
Pre-hearing conferences	67
Status conferences	40
Motions	19
Hearings	73

The following table summarizes the number of cases and the relative percentage of CRF-related activities conducted by OAH for the FY2016.

<b>DCCA Divisions Referring Matters to OAH</b>	<b>Cases Filed</b>	<b>%</b>
Insurance Division (denial of personal injury protection benefits)	139	59%
Regulated Industries Complaints Office (petitions for discipline and appeals from citations for unlicensed activities)	47	20%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, violations of securities laws)	12	5%
Professional and Vocational Licensing (license denials)	14	6%
Employees' Retirement System	11	5%
Procurement Protests	8	3%
Other CRF-related hearings	5	2%

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

### **CONCLUSION**

OAH will continue to work closely with all of the boards, commissions, and programs that are part of the CRF, as well as with the other DCCA divisions that are also integral parts of the professional and vocational licensing system, to ensure that cases are processed as expeditiously as possible, and that all participating entities will have access to OAH's case database and archives of past decisions.

## OFFICE OF CONSUMER PROTECTION (OCP)

Website: [www.cca.hawaii.gov/ocp](http://www.cca.hawaii.gov/ocp)

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

### OVERVIEW

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. OCP reviews, investigates and conducts enforcement actions against unfair or deceptive trade practices in consumer transactions. OCP also provides consumer education and promotes awareness of important consumer protection issues through its programs, media releases, and educational materials.

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 OCP has investigated and initiated enforcement actions in numerous consumer fraud cases stemming from mortgage foreclosure rescue scams under HRS Chapter 480E. *See* Table 1, Laws Enforced by OCP.

OCP received approximately 700 consumer complaints in FY 2016. The actual number of OCP complaints varies from year to year depending on circumstances. Many factors may influence the number of complaints to OCP in any given year. However, for the period beginning FY 2013 through FY 2016, OCP averaged approximately 1,000 consumer complaints per year.

In addition to its enforcement duties, OCP offers information on the Hawaii Residential-Landlord Tenant Code to the general public through the Landlord-Tenant Information Center under HRS § 521-77.

OCP employs a number of different strategies to ensure that 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, in an effort to proactively address perceived consumer problems, the office initiates investigations of problematic commercial practices. Third, OCP staff attempts to provide as much assistance by telephone as possible, enabling consumers to resolve their concern(s) without needing official/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, OCP partners with numerous public and private agencies to promote consumer protection throughout the State of Hawaii. OCP will continue to implement these strategies for the foreseeable future.

OCP's main office is located at the Leiopapa A Kamehameha Building (State Office Tower), 235 South Beretania Street, Suite 801, Honolulu, Hawaii 96813. It shares offices with the Regulated Industries Complaints Office in Wailuku, Maui at 1063 Lower Main Street, Suite C-216 and in Hilo, Hawaii at the Bank of Hawaii Building, 120 Pauahi Street, Suite 212. OCP's website address is [www.cca.hawaii.gov/ocp](http://www.cca.hawaii.gov/ocp). Its functions are divided into four basic sections: intake, investigation, landlord-tenant, and legal.

*OCP is organized under the Following Four Sections:*

**The Consumer Resource Center Intake Section - phone: (808) 587-4272**

The Consumer Resource Center (CRC) performs intake of complaints for OCP. CRC 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 OCP for review, closing or further investigation. In FY2016, an estimated 1292 OCP complaint inquiries were resolved in CRC without a formal complaint. In addition, a section within CRC answers telephonic requests for prior complaint history. If circumstances permit, consumers also have the opportunity to visit OCP's Honolulu office to view the actual case files. Prior to the release of any file, OCP's staff reviews its contents to ensure that legally protected private information is not disclosed.

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

OCP's investigation section receives cases from CRC and gathers evidence to determine whether violations of consumer laws have occurred. Investigators' tasks include site inspections, witness interviews, document collection, evidentiary analysis, report writing and the service of subpoenas. See Table 3, Numerical Breakdown of Dispositions of All OCP Cases and Table 4, OCP Top Ten Complaints.

**The Landlord-Tenant Information Center - phone: (808) 586-2634**

**Consumer Dial: (808) 587- 1234; website [www.cca.hawaii.gov/ocp](http://www.cca.hawaii.gov/ocp)**

OCP operates the Residential Landlord-Tenant Information Center (Center). The Center is staffed by OCP investigators and volunteers Monday through Friday each week. The Center does not represent landlords or tenants in court or provide legal advice; its role is limited to providing information regarding the particular laws governing landlords and tenants. The office supplements this function by making available additional information on the department's 24-hour Consumer Dial Information Service, and on its website. OCP also publishes the Hawaii Residential Landlord-Tenant Handbook, of which thousands are distributed each year.

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

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

*OCP also provides the Following Services:*

**Consumer Education**

In an effort to enhance consumer awareness of various consumer problems, OCP continuously strives to promote consumer education. In this regard, the office issues press releases on a variety of consumer topics, and distributes written materials tailored to provide specific consumer information. 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. OCP staff

participates in numerous educational forums in which thousands of consumers and business persons have received extensive information about consumer protection in Hawaii.

### **Neighbor Island Assistance Requests**

OCP staff offers assistance to neighbor islands residents in DCCA-related matters or other areas. See Table 5 for statistics on OCP Neighbor Island Assistance.

### **GOALS AND OBJECTIVES**

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

- Maintaining fiscal responsibility on behalf of DCCA/OCP operations;
- Supporting innovative legislation designed to protect the consumers in the State of Hawaii;
- Proactively initiating cases against problematic business practices before there is widespread consumer harm;
- Disseminating consumer education to the largest possible populace;
- Facilitating the exchange of information with a wide array of civil and criminal law enforcement agencies; and
- Providing in-house training to OCP investigators and attorneys.

### **ACCOMPLISHMENTS**

#### *Consumer Education*

During the past several years, OCP has educated tens of thousands of citizens by speaking to business leaders, attorneys and consumers regarding consumer protection issues and OCP's role in enforcing Hawaii's consumer protection laws.

Most recently, OCP has focused on the growing problems of identity theft, data breaches, and mortgage rescue fraud by providing important information to thousands of Hawaii residents on what they can do to avoid becoming victim of identity theft or mortgage rescue schemes.

In FY2016, OCP responded to more than 80,000 requests and inquiries from the general public, including more than 10,000 requests for information through the Hawaii Residential Landlord-Tenant Information Center operated and maintained by OCP. See Table 2, statistics on OCP Information Requests.

*Legislation*

OCP testified and provided input on numerous measures related to consumer protection during the Twenty-Eighth Hawaii State Legislature of 2016, including bills relating to the Landlord-Tenant Code, mortgage rescue, credit reports, payday lending, motor vehicle rental, and towing.

*Cases*

OCP's staff handled many significant cases in FY2016 involving nearly every area of consumer protection. These cases involved violations of Hawaii's consumer protection laws governing mortgage rescue fraud, gift certificates, door-to-door sales, refund and exchanges, and unfair or deceptive trade practices, including complex multistate enforcement actions based on unfair and deceptive marketing practices by pharmaceutical companies.

As a result of its efforts, OCP recovered more than \$2,300,911 in fines and penalties and tens of thousands of dollars in restitution for Hawaii consumers.

***CRF Financial Summary***

The CRF financial summary relating to OCP for FY2016 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,510,548	\$230,863	\$1,741,411	\$2,300,911

**CONCLUSION**

OCP continues to receive numerous requests for assistance. Consumer complaints are diverse in nature and range from isolated cases to widespread practices affecting every Hawaii citizen. Through regular training and information exchange with law enforcement agencies and consumer protection agencies throughout the country, OCP's staff attempts to keep abreast of the latest consumer problems and "rip-offs," in order to prevent them from occurring and, if this is not possible then to limit their impact. Through its proactive efforts to prevent wide-scale consumer problems before they occur, and through its enforcement actions and consumer and business education, OCP strives to provide consumer protection for Hawaii consumers, and fulfill its mission.

**Table 1: Laws Enforced by OCP**

HRS §127A-30	Price Gouging
HRS §290-11	Towing
HRS Chapter 437D	Motor Vehicle Rental
HRS Chapter 446	Debt Adjusting
HRS Chapter 446E	Unaccredited Degree Granting Institutions
HRS Chapter 476	Credit Sales <sup>9</sup>
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices <sup>10</sup>
HRS Chapter 480D	Collection Practices <sup>11</sup>
HRS Chapter 480E	Mortgage Rescue Fraud Prevention Act
HRS Chapter 480F	Check Cashing
HRS Chapter 481A	Uniform Deceptive Trade Practice Act
HRS Chapter 481B	Unfair and Deceptive Practices, including Unsolicited Goods; Commercial Mail Order Buying Clubs; Offers of Gifts or Prizes; Aid to Handicapped; Refunds and Exchanges; Solar Energy Devices; Sales of Computers; Sensitivity Awareness Group Seminar; Credit Repair Organizations; Gift Certificates; Ticket Sales
HRS Chapter 481C	Door-to-Door Sales
HRS Chapter 481D	Going Out of Business Sales
HRS Chapter 481F	Sale of Fine Prints
HRS Chapter 481H	Water Treatment Units
HRS Chapter 481K	Assistive Technology Warranty Act
HRS Chapter 481L	Motor Vehicle Lease Transactions
HRS Chapter 481M	Rent-to-Own
HRS Chapter 481P	Telemarketing Fraud Prevention Act
HRS Chapter 481 X	Service Contracts
HRS Chapter 486N	Health Clubs
HRS §487-5	Laws Enacted and Rules Adopted for the purpose of consumer protection
HRS Chapter 487A	Plain Language Law
HRS 487J	Personal Information Protection
HRS 487N	Notification of Security Breaches
HRS 487R	Destruction of Personal Information Records
HRS Chapter 506	Reverse Mortgage Loan
HRS Chapter 521	Landlord-Tenant Code <sup>12</sup>

<sup>9</sup> HRS §476-31. OCP has also filed cases based upon the Federal Truth in Lending Act and the State's usury statute, HRS Chapter 478.

<sup>10</sup> OCP also has enforcement power over certain Lemon Law agreements (HRS §481I-4), and has filed lawsuits based upon HRS §486-119, "Made in Hawai'i" law. Also, HRS Chapter 514E sets forth a comprehensive regulatory scheme for time-share development, sales and maintenance and establishes 13 specific types of conduct *per se* violations of HRS §480-2. Under HRS §490:2A-104, Uniform Commercial Code leases are explicitly subject to state consumer protection statutes and case law.

<sup>11</sup> See also, Collection Agencies HRS §443B-20.

<sup>12</sup> HRS §521-74.5 provides that a landlord who recovers possession of a dwelling unit by willful interruption of utilities or other essential services violates HRS §480-2. In addition, HRS §521-77 provides that OCP may receive, investigate and attempt to resolve any dispute arising under HRS Chapter 521.



**Table 2: OCP Information Requests**

<b>REQUEST AND INQUIRIES</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>
Requests for Prior Complaint History	9,012	8,200	8,603
Website Inquiry General Information	97,291	54,977	34,048
Website Inquiry Landlord/Tenant Information	40,674	9,384	16,488
Requests for Landlord/Tenant Information	11,521	11,431	10,441
Complaint Inquiries	14,545	14,561	14,180
Requests for Records Review	3	4	2
<b>TOTAL</b>	<b>173,046</b>	<b>98,557</b>	<b>83,762</b>

**Table 3: Numerical Breakdown of Dispositions of All OCP**

<b>DISPOSITIONS</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>
Complaint Withdrawn	1	3	4
Legal Action & Referrals to Legal	112	153	214
Advisory Contact	11	17	15
Civil Dispute/Personal Matter	34	43	51
Monetary Threshold	0	1	0
Complainant Uncooperative	17	28	16
Consumer Complaint Resolved	17	19	24
Respondent Died or Bankrupt	108	35	15
Business vs. Business	12	9	17
No Jurisdiction	18	35	16
Refer to Investigation	111	92	220
Other	1	3	20
Warning Letter	24	27	19
Insufficient Evidence	172	210	93
Transferred to Other Gov't. Agency	214	289	175
No Violation	26	24	20
Information Only/Inquiry	66	57	51
<b>Total</b>	<b>944</b>	<b>1,045</b>	<b>970</b>

**Table 4: OCP Top Ten Complaints**

<b>SUBJECT</b>	<b>FY2014</b> (rank/total)	<b>FY2015</b> (rank/total)	<b>FY2016</b> (rank/total)
Internet Crime Complaints (NWC3)		#6. 49	
Internet Transactions (PC/Software/Srv)			#4. 73
Exercise/Health Club	#1. 84	#1. 271	
Scams	#3. 41	#3. 68	#6. 46
Refund law/Exchange merchandise/Credit			
Real Estate		#4. 60	#8. 37
Loans/Mortgage Related Services	#2. 59	#7. 47	
Appliances (Purchase/Repair)			#5. 52
Telephone/Cellular/Pager	#8. 19		
Miscellaneous Internet Advertisement	#9. 16		
Travel/Vacation	#7. 28	#5. 59	#1. 84
Elderly Issues	#4. 37		
Identity Theft/Security Breach	#5. 29	#10. 36	#7. 39
Transportation (Sale/Repair/Rent/Tow/Parking)	#6. 29	#2. 91	#2. 83
Gift Certificate	#10. 15		#10. 33
Service Agreements/Warranties/Insurance		#8. 45	#9. 34
Food/Drink Service		#9. 39	#3. 61

**Table 5: OCP Neighbor Island Assistance FY2016**

<b>DIVISION</b>	<b>HILO</b>	<b>MAUI</b>	<b>TOTAL</b>
Division of Financial Institutions	1	4	5
Business Registration	11	16	27
Cable Television	0	2	2
Insurance Division	4	2	6
Division of Consumer Advocacy	1	0	1
Professional & Vocational Licensing	8	5	13
Regulated Industries Complaints Office	70	35	105
Non-Departmental Related	46	39	85
Other DCCA Divisions	0	0	0
<b>TOTAL</b>	<b>141</b>	<b>103</b>	<b>244</b>

## PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)

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

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

### OVERVIEW

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations for forty-nine (49)<sup>13</sup> different professions and vocations. Twenty-five (25) licensing regulatory boards and commissions are administratively attached to DCCA/PVL, as well as twenty-four (24) licensing programs (board duties and functions vested in the DCCA Director). The division provides staff support to the licensing regulatory boards, commissions, and programs, handles applications and licenses, reviews and processes renewals, and maintains license records. The division provides guidance for proper implementation of the licensing laws and administrative rules for the forty-nine (49) professions and vocations. Additionally, PVL responds to email and phone inquiries on whether a person or entity is properly licensed. This service assists consumers in making a decision on whether or not to utilize the services of the person or entity.

PVL continues to explore ways to enhance public accessibility to licensing information, the licensing process, and its licensee roster. PVL's webpage, a site that provides general licensing information for all 49 licensing areas, features fillable license applications, publications, links to HRS and Hawaii Administrative Rules (HAR), as well as a means to request an application or contact the board or program staff via e-mail. The website address is [cca.hawaii.gov/pvl](http://cca.hawaii.gov/pvl). The website also includes FAQs, a link to online services, a link to board meeting schedules and agendas, board meeting minutes, how to request for a license verification, and a Geographical Report of current licensees by licensee type, by island, and by type of entity. The Geographical Report is updated regularly to reflect the number of current licensees who have been issued licenses by PVL. It is a useful tool for those who are interested in the number of licensees by their professions and their geographic locations.

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

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<sup>13</sup> This number will increase to 50 with the addition of the required regulation of Veterinary Technicians, which will take effect January 1, 2018 pursuant to Act 147, Session Laws of Hawaii 2016.

An entirely paperless process enables licensees to complete, file, and pay for their license renewals electronically. A fair share of renewals are still mailed in by licensees and manually processed by PVL, but by far, the majority of the renewals are done online. Online renewals are also available by visiting [cca.hawaii.gov/pvl/e\\_services](http://cca.hawaii.gov/pvl/e_services).

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

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

### *Composition*

PVL is divided into four branches:

**Licensing Branch (Phone 586-3000)** is comprised of the Applications Section and the Records Section. The Applications Section assists with the review and processing of applications for licensure; issues licenses; and maintains records of licensing applications. The Applications Section staff, on behalf of the boards, commissions, and programs, conducts highly intensive reviews of all initial licensing applications, determines the status of such applications, and, in some instances, makes the final determination to either issue or defer issuing licenses. The Applications Section also performs customer service duties by answering the main public call-in line of the division which normally exceeds 6,000 calls per month. The Records Section is responsible for renewing, restoring, and reactivating licenses and maintaining records of all licensees. The Records Section staff is also involved with performing customer service duties by assisting the public with licensing information at the main PVL walk-in counter, as well as responding to telephone inquiries. Both sections of the Licensing Branch utilize the PVL computerized licensing database to provide immediate information pertaining to applicants and licensees. Inquirers may obtain information on whether a person or entity is licensed, the original date of licensure, the current status of licensure, the expiration date of the license, Hawaii disciplinary sanctions imposed on the licensee, and, if applicable, whether mandatory insurance (e.g., workers compensation, liability insurance) is current and in effect.

**Administration Branch (Phone 586-2690)** is comprised of a Staff Attorney, Supervising Executive Officer, Executive Officers, Program Specialists, and Secretaries, which handles board affairs such as the coordinating, preparing, facilitating, and recording of board meetings; ensuring board compliance with applicable laws that guide and direct their conduct; and implementing board decisions on applications, policies and procedures, and disciplinary actions. The Administration Branch also responds to requests for interpretation of the licensing laws and rules, oversees licensing and examination activities, and guides and assists with regulatory compliance issues. The same activities are done for the twenty-four (24) programs (absent the necessity of board meetings) on behalf of the Director of the Department. There are also substantial coordination and facilitation activities performed by the Administration Branch with other state, county, and federal agencies involved with licensing and regulatory issues.

**Examination Branch (Phone 586-2711)** consists of a Licensing Examiner and two examination clerks who assist the boards, commissions, and programs in ensuring that their applicants for licensure are able to sit for the required licensing examinations in a timely manner and that the examinations are administered fairly, accurately and as efficiently as possible. Currently, the Examination Branch utilizes multiple databases that were created by the various national organizations and their testing vendors to transmit eligibility information as well as to obtain exam results and reports. In addition, the Examination Branch helps to confirm the validity and reliability of the numerous exams, including reviewing and revising board-constructed examinations with the input of board members and other subject matter experts when necessary. Moreover, the Examination Branch reviews and processes requests by applicants for special examination accommodations with regard to the Americans with Disabilities Act and maintains the examination records for applicants and licensees.

**Real Estate Branch (Phone 586-2643)** performs the same functions as the Administration Branch but specifically for real estate licensing and regulation, and condominium property regimes. With a large volume of applicants, licensees, and registrations, the Real Estate Branch (comprised of a Supervising Executive Officer, an Executive Officer, Real Estate Specialists, Condominium Specialists, Secretarial and Office Assistant staff) administers the Real Estate Recovery Fund, Real Estate Education Trust Fund, and the Condominium Education Trust Fund. The Branch also administers education and research programs in the field of real estate and condominiums. Information on the programs, financial reports, and the Commission's annual report may be reviewed at the Branch's website: [cca.hawaii.gov/reb/](http://cca.hawaii.gov/reb/).

In summary, all Branches within PVL work toward efficient and expedient processing of applications, licenses, and renewals to ensure the public has choices among competent and licensed practitioners.

In FY2016, 91.4% or 57,434 of licensees renewed their licenses online as compared to 90.21% or 55,161, who renewed online in FY2014. Licensees have been encouraged to use the online renewal system, which is an ideal opportunity to help them save on valuable time and effort. The continued success can be attributed to the user friendliness and efficiency of the online processing which reduces the processing of renewals from 14-21 business days to within 3-5 business days.

Also in FY2016, PVL received and responded to 44,467 emails as compared to 40,599 emails received and responded to in FY2015. The increase is likely due to trending of licensees and consumers who now have accessibility to modern technological hardware and the capabilities of computer savviness.

For a statistical summary of PVL key activities, see Table 1: PVL Statistical Overview; Table 2: Total Number of Current PVL Licensees; Table 3: Total Number of Licenses Renewed Online; and Table 4: Total Number of Email Inquiries.

### **GOALS and OBJECTIVES (Action Plan) for FY2017**

PVL is working towards allowing consumers the ability to complete the following tasks online: submit initial applications for licensure; make address changes; and request for pocket IDs and wall certificates.

PVL is planning to update its records retention schedules. The last update was conducted in 1998. A committee will be formed to undertake this project.

A new license type was added to PVL's growing list of regulated areas. In accordance with Act 209, SLH 2014, effective January 1, 2017, all occupational therapy assistants shall be required to be licensed by PVL. Application forms are available for download at the Occupational Therapy Program's website at [cca.hawaii.gov/pvl/programs/occupational/](http://cca.hawaii.gov/pvl/programs/occupational/).

In order to address revenue shortfalls, license fees were increased across all license types through revisions to HAR Chapter 53. The fee increases will provide sufficient revenue to, among other things, pay for the cost of replacing PVL's antiquated database system and partially upgrade its telephone system. The rule revision process started in FY2015, and final approval for fee increases was received on August 29, 2016 with the effective date of the rule changes as of October 10, 2016.

PVL has been working on improving its antiquated telephone system. The (808) 586-3000 telephone number is the main number for customers and licensees to call for all PVL licensing related inquiries. It has been reported to the division on numerous instances on how difficult it is to connect with a live person when calling (808) 586-3000. PVL has adopted a new VOIP telephone system that provides more customer monitoring and client features to assist PVL in improving customer service.

The Licensing Branch will focus on improving public service through various changes on how staff processes its work and through increased use of technology. The Applications and Records sections will continue to seek ways to incorporate technology to process tasks more efficiently and to better communicate with customers. In addition, staff will be using electronic means to maintain documents until they are ready to be processed. Having the documents stored electronically will significantly decrease the amount of time staff spends manually filing paper and will allow greater access to the documents by the rest of the staff. This ease of access will allow staff to answer inquiries independently instead of needing to rely on a specific co-worker. The Licensing Branch hopes to implement other means of reducing paper transactions such as having online processing for high-volume transactions.

The Examination Branch would like to continue to implement ideas and provide support for the increased use of technology into the licensing process by utilizing new databases as well as features of current databases. As an example, the Examination Branch will continue to look for additional exam-related documents and information (such as examination score reports) that can be transmitted and/or maintained electronically by the division rather than through hardcopies. Maintaining documents electronically saves PVL staff from manual filing and searching for documents and also allows other staff efficient access to the documents when necessary. With the implementation of a new PVL database in 2017, it is anticipated that the Examination Branch will need to implement the most efficient and beneficial system to handle all of the branch's pre-exam and post-exam processes. In addition, the Examination Branch will continue to work closely with the Executive Officers, the national organizations/testing agencies, and the Licensing Branch to streamline processes and will create more helpful, user-friendly information and instructions for the examinees as well as the staff. In addition to processing of examination data, the Examination Branch would like to continue review of the performance of the examinations regarding usefulness and validity.

The Real Estate Branch (REB) will continue to improve the offering and delivery of real estate prelicensing and continuing education (CE) courses. In FY2016, DCCA, along with PVL, contracted to migrate the existing licensing database to a new platform. REB has been tasked with being one of the first programs to utilize the new database and will work extensively with the vendor to implement the program. Rulemaking continues for HAR Chapter 99 for real estate brokers and salespersons, and HRS Chapter 514B. REB will continue educating its licensees on the topic of condominiums through the Real Estate Commission's (REC) mandatory core course. For the condominium program, REB solicited and collected suggestions from stakeholders in the condominium community, and is continuing work on revised rules for HRS Chapter 514B. REB will further work 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 Program of Work for the REC and REB also includes the development and implementation of a new registration program for condominium projects. For a comprehensive report on REB's and REC'S FY2017 goals and objectives, please refer to [cca.hawaii.gov/reb/reports/](http://cca.hawaii.gov/reb/reports/) to view their Annual Report for fiscal year ending June 30, 2016.

## **ACCOMPLISHMENTS and PERFORMANCE MEASURES**

### *Significant Online User Activities*

In pursuing the division's objective of improving and expanding customer online services, the ability to allow PVL licensees to renew their licenses online continues to be successful with an online renewal user rate of 87.5% for FY2015 and 91.4% for FY2016.

PVL continued to absorb transaction fees that otherwise would have been passed on to licensees who utilized the online renewal system. Licensees have the flexibility to pay by Echeck, credit card, or by employer subscriber accounts. PVL absorbed \$520,000 cost-in-service fees for FY2016, which covers the cost of payments for credit card and bank merchant fees, in addition to the maintenance, support and further improvements of all of PVL's online services that serve PVL's licensees and the general public.

For PVL's License Search online system, there were 600,696 "page views" during FY2016. This service is a very popular, valuable, and useful tool for those who want information on licensees. The public can check to see if a licensee is currently licensed and find out if there are any formal disciplinary actions against the licensee, in addition to other pertinent information.

PVL's online surety system that allows insurance companies to submit general liability and worker's compensation insurance updates for contractor and pest control licensees continues to be successful by reducing PVL's staff insurance processing time of 14-21 business days to within 3-5 business days with 4,409 submittals received online in FY2016, as compared to 2,327 submittals in FY2015.

PVL continues to enhance and improve its "MyPVL" online service which allows licensees to access their PVL licensing and online renewal information via a single online user account 24/7, 365 days a year. This initiative has proven to be very successful with 115,363 registered accounts with 130,954 linked PVL licenses as of FY2016.



Late renewals/restorations for license types such as Electrologists, Occupational Therapists, Physical Therapists, Acupuncturists, Nurses, Barbers, Beauty Operators, Landscape Architects, Land Surveyors, and Professional Engineers were eligible for online submittals in FY2016. In the past, such submittals were accepted via hardcopy submittal only and for manual processing by PVL staff.

### *Significant Branch Activities*

In anticipation of hurricane season in Hawaii, PVL secured an updated list of licensed contractors licensee data in case the information had to be retrieved during an emergency situation. Fortunately, there was no need to access the secured data as a result of recent hurricane impacts.

In accordance with Act 199, SLH 2015, the division implemented the Behavior Analyst Program, effective January 1, 2016. In early August 2015, approval was received for the release of the \$40,000 appropriation to implement the new program. One hundred forty (140) licenses were issued between January 1, 2016 and June 30, 2016.

PVL added a new “e-File Upload” feature to the online Insurance Certificate Submittal System, in October 2015. This added feature allows insurance agents to electronically submit contractor (CT) and pest control operator (PCO) general liability and workers compensation insurance certificate information online at [pvl.hawaii.gov/inikua](http://pvl.hawaii.gov/inikua). The new feature allows the following submittals: submittals by insurers that are not licensed in Hawaii (also listed as “Not an Admitted Insurer”); workers compensation insurance provided by “Leasing Companies”; and submittals for CT/PCO licensees that were previously terminated. These types of submittals were not possible in the previous version of the system. It has been estimated that the number of hardcopies received in the Licensing Branch has decreased by approximately 500 less per month, thanks to this new online system.

In April 2016, PVL was able to allow for the first time, the acceptance of online licensing registration applications. The implementation was for the registration application for security guard employees. PVL expanded MyPVL, to allow for the initial application submittals for security guards. PVL receives hundreds of security guard applications monthly. This online system was developed to streamline the PVL licensing system.

In May 2016, the division began to plan for its August 2016 orientation for PVL’s board and commission members. Speakers from the State Ethics Commission, Department of the Attorney General, Office of Information Practices, and the Regulated Industries Complaints Office each provided presentations about the responsibilities of being a member of a state board or commission and offered guidance within their areas of expertise.

The Applicant/Licensee Integrated Automated System (ALIAS), PVL’s licensing database system replacement project, began in September 2014. A vendor was selected to build a replacement system to improve and enhance PVL’s license processing efficiency and tracking. Project scope includes project planning/initiation; system design; data analysis; build system; data migration and system interface; and system deployment. The project is ongoing, with a revised deployment timeframe anticipated to conclude in 2017.

The Licensing Branch processed approximately 18,839 new licenses and was able to attain a 90% on-time processing rate. In addition, approximately 222,045 license-related changes were processed by staff, such as address changes, name changes, change in broker, to name a few. One of the goals of the Licensing Branch was to cut down on overtime hours of staff having to post contractor insurance information into ALIAS. PVL's efforts to accomplish this goal were supported by the deployment of the new online surety system.

The Examination Branch was able to maintain timely processing of applicant eligibility for testing, and it continues to work toward achieving a quick turnaround standard (three to five business days from key triggering dates) for exam processes. These key processes include the confirmation of an applicant's eligibility to sit for an exam upon completion by the applicant of the testing agency's registration process, or the processing of exam results once they are made available by the testing agency. Completing these types of exam processes in a timely fashion allows for more efficient intake and exit of applicants through the PVL process and toward licensure.

As in previous years, the Examination Branch continues to make necessary adjustments to incorporate new database and program requirement changes implemented in FY2016 by national organizations and testing agencies. The Examination Branch was able to make the transitions as seamlessly as possible. The Examination Branch also continues to work closely with the Licensure Branch by utilizing the new databases and programs, as well as its own internally developed processes, to improve the transmission and maintenance of exam-related documents to the Licensing Branch. Where new opportunities to increase efficiencies in the exam area are identified, such as the increased use of direct registrations for examinations, the Examination Branch is always looking for appropriate ways to improve the exam portion of the licensing process so that both the applicant population and PVL's own operations benefit.

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 a CE system which provided real estate licensees the ability to view the number of CE hours required and earned for the current licensing period, their CE history, 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>. Additionally, REB continued its efforts to improve services to licensees by conducting in-house training for employees not within REB but who provides services to REB's and REC's customers. To supplement this training, REB created a comprehensive training manual to PVL's clerical support staff for the processing and intake of forms. For a comprehensive report on matters addressed by REB and REC in FY2016, please refer to <http://cca.hawaii.gov/reb/reports/> to view their Annual Report for fiscal year ending June 30, 2016.

### *Significant Division Activity*

All of PVL has been working diligently on the Applicant/Licensee Interactive Automated System (ALIAS) replacement project, which has a deployment date of August 2017. The custom built application will be used to issue licenses to PVL's applicants for all of its 49 licensing areas. Staff will conscientiously continue

to work on the project while still handling their regular course of work. PVL is continuing to move forward with the dynamic portal portion of the project which will also be deployed in the near future. This will allow interested persons to submit their applications online, check out the statuses of their applications, and allow them to make updates to their records, amongst other exciting core capabilities.

**CRF Financial Summary**

The CRF financial summary relating to PVL for FY2016 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,381,170	\$1,520,242	\$5,901,412	\$7,720,294

**CONCLUSION**

PVL continues to move ahead with its initiatives to improve accessibility to licensing services and information, and to streamline the licensing process without compromising consumer protection. PVL is committed to working with licensees and the public to achieve the optimum balance between thoughtful and fair regulation, and consumer protection. PVL is mindful of the strain on Hawaii’s businesses and seeks to integrate licensing measures and procedures that will facilitate business. Ultimately, PVL’s objective is to achieve and facilitate a fair marketplace for the State of Hawaii.

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

**Table 1: PVL Statistical Overview**

	FY2015	FY2016
No. of applications received	14,382	18,839
No. of applicants licensed	14,269	14,239
No. of licenses renewed	64,590	68,400
No. of permits issued	2,303	2,178
No. of changes processed	239,236	222,045
No. of calls received by Licensing Branch	61,175	92,765
No. of current licensees	149,463	156,554
Total licensee population (all statuses - i.e. Current, forfeited, delinquent)	400,717	418,190

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

<b>Boards and Commissions (shown by asterisk *), and Programs</b>	<b>FY2015</b>	<b>FY2016</b>
Accountants*	3,527	3,509
Activity Desks	873	852
Acupuncturists*	746	725
Athletic Trainers	246	198
Barbering and Cosmetology*		
Barbers	1,440	1,400
Barber Shops	209	194
Beauty Operators*	8,895	8,589
Beauty Instructors	116	112
Beauty Schools	13	11
Beauty Shops	1,398	1,295
Behavior Analysts†	-	147
Boxing (all categories)*	20	20
Cemeteries and Pre-Need Funeral Authorities	23	22
Chiropractors*	632	595
Collection Agencies	598	650
Contractors*	12,541	13,053
Dentists*	1,528	1,501
Community Service Dentists	35	23
Dental Hygienists	1,101	1,084
Community Service Dental Hygienists	2	1
Dispensing Opticians	187	200
Electricians (all categories)*	3,521	3,644
Plumbers (all categories)*	1,315	1,222
Electrologists	18	18
Elevator Mechanics*	226	235
Employment Agencies	65	65
Engineers, Architects, Surveyors, and Landscape Architects:*		
Engineers	6,809	6,693
Architects	2,418	2,350
Surveyors	210	209
Landscape Architects	156	147
Hearing Aid Dealers & Fitters	124	125
Marriage and Family Therapists	397	432
Massage Therapists*	7,923	8,412
Massage Establishments	797	895
Medical and Osteopathy*		
Physicians	9,236	8,794
Podiatrists	83	81
Osteopaths	879	906
Physician Assistants	340	358
Emergency Medical Technicians	780	774
Mobile Intensive Care Technicians	520	499
Mental Health Counselors	312	355
Mixed Martial Arts	192	152
Motor Vehicle Dealers*	254	272
Motor Vehicle Dealer Branches	36	39
Motor Vehicle Distributors	29	30
Motor Vehicle Manufacturers	39	43
Motor Vehicle Salespersons	1,689	1,827
Motor Vehicle Others (Auction, Broker, Consultant)	11	11
Motor Vehicle Repair Dealers*	790	712

Professional and Vocational Licensing Division (PVL)

Motor Vehicle Mechanics	1,765	1,528
Naturopaths*	151	140
Nursing*		
Registered Nurses (RN)	26,017	25,410
Licensed Practical Nurses (LPN)	3,021	2,759
Advanced Practice Registered Nurse (APRN)	1,412	1,436
Nurse Aides	7,848	7,909
Nursing Home Administrators	163	174
Occupational Therapists	619	728
Optometrists*	426	412
Pest Control Operators*	193	199
Pest Control Field Representatives	192	226
Pharmacists*	2,638	2,674
Pharmacies	288	288
Wholesale Prescription Drug Distributors	64	58
Miscellaneous Permits	668	666
Physical Therapists	1,571	1,806
Physical Therapist Assistants	251	316
Port Pilots	9	9
Private Detective Agencies*	39	44
Private Detectives	108	114
Guard Agencies	75	81
Guards	103	104
Guard Employees	11,880	14,644
Psychologists*	1,130	1,180
Real Estate Appraisers	583	532
Real Estate Brokers*	6,309	6,572
Real Estate Salespersons	11,247	12,583
Real Estate Branch Offices	88	100
Condominium Hotel Operators	29	33
Respiratory Therapists	531	651
Social Workers	2,003	2,209
Speech Pathologists*	698	652
Audiologists	81	80
Travel Agencies	1,252	1,136
Uniform Athlete Agents	7	9
Veterinarians*	534	572
<b>TOTAL</b>	<b>157,331</b>	<b>161,516</b>

\*Behavior analysts were added as a regulated profession effective January 1, 2016 pursuant to Act 199, Session Laws of Hawaii 2015.

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

License Types	FY2013	FY2014	FY2015	FY2016
Accountants		2,362 (95.5%)		2,479 (98.3%)
Accountancy Firm Permits to Practice		361 (86.4%)		319 (86.9%)
Activity Desks		195 (86.7%)		235 (90%)
Acupuncturists	595 (93.26%)		618 (96.41%)	
Architects		2,034 (94.56%)		2,178 (96.8%)
Audiologists		61 (95.3%)		74 (100%)
Barbers		905 (79%)		939 (76.1%)
Barber Shops		115 (78.8%)		124 (84.4%)
Beauty Operators		6,087 (86.3%)		6,568 (86.4%)
Beauty Instructors		69 (87.3%)		86 (89.6%)
Beauty Shops		781 (80.1%)		929 (85.5%)

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Chiropractors		494 (95.6%)		518 (94.5%)
Contractors	5,791 (60.59%)		6,291 (62.62%)	
Community Service Dentists		16 (84.2%)		21 (95.5%)
Dental Hygienists		881 (95.4%)		952 (94.6%)
Dentists		1,301 (94.5%)		1,342 (94.8%)
Dispensing Opticians		152 (100%)		163 (92.61%)
Electrologists	12 (100%)		15 (88.24%)	
Electricians		2,941 (90.8%)		
Elevator Mechanics		150 (72.46%)		202 (95.73%)
Emergency Medical Technicians (basic)		373 (64.6%)		387 (55.8%)
Emergency Medical Technicians (paramedic)		362 (78.5%)		367 (77.4%)
Guards		79 (92.94%)		74 (92.5%)
Guard Agencies		48 (81.36%)		54 (87.1%)
Guard Employees		6,464 (90.07%)		7,585 (89.55%)
Hearing Aid Dealers and Fitters		92 (92.9%)		103 (95.4%)
Landscape Architects		130 (90.28%)		140 (97.9%)
Land Surveyors		181 (90.05%)		200 (96.62%)
Marriage and Family Therapists		267 (91.75%)		
Massage Establishments		553 (88.48%)		604 (92.92%)
Massage Therapists		6,231 (92.5%)		6,449 (93.4%)
Mental Health Counselors		239 (90.19%)		
Motor Vehicle Auctions		4 (80%)		4 (100%)
Motor Vehicle Brokers		1 (100%)		1 (100%)
Motor Vehicle Branches		26 (92.86%)		32 (96.97%)
Motor Vehicle Consumer Consultants		3 (100%)		4 (100%)
Motor Vehicle Dealers		201 (85.9%)		213 (90.25%)
Motor Vehicle Salespersons		1,221 (90.92%)		1,274 (94.3%)
Motor Vehicle – Distributors		24 (92.31%)		27 (100%)
Motor Vehicle – Manufacturers		36 (97.3%)		35 (100%)
Motor Vehicle Repair Dealers	437 (67.65%)		473 (91.67%)	
Motor Vehicle Repair Registered Mechanics	338 (74.12%)		290 (89.23%)	
Naturopaths		104 (93.7%)		129 (99.2%)
Nurses, Advanced Practice Registered (APRN)	820 (80.16%)		1,001 (87.73%)	
Nurses, Licensed Practical (LPN)	1,997 (88.6%)		2,019 (90.25%)	
Nurses, Registered (RN)	17,169 (87.81%)		19,008 (92.05%)	
Nursing Home Administrators		126 (92.65%)		149 (94.9%)
Occupational Therapists	438 (92.41%)		487 (95.68%)	
Optometrists		340 (90.2%)		378 (97.9%)
Osteopaths		599 (90.48%)		612 (84.41%)
Pest Control Field Representatives		133 (95%)		140 (87.5%)
Pest Control Operators (inactive status only)		10 (71.43%)		6 (60%)
Pharmacists		2,206 (95.9%)		2,447 (96.2%)
Pharmacies		213 (81.9%)		241 (87.3%)
Pharmacy – Misc. Permits		327 (78.8%)		493 (82.7%)
Pharmacy – Wholesale Prescription Drug Dist.		42 (84%)		37 (71.2%)
Physical Therapists	1,175 (93.48%)		1,350 (96.64%)	
Physicians		6,728 (87.3%)		7,255 (90.6%)
Plumbers			967 (93.79%)	
Podiatrists		59 (81.9%)		69 (89.6%)
Private Detectives		87 (94.57%)		92 (92.93%)
Private Detective Agencies		23 (76.67%)		32 (96.97%)
Professional Engineers		5,816 (95.13%)		6,264 (97.83%)
Psychologists		978 (95.98%)		1,036 (94.78%)
Real Estate Branch Offices	51 (72.86%)		65 (95.59%)	
Real Estate Brokers	5,391 (92.31%)		5,597 (93.89%)	

Professional and Vocational Licensing Division (PVL)

Real Estate Salespersons	9,237 (94.31%)		9,582 (95.36%)	
Respiratory Therapists		402 (96.87%)		
Social Workers	1,395 (88.57%)			743 (90.06%)
Speech Pathologists		465 (96.9%)		548 (97.7%)
Travel Agencies		624 (86.8%)		721 (91.7%)
Uniform Athlete Agents		4 (100%)		5 (83.33%)
Veterinarians		435 (94.16%)		464 (94.89%)
<b>TOTAL</b>	<b>44,846 (84.38%)</b>	<b>55,161 (90.21%)</b>	<b>47,763 (87.5%)</b>	<b>57,434 (91.4%)</b>

**Table 4: Total Number of Email Inquiries**

Boards and Programs	FY2015	FY2016
Accountancy	896	1,319
Activity Desk	137	41
Acupuncture	189	135
Athletic Trainer	25	100
Barbering and Cosmetology	1,465	1,386
Boxing	28	50
Behavior Analyst†	-	8
Cemetery and Pre-Need Funeral Authority	80	62
Chiropractor	202	290
Collection Agency	545	519
Contractor	2,339	1,832
Dentist and Dental Hygienist	90	51
Dispensing Optician	64	61
Electrician and Plumber	510	631
Electrologist	4	3
Elevator Mechanic	10	55
Employment Agency	22	9
Engineer, Architect, Surveyor, and Landscape Architect	850	407
Exam Branch	108	438
Hearing Aid Dealer and Fitter	40	93
Marriage and Family Therapist	248	232
Massage Therapy	1,352	1,267
Medical and Osteopathy	4,035	4,184
Mental Health Counselor	402	398
Mixed Martial Arts	680	637
Motor Vehicle Industry	274	809
Motor Vehicle Repair	198	86
Naturopathy	150	134
Nurse Aide	44	40
Nursing	4,081	3,558
Nursing Home Administrator	41	19
Occupational Therapist	234	209
Optometry	211	341
Pest Control	396	595
Pharmacy and Pharmacist	1,919	1,766
Physical Therapy	1,320	1,306
Private Detective and Guard	702	1,315
Psychology	639	904
Professional Vocational Licensing (PVL)	8,254	12,475
Real Estate	5,183	4,261

*2016 Compliance Resolution Fund Report*

*Professional and Vocational Licensing Division (PVL)*

Real Estate Appraiser	790	518
Respiratory Therapist	86	89
Social Worker	518	915
Speech Pathology and Audiology	295	296
Subdivision	39	27
Time Share	592	182
Travel Agency	65	128
Uniform Athlete Agent	0	1
Veterinary	247	285
<b>TOTAL</b>	<b>40,599</b>	<b>44,467</b>
‡Behavior analysts were added as a regulated profession effective January 1, 2016 pursuant to Act 199, Session Laws of Hawaii 2015.		



## REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)

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

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

### **OVERVIEW**

Most people are not aware that a professional or vocational license is required before you can work in certain industries. There are currently over 49<sup>14</sup> different industries in which a professional or vocational license is required. These industries are the kind that affect the health, safety, and welfare of Hawaii's citizens.

#### ***Purpose***

The Regulated Industries Complaints Office (RICO) serves as the enforcement arm for the various professions and vocations that are licensed in the State, investigating allegations of licensing law violations by licensees and allegations of unlicensed activity by unlicensed persons. In addition to its enforcement function, RICO works to resolve consumer complaints where appropriate and to provide consumer education about various issues relating to licensing and consumer protection. RICO also administers the State Certified Arbitration Program (SCAP) for "lemon" motor vehicle claims.

#### ***Source of Complaints***

RICO receives complaints and information from a variety of sources, including consumers, other licensing authorities, and from anonymous sources. RICO also initiates cases based on referrals from law enforcement agencies and professional associations. Occasionally, matters are reported by hospitals and employers. RICO also conducts compliance checks, and sweep and sting operations. Most RICO cases are initiated from consumer complaints.

#### ***Composition and Functions***

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

RICO staff consists of intake investigators, field investigators, attorneys and support staff. Approximately one-fifth of RICO's full-time positions are located in four neighbor island offices. The primary functions of the RICO branches are generally described as follows:

#### ***Intake***

RICO's Consumer Resource Center (CRC) handles the intake functions for both RICO and OCP. CRC staff is comprised of intake investigators and clerical support. The branch serves as the face of RICO and is often the first contact a consumer will have with the agency.

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<sup>14</sup> This number will increase to 50 with the addition of the required regulation of Veterinary Technicians, which will take effect January 1, 2018 pursuant to Act 147, Session Laws of Hawaii 2016.

Consumers calling the CRC can speak directly with an intake investigator. As the “complaints office,” many of the calls RICO receives are for matters outside of RICO’s jurisdiction, and intake investigators are adept at referring consumers to the right place. For consumers wishing for more information about RICO matters, or to file a RICO complaint, intake investigators will answer questions, provide information, and walk the consumer through the complaint process. For consumers wishing to file a complaint with the OCP, intake investigators will walk the consumer through the complaint process or refer the consumer to an OCP investigator for more information.

As part of the complaint filing process, consumers are encouraged to try to resolve problems before filing a complaint, and a self-help letter template is provided. Even after a written complaint is received, an intake investigator may continue to work with the parties if he/she believes a dispute can be resolved. Frequently, an intake investigator will simply solicit an explanation or response from a licensee, and in many cases, the response is sufficient to resolve the problem without formal investigation. An estimated 6,431 complaint inquiries were resolved in FY2016 without a formal complaint being filed. An estimated additional 1,292 OCP complaint inquiries were resolved without a formal complaint.

Intake investigators conduct preliminary investigations and screening and forward cases appropriate for further investigation or prosecution to RICO’s field and legal branches. Complaints outside of RICO’s jurisdiction may be referred to another agency. If a complaint lacks sufficient basis for further investigation, or if a complainant withdraws the complaint, refuses to cooperate, or is no longer locatable, a complaint may be inactivated at the intake stage. In FY2016, 2,675 complaints were processed.

### Accomplishments

RICO deals with a wide variety of alleged conduct. Some cases, like failing to report out-of-state disciplinary actions or failing to complete mandatory continuing education, are relatively straightforward. Last year, RICO instituted a new program that “fast tracks” these types of cases at the intake stage. In FY 2015, the year the program started 44 cases were successfully resolved based on early investigation. In FY2016, that number increased to 141, resulting in significantly faster case processing times and an additional 131 legal actions being taken.

Intake investigators also continue to operate the RICO Unlicensed Activity Tip Team, reviewing incoming tip information and working up possible cases for field investigators. The Team also conducts investigations of unlicensed advertising, which includes obtaining information about advertisements and postings from publishers and internet providers. Advertising cases are also reviewed for possible early resolution.

### *Investigation*

The Field Investigation unit is comprised of field investigators and clerical support, and comprises the largest concentration of RICO staff. In addition to the Oahu office, RICO has field investigation units in Hilo, Kailua-Kona, Wailuku, and Lihue.

Field investigators conduct interviews, obtain relevant records, and consult with Advisory Committee Members to determine if there is sufficient evidence to warrant consideration for legal action.

Advisory Committee Members are appointed by the various Boards, Commissions, and Programs and serve as industry experts to assist in licensing matters. Expert evaluations can be important in cases involving professional misconduct or alleged violations of the standards of care. Again, investigations may focus on licensing violations committed by licensees or may involve allegations of unlicensed activity.

If a field investigator believes there is sufficient evidence of a violation to warrant review by a staff attorney, the case is referred to the legal branch for review and possible prosecution. If, in the course of an investigation, it is determined that legal action is not warranted, the complaint may be closed at the investigation level. There are many reasons why a complaint may not warrant legal action, such as when a warning letter is appropriate, or when an investigation establishes no violation has occurred, or there is insufficient evidence to prove a violation occurred.

Field investigators continue to work with staff attorneys throughout the prosecution process, conducting any additional investigation that may be needed, serving hearing notices, and providing testimony in administrative hearings. With enforcement responsibility over the licensing laws for over 49 different boards, commissions and programs, investigators evaluate a diverse population of licensees with a wide range of possible violations. In FY2016, the unit completed 1,060 investigations and conducted unlicensed sweeps on all islands.

In addition to investigating RICO complaints, investigators and clerical staff in RICO's neighbor island offices play an important role as neighbor island liaisons for DCCA. Many neighbor island residents prefer to work with a local RICO office, and these offices experience a high volume of visitors. In addition to providing RICO information, neighbor island staff provide licensing applications and other forms. Neighbor island staff also provide technical assistance for hearings and facilitate meetings in RICO spaces. In FY2016, neighbor island staff responded to 4,272 requests for assistance on non-RICO matters.

### Accomplishments

RICO has an internal system for prioritizing cases in which the alleged conduct, the number of complaints being received, or the type of violation being alleged, may cause a RICO supervisor to determine the investigation of a case should be prioritized. For prioritized cases, an investigation plan is developed prior to assignment to a field investigator and regular updates made.

At any time during the investigation process, a licensee may indicate a willingness to resolve a case. Field investigators may request early assistance from the Supervising Attorney to review a pending case for possible settlement. If settlement isn't appropriate or achievable, the RICO investigation continues. In FY2016, early settlement offers were made in a number of matters, resulting in fewer cases requiring formal hearings and resulting in faster processing times.

The unit is also working to develop two, full-time Unlicensed Task Force teams to work primarily on unlicensed cases and to be available to respond to tip information about unlicensed jobs.

### *Prosecution*

Prosecution of cases is handled by the RICO Legal Section which is comprised of staff attorneys and legal support. The unit receives cases from both intake and field investigators. Staff attorneys are responsible for reviewing cases and determining if there are sufficient grounds to pursue legal action.

Cases against licensees are handled administratively, with the boards, commissions, and programs issuing the final decisions in each case. Administrative actions start with the filing of a Petition for Disciplinary Action. Hearings are heard by a Hearings Officer from the Office of Administrative Hearings in accordance with Hawaii Revised Statutes Chapter 91, (Hawaii's Administrative Procedures Act). After a formal hearing is conducted, the hearings officer issues an initial decision which contains findings of fact, conclusions of law, and recommendations for disciplinary action. The initial decision is then reviewed by the appropriate board, commission, or program, and either accepted, modified, or rejected. A licensee may request, or a board, commission or program on its own, may seek review of a hearings officer's decision. Appeals are made to Circuit Court.

Not all cases referred to the legal section result in formal hearings. Some matters are resolved before a petition for disciplinary action is filed. If a settlement agreement is accepted, it becomes a final order of the licensing authority. If a settlement agreement is rejected, RICO must revisit the case and determine if a petition for disciplinary action will be filed. There are many factors that determine whether a RICO case is appropriate for settlement. Such factors include the underlying conduct, the type of violation alleged, and the ability of the State to obtain at hearing the same or greater sanction as that proposed. In FY2016, over 253 cases were resolved with licensees without a contested case hearing. Settlement allows RICO to resolve cases more efficiently, within shorter time frames, and with fewer attorney hours. All settlements must be approved by a board, commission, or program.

In a disciplinary action case, a range of sanctions may be imposed, including license revocation, suspension, monetary fines, restitution, professional evaluation, professional education, monitoring and treatment.

Persons who practice a regulated business or profession without a license may be issued a citation and ordered to cease and desist engaging in unlicensed conduct and in FY2016, RICO investigators issued 41 citations for unlicensed activity. Staff attorneys may also petition Circuit Court for a permanent injunction prohibiting future unlicensed activity and civil fines, and in FY2016, 156 actions were filed based on allegations of unlicensed activity. Many licensing statutes also subject unlicensed persons to criminal prosecution by local authorities, and the office works closely with criminal law enforcement to seek criminal prosecution where appropriate.

### *Accomplishments*

Over 450 civil and administrative actions were filed by RICO last year. In FY2016, \$1,542,390 was assessed in fines or civil penalties. Forty-three licensees were removed from practice and probation or other conditions imposed in an additional 27 cases. Fines imposed had a 57% collection rate.

Over the past year, the RICO Legal Section has been instrumental in working with intake and field investigators on early resolution initiatives, resulting in the expedited processing of over 200 cases.

**Table 1: Complaints Filed With RICO**

	FY2014	FY2015	FY2016
Accountants	27	12	15
Activity Desks	13	4	19
Acupuncturists	1	2	1
Athletic Trainers	1	1	2
Barbers & Cosmetologists	69	104	139
Behavior Analysts (effective 1/1/2016)	-	-	0
Boxing	0	0	0
Cemeteries and Pre-Need Funeral Authorities	5	12	8
Chiropractors	13	6	8
Collection Agencies	21	12	9
Contractors	439	412	480
Dentists and Dental Hygienists	71	34	63
Dispensing Opticians	0	5	4
Electricians & Plumbers	23	27	25
Electrologists	0	1	0
Elevator Mechanics	3	1	0
Employment Agencies	0	0	0
Engineers, Architects, Surveyors and Landscape Architects	34	36	37
Hearing Aid Dealers & Fitters	0	0	1
Marriage and Family Therapists	3	2	2
Massage Therapists	50	64	59
Medical (including Osteopathy)	186	141	236
Mental Health Counselors	3	2	1
Mortgage Brokers & Solicitors	3	1	3
Motor Vehicle Industry	63	74	60
Motor Vehicle Repair	65	44	87

Naturopaths	3	1	1
Nursing	32	73	86
Nursing Home Administrators	0	4	2
Occupational Therapist	0	1	2
Optometrists	12	2	0
Pest Control	4	10	13
Pharmacy	25	132	129
Physical Therapists	1	2	2
Pilotage	0	1	1
Private Detectives & Guards	41	253	60
Psychologists	17	22	13
Real Estate Appraisers	14	0	9
Real Estate (including Condominiums)	378	449	312
Respiratory Therapists	0	0	0
Social Workers	7	9	4
Speech Pathologists & Audiologists	1	1	1
Subdivision	1	0	0
Time Share	23	11	5
Travel Agencies	34	21	27
Mixed Martial Arts	2	1	1
Uniform Athlete Agents	0	0	0
Veterinarians	9	17	5
Veterinary Technicians (effective 7/1/2018)	-	-	-
	1,697*	2,007*	1,932*

\*Includes investigations closed or referred to another agency at intake level.

### Education and Information

RICO is committed to providing information to both consumers and licensees about the different areas it oversees. Consumer education is important so that consumers can make informed decisions and avoid fraud. Licensee education is important so that licensees can adjust their practices to avoid violating licensing laws. Each year, RICO participates in a number of home shows, senior fairs, and industry group

presentations, reaching an estimated 55,189 consumers and licensees throughout the State in FY2016. RICO also actively participates in elder fraud enforcement initiatives, working with law enforcement agencies and providing consumer information specifically geared for seniors. One of the most requested education pieces is RICO's "At the Door/On the Phone," which provides helpful tips on how to handle unwanted solicitations. In FY2016, RICO distributed 25,041 printed brochures. The brochures are also available on the RICO website.

Consumer education and outreach efforts are coordinated by the CRC, which also operates RICO's call center, the Licensing & Business Information Section (LBIS). By calling 587-4272 (587-4CRC), consumers can get basic business registration information, find out if a business or individual is licensed, and get information about complaints filed with RICO and OCP. The call center is widely used by consumers, businesses, licensees, and credentialing organizations. In FY2016, LBIS answered 11,485 calls, conducting an estimated 57,792 searches. Staff is available Mondays through Friday, from 7:45 a.m. to 4:30 p.m. Neighbor island residents can call LBIS toll-free.

Licensing and complaint history information is also available online at [www.businesscheck.hawaii.gov](http://www.businesscheck.hawaii.gov), providing 24/7 access to current licensing, complaints, and business registration information. Like the call center, the site is widely used by consumers, businesses, licensees, and credentialing organizations. In FY2016, there were 202,113 views to the [www.businesscheck.hawaii.gov](http://www.businesscheck.hawaii.gov) webpage via RICO's website.

### ***State Certified Arbitration Program***

RICO administers SCAP for "lemon" motor vehicle claims, which provides an arbitration forum for consumers to resolve car warranty complaints with manufacturers. Under certain conditions, a consumer may be entitled to receive a refund or replacement for a car that has a nonconformity. (A nonconformity is a defect or condition that does not conform to the car's warranty and that substantially impairs the use, market value, or safety of the car.)

Consumers are counseled to first read the Lemon Law Consumer Handbook for information and instructions and then write to the manufacturer. If unable to reach a resolution, a consumer can then file a Demand for Arbitration. The Program then evaluates the demand, and, if appropriate, schedules an arbitration hearing. Consumers pay a \$50.00 filing fee which is refunded if the consumer prevails at 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 FY2016, 17 cases were initiated with 6 decisions issued in favor of consumers and 3 decisions issued in favor of manufacturers. The program also works with manufacturers and consumers to resolve issues, and in FY2016, 6 cases were settled after filing. A total of \$443,757 in consumer refunds and bank loan payoffs were issued. Access to the SCAP program is increasing and the number of cases and arbitrations on the neighbor islands is on the rise.

One consumer described the program as "...one of the few ways a consumer can legally and inexpensively fight for their rights in a fair process against an intimidating, large manufacturer", and, while

each year only a small percentage of cars sold in the State are declared lemons, all new car buyers benefit from the SCAP Program which creates incentives for manufacturers to deliver cars that are free from defect and to address on-going problems through efficient repair and voluntary recall.

The program operates under the direction of a Lemon Law Administrator, who currently serves on the national Board of Directors for the International Association of Lemon Law Administrators. More information, including a new educational video about the SCAP process, is available on the RICO website at [www.cca.hawaii.gov/rico/lemon-law](http://www.cca.hawaii.gov/rico/lemon-law).

## **GOALS AND OBJECTIVES**

Expand resources and personnel. RICO continues to see a marked increase in serious cases. Allegations of gross medical and dental malpractice, allegations of abuse and improper touching by healthcare professionals, drug diversion, and allegations of theft, are just some of the types of complaints RICO is currently investigating. RICO staff must be ready to investigate and prosecute all levels conduct. RICO is working to fill position vacancies. Training is also critical, with staff dealing with new issues and new licensing areas.

Developing additional tools for enforcement. In addition to its Early Case Resolution program, RICO is looking at other ways to speed up and improve the enforcement process. One such initiative, Act 146, Session Laws of Hawaii 2016 (Relating to Citations for Massage Therapy Violations (eff 7/1/2016)), authorizes RICO investigators to issue citations to licensees who violate the following massage therapy laws or rules:

- (1) failing to conspicuously display a massage therapy establishment license and the licenses of anyone working at the establishment;
- (2) failing to identify apprentices working at a massage therapy establishment;
- (3) operating without a principal massage therapist or licensed designee in attendance; and
- (4) failing to include a current license number in an advertisement.

Citations must be personally served and licensees can request a hearing to contest a citation. The maximum fine that can be imposed is \$250.00 per violation. The agency believes developing enforcement tools, like citations for technical violations, frees up investigator and attorney time to focus on more serious violations. Initiatives like early case resolution and the ability to issue citations in certain industry areas, decrease the number of cases requiring expanded investigation. RICO is actively looking at developing additional enforcement tools.

Replacement of RICO's Complaints Management System (CMS). The complaints tracking database used by RICO has been in use since the early 1980s, is no longer being supported by the manufacturer, and is in critical need of replacement. RICO relies on CMS to keep track of complaints as they move through the various sections of RICO; to record information about legal actions taken by RICO; and to provide reports on RICO's complaint processing activity. RICO also uses the CMS system to provide historical information about complaints and disciplinary actions. Replacement of this legacy system is



underway and RICO hopes to add a public facing website for consumers to file and track complaints. The agency believes efficiencies will go a long way in improving how cases are tracked and processed and will help improve case processing times. A more robust system will also allow RICO to track additional data points which RICO hopes to use to track trends, to allocate resources, and to provide information to licensees about practices to correct.

Timely case processing. In September, RICO was invited by the Council on Licensure, Enforcement & Regulation to speak at its annual conference on the challenges facing regulatory agencies today. Attended by more than 600 members of the regulatory community from across North America, Europe, Australia and New Zealand, the Conference was an important opportunity to showcase initiatives that have worked for RICO and to talk with other regulatory agencies about their experiences. A common theme expressed by regulators both in and outside Hawaii is the multi-faceted challenge of performing timely case processing. The complexity of RICO cases, the increase in the number of licensing areas, and limitations on resources are hurdles Hawaii and other states must clear. The agency believes filling vacancies, developing additional investigation and enforcement tools, and incorporating new technology, will be critical as the agency works toward its goal of efficient and effective enforcement.

### ***CRF Financial Summary***

The CRF financial summary relating to RICO for FY2016 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,746,759	\$1,083,506	\$5,830,265	\$7,052,050

### ***CONCLUSION***

With responsibility for the enforcement of the licensing laws of over 49 boards, commissions and programs, RICO continues to receive a large number of inquiries, complaints, and other requests for assistance. Rapid changes and increased complexity in the way many of the licensed professionals conduct business, as well as changes in state law have spawned new enforcement issues and new challenges for RICO. Through hard work, strategic initiatives, and a commitment to continual improvement, the division will continue its efforts to provide a fair and safe marketplace for the consumers, businesses and professionals it serves.