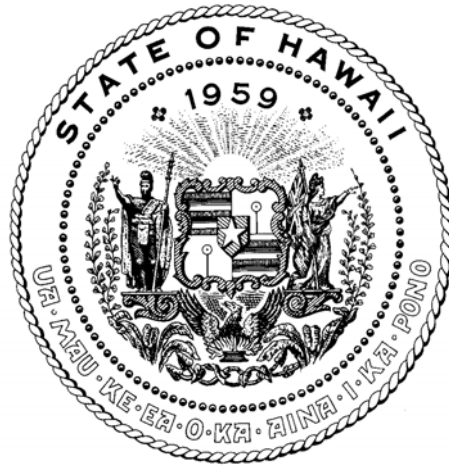


**2005 Annual  
Compliance Resolution Fund Report  
to the Legislature**



**DEPARTMENT OF COMMERCE  
AND CONSUMER AFFAIRS**

**STATE OF HAWAII**

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## INTRODUCTION

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### OVERVIEW

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

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

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

By Fiscal Year 1998-1999, eight DCCA programs were part of the CRF: Business Registration Division, Professional and Vocational Licensing Division<sup>1</sup>, Regulated Industries Complaint Office, Office of Consumer Protection, and the Director's Office with its supporting offices of Administrative Services, Information Systems and Communications, and Administrative Hearings (ISCO).<sup>2</sup> Act 129 SLH 1999,

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

<sup>2</sup> The Director's Office provides general policy and administrative leadership in supervising and coordinating the various department activities. Administrative Services provides the department programs with centralized budgeting, accounting, personnel management, and organizational analysis support as well as centralized clerical services. Information Systems and Communications provides system and technical computer support services for the various DCCA programs. Administrative Hearings conducts formal administrative hearings for the department programs and various attached boards and commissions,

effective July 1, 1999, expanded the CRF to include the Division of Consumer Advocacy, Division of Financial Institutions, and the Cable Television Division. Act 39, SLH 2002, effective July 1, 2002 merged the Insurance Regulation Fund, the primary funding source for the Insurance Division, into the CRF. Except for trust and special funds with dedicated purposes<sup>3</sup>, the CRF provides the sole source of funding for DCCA since calendar year end 2003.

**GOALS and OBJECTIVES**

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

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

and also administers the Medical Claims and the Design Professional Conciliation Panels, and hears appeals of the State procurement code. The CRF financial summary for the Director's Office, Administrative Services, Information Systems and Communications, and Administrative Hearings for FY 04-05 is: Personnel Expenses \$2,755,912, Operating Expenses \$1,118,115, Total Expenses \$3,874,027, with Revenues Received of \$73,748.

<sup>3</sup> The Professional and Vocational Licensing Division has the following trust funds: Real Estate Recovery, Real Estate Education, Condominium Management Education, Contractor’s Recovery, Contractor’s Education, Real Estate Appraisers, Travel Agency Education, all of which are managed and controlled by the respective licensing boards. The Insurance Division has the following trust funds: Insurance Commissioner’s Education, Patient’s Compensation; and the following special funds: Driver’s Education and Captive Insurance. The Regulated Industries Complaint’s Office has the Motor Vehicle Arbitration trust fund, and the Office of Consumer Protection has a Restitution trust fund. Additionally the Hawaii Hurricane Relief is administratively attached to DCCA, and their Board of Directors (rather than the director of DCCA) manages and controls the Fund.

	Provide cashiering services for all payments and collections made to the department.		
Administrative Services Office	Provide timely clerical support to divisions regarding mail, duplication projects and word processing.	Timely collection and distribution of mail. Complete requests within deadline.	Percentage of requisitions completed in a timely manner.
	Timely and complete response to division inquiries and complaints.	Timely address and answer all division concerns.	Percentage of concerns addressed (or acknowledged if time does not permit) within 5 business days.
ISCO	Find, acquire, implement and maintain information technology that improves the divisions' operations and allows them to provide better customer service.	Make ISCO team more effective through better procedures and communications. Add more on-line services. Standardize systems to simplify maintenance and sharing of information.	Reduce average backlog of work orders from 450 to 350 and complete enhancement of 6 existing systems. Add 4 new on-line services. Standardize the core design of 1 system.

**ACCOMPLISHMENTS**

The CRF financial summary relating to ADMIN (director's office, personnel, fiscal and administrative services offices and ISCO) for FY 04-05 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$2,755,912	\$1,118,115	\$3,874,027	\$73,748

The overall CRF financial summary for FY 04-05 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$21,098,793	\$8,070,404	\$29,169,197	\$28,603,444

The department's financial strategy requires generally that revenue-generating divisions secure revenues to cover division expenses, and contribute equitably to non-revenue generating divisions, while ensuring that anticipated major improvements are addressed and a portion of next year's operating expenses is available. This ensures solvency of the fund and continuation of mandatory services to the public. From the onset of the CRF, the department's primary fiscal goal was to implement this strategy and

as a result, we were very conservative in our spending and reduced expenses by the elimination of offices.<sup>4</sup> As a self-funded agency, DCCA makes no requests for general funds. Accordingly, the department's financial planning has taken into account current fiscal year expenses, and planning for future major projects and expenditures.

In the Information Technology (IT) area, the major accomplishment this year was to work with the Department of Labor and Industrial Relations, Department of Taxation, State Procurement Office, Department of Business, Economic Development and Tourism, Department of Accounting and General Services, and the Internal Revenue Service to create "Hawai'i Compliance Express." HCE uses the internet to allow businesses to register online and acquire an electronic certificate proving compliance with all applicable Hawai'i laws. Those companies can then compete for state procurement projects without having to go to a multiple of offices to acquire a myriad of state compliance documents.

Other major accomplishments include: (1) BREG system enhancements to speed up processing; (2) a redesign of the department's Website to improve access to information; (3) an upgrade of the department's 5 main database systems from AIX 4.3/Oracle 8i to AIX 5.1/Oracle 9i; (4) the upgrade of the department's fiscal system; (5) filing insurance rates and policies via the web; and (6) addition of high-speed network access for the department's neighbor island offices.

Improvements underway at this time, include: (1) PVL online surety submittals; (2) INS system enhancements; (3) DataMart enhancements; (4) the department's electronic leave system enhancements; (5) creation of a DFI database; and (6) creation of a uniform business information model for department-wide complaint management system.

Improvements planned for 2006 include: (1) BREG documents online; Securities complaint information online; BREG data transfer project; (4) OAH decisions and orders online; (5) improved storage, retrieval and archiving of documents in electronic format; and (6) migration of Oracle program to the latest version.

Internally, the department's Information Systems and Communications Office (ISCO) has been reorganized into three branches: administration; infrastructure; and custom applications. Coupled with a focus on procedures, standards and teamwork, ISCO has been able to more efficiently accomplish its projects while stabilizing its backlog of daily maintenance requests. The major maintenance tasks in 2005 were: (1) replacement of the department firewall; (2) hardware replacement and software upgrade for BREG's document management system; and (3) replacement of approximately 100 PC's and 18 laptops across the department.

## **CONCLUSION**

The department continues to make a concerted effort to expand and improve its use and operation of information technology as a means to improve efficiency and effectiveness of our programs. Although this effort has been focused for the past five years on creating new and better services for our customers, there

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

is a strengthening parallel effort to make ISCO into a strong and resilient organization that can sustain this growth, while effectively maintaining and ensuring the integrity and reliability of the systems it is responsible for.



## BUSINESS REGISTRATION DIVISION (BREG)

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

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### **OVERVIEW**

The Business Registration Division (BREG) has two primary functions. Its ministerial duties include the processing and maintaining for public access registrations of corporations, general and limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies, trade names, trademarks and service marks and, providing information and services to coordinate, simplify, and expedite permit application processing for persons engaged in or intending to engage in business activities in the state. Its regulatory function includes substantive regulatory oversight of the securities industry in the State of Hawaii in the following areas: (1) licensing and registration of broker-dealers, securities salespersons, investment advisors, investment advisor representatives, securities and franchises offered for sale in the State, (2) examination of the books and records of broker-dealers, securities salespersons, investment advisors, investment advisor representatives, (3) examination of securities and franchises offered for sale in the State, and (4) the enforcement of the uniform securities act and the franchise investment law.

### **Composition**

The division occupies offices located at 335 Merchant Street, Honolulu, HI 96813 on the second floor and at 1130 North Nimitz Highway, Second Level, Suite A-220. In order to carry out the division's two primary missions, the division is segregated into four separate branches: (1) the Documents Registration Branch, (2) the Business Action Center Branch, (3) the Securities Compliance Branch, and (3) the Securities Enforcement Branch. These branches are supported by a fifth branch, the Office Services Branch. The division's staff includes attorneys, investigators, securities examiners, an auditor, business registration assistants, business action center clerks and clerk-typists, legal stenographers, licensing clerical staff, clerical support staff and administrative staff.

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

The **Business Action Center Branch** provides information and services to coordinate, simplify, and expedite permit application processing for persons engaged in or intending to engage in business activities in the state. The center helps Hawaii's entrepreneurs with information and assistance completing the applicable forms necessary to obtain a general excise tax license, register a trade name and employer registration.

The center also provides information on required permits for state, county and federal government agencies, counseling and workshops offered by other business resource programs, alternative financing, government procurement and other useful information to help make small businesses successful.

The **Securities Compliance Branch** handles the registration and licensing activities for the securities industry operating in the State. This includes the licensing of securities broker-dealers, securities salespersons, investment advisers, investment adviser representatives, the registration of securities offerings, and the filing of franchise offering circulars in the State. The branch is also responsible for conducting field examinations of the books and records of securities broker-dealers and their salespersons, investment advisers and their representatives licensed by the State.

The **Securities Enforcement Branch** enforces the uniform securities act and the franchise investment law in the State by taking action against those persons and/or firms both licensed and unlicensed who violate securities or franchise laws or purposely evade them. The branch has also worked in conjunction with other government agencies such as the Office of Consumer Protection and the Regulated Industries Complaints Office in DCCA, the Honolulu Police Department's White Collar Crime Unit, the County Prosecutors' Offices, the U.S. Bankruptcy Trustee, and other federal and state securities and law enforcement agencies.

## ***GOALS, OBJECTIVES and ACCOMPLISHMENTS***

### ***Documents Registration Branch***

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

The Documents Registration Branch processed approximately 88,000 documents this year and maintains the public registry of close to 135,000 active business entities. The active files include business entities that have been on record with the State for over 100 years. Information is also retained for business entities that have been dissolved or cancelled. Minimal information must be kept for these inactive files for the purposes of research, litigation, real estate transactions, and general business use.

As part of a comprehensive information systems plan to meet the increasing number of requests for services from the branch, the branch's computerized processing and data storage infrastructure was redesigned and reconfigured with the development of

a new data storage and retrieval system to improve public access to records on file that allows for the electronic filing of documents. The new systems completed to date include: (1) a state-of-the-art imaging workflow system with public internet access to the record and (2) document filing and certification services via the internet.

### ***Goals and Objectives***

The goal of the Documents Registration Branch is to become one of the fastest, most efficient, customer-oriented business registries in the nation. To accomplish this goal, the management identified and studied the “best practice” states in the country renowned for business registration services. Based on that study, the branch’s ongoing objectives are to: (1) review and implement policies and procedures designed to achieve a level of efficiency in processing document filings and information requests in a timely manner consistent with the “best practice” states, (2) review and where appropriate modernize the business laws by making it track as closely as possible the most current versions of the uniform or model law, and (3) implement an information system based on state-of-the-art imaging work-flow technologies that will also allow public access to records and electronic filing of documents over the internet.

### ***Accomplishments***

The Documents Registration Branch went live with a number of technological improvements over the last several years. The Business Registration Information Management System (“BRIMS”), a computerized data storage and retrieval system, replaced the old legacy Wang-based system with a state-of-the-art Oracle-based system. BRIMS complements the Registration Documents Processing Management System (“RDPMS”) which is a computerized processing and recording system for all documents based on imaging work-flow technology.

The branch has worked with the Hawaii Information Consortium (HIC) the State’s internet portal partner, to create a one-stop filing website at [www.ehawaii.gov](http://www.ehawaii.gov), where customers wishing to start a business can file once through the internet portal and register their business entity with the Department of Commerce and Consumer Affairs, obtain a general excise tax number with the Department of Taxation, an identification number with the Department of Labor and Industrial Relations, and the federal employee identification number (“FEIN”) with the Internal Revenue Service. In addition, name searches and certificates of good standing requests can be currently done online. The certificates of good standing can either be mailed or be printed at your own printer with a unique identifying number to authenticate the certificate. Filing of annual reports/statements can be done online as well. Customized lists can be ordered online by subscribers to the internet portal that contain business registration information regarding all of the entities on record.

BREG has entered into statements of work with HIC that plan to: (1) make more forms available for online filing, (2) automate the name reservation and clearance function, and (3) online retrieval of archive documents. These projects are in various stages of development.

The legislation passed by the 2003 and 2004 Legislature and signed into law by the governor updates and modernizes the business law in Hawaii for corporations, limited partnerships and limited liability companies and continues the modernization process begun ten years ago. This has resulted in the most modern business law in the history of the State.

The branch continues to improve upon its web site that can be found at [www.BusinessRegistrations.com](http://www.BusinessRegistrations.com) and includes business registration information, forms, instructions, rules, and answers to frequently asked questions. We are the only business registry in the country that is seeking to create a brand identity through a URL. We are also one of the few business registries in the country with the technological and legal infrastructure in place that allows both online incorporation and annual filing, however, a growing number of other states have similar plans in the near future.

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

The Business Action Center Branch is supervised by a Business Action Center Supervisor who is responsible for the work of three business action center clerks. The Business Action Center program was transferred from the Department of Business, Economic Development and Tourism to the division, effective July 1, 2005, by Act 62 (2005).

### ***Goals and Objectives***

The goal of the Business Action Center Branch is to provide information and services to coordinate, simplify, and expedite permit application processing for all persons engaged in or intending to engage in business activities in the state who need assistance. To accomplish this goal, the division is working to fully integrate the new program into the division and preparing to explore development of neighbor island operations that deliver similar services to neighbor island residents who may be at a disadvantage because the center is based on Oahu.

### ***Accomplishments***

The Business Action Center program was transferred from the Department of Business, Economic Development and Tourism to the division, effective July 1, 2005, by Act 62 (2005).

### ***Securities Compliance Branch***

The Securities Compliance Branch of the division is supervised by a Specialist who is responsible for the work of six examiners, five licensing clerical staff, and one secretary. The branch currently has approximately 57,000 securities salespersons and over 1,300 broker/dealer firms on record licensed to sell securities. In addition, the branch has close to 50 state registered investment adviser firms and over 1,000 registered investment adviser representatives on record. The branch also processed over 900

franchise offering circular filings and close to 1,500 filings for the private placement of securities in FY05.

### *Goals and Objectives*

The goal of the Securities Compliance Branch and Securities Enforcement Branch is to become one of the most effective state securities regulatory agencies in the country. To accomplish this goal, the management identified state agencies renowned for effectiveness and respect as securities regulators based on input from industry organizations, the United States Securities and Exchange Commission, and the North American Securities Administrators Association.

Based on that study, the Securities Compliance Branch's objectives are to: (1) modernize the securities laws by repealing the current Uniform Securities Act and enact a new securities laws based on the 2002 Uniform Securities Act, (2) implement an on going comprehensive training program, (3) implement a regular field examination cycle for registered broker/dealers and state registered investment advisers, and (4) develop comprehensive investor education programs to improve investor awareness of and increase investor self-protection against investment fraud and abuse.

### *Accomplishments*

The staff hired into new securities examiner supervisory positions have been fully integrated and sufficiently trained to a level where each can conduct field examinations independently with minimal instructions from the examination supervisor. The additional staff has contributed to the efficient management of the volume of applications and renewals received this year and maintaining an end to the broker/dealer salesperson application backlog and increased the number of field examinations conducted. In addition, the recently added personnel continued to keep other backlogs low in pending applications for broker/dealers, investment advisers and their representatives.

The branch also expanded implementation of the new web-based Investment Adviser Registration Depository ("IARD") to investment adviser representatives, which allows investment advisers and their representatives to file and renew applications electronically the same way that broker/dealers and their salespersons currently do over the CRD. The IARD was implemented simultaneously nationwide with all other state securities regulators and is designed to facilitate the registration process.

A field exam program cycle continued throughout the year to provide examinations of broker/dealers and state-registered investment advisers in Hawaii. Regular examinations are conducted of broker/dealers and state regulated investment advisors located on all islands throughout the State to provide on-sight review of compliance with the books and records requirements under Hawaii law.

The branch is also continuing its comprehensive training program for professional development of its securities examiners staff. Currently, the branch is supporting training

leading to the Certified Regulatory and Compliance Professional from the NASD Institute for Professional Development.

Investor education continues to be another important mission, and substantial progress was made over the last year. The division implemented more investor education outreach projects that resulted in a number of televised programs, Neighbor Island outreach, appearances at a senior fair, and before various consumer groups by division staff.

The division continued to co-sponsor the Hawaii Stock Market Simulation with the Hawaii Council on Economic Education to provide 10-week simulation in both the spring and fall semesters which teaches student teams about stocks, bonds, and mutual funds through investing a hypothetical \$100,000 using a computer program that used the actual stock market data. The simulation was offered to Hawaii's students free of charge and was designed to teach students how to invest wisely and develop a strong portfolio. In conjunction with the Hawaii Stock Market Simulation, the division also worked with the Hawaii Council on Economic Education to offer Hawaii's teachers with Investing Basics workshops on Oahu, Maui, Kauai and the Big Island.

The investor education talk show series "Financing Your Future I," and "Financing Your Future II," which the division retained the Department of Education, Office of Information & Telecommunication Services, Teleschool Branch to produce in 2001 and 2002, continued to air throughout the year at different times and on different days to inform the public of investor education issues.

The division also distributed 26 individual brochures and one booklet covering a wide range of investor education topics from how to select an investment profession to how to avoid scams and fraud for handout at presentations and fairs. On-site presentations and lectures reached over 2,000 persons during the year at the University of Hawaii Manoa and Hilo campuses, town hall meetings, community centers, retirement centers, community colleges, and high school and middle school classes.

### ***Securities Enforcement Branch***

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

### ***Goals and Objectives***

The branch continues with the implementation of a comprehensive training program to improve the quality and efficiency of the securities enforcement work. The program consists of: (1) modernizing the securities laws by repealing the current

Uniform Securities Act and enact a new securities laws based on the 2002 Uniform Securities Act, (2) online retrieval of information on complaints against the securities industry and division decisions and orders to increase transparency in the securities industry, (3) cross-training with licensing clerks and securities examiners of the Securities Compliance branch, (4) in-house training with panels of regulatory enforcement and legal experts from other regulatory and law enforcement agencies, academia, and industry, and (5) outside training classes and conferences.

Based on the above-referenced study of the most effective state securities regulatory agencies in the country, the Securities Enforcement Branch's objectives are to: (1) implement a comprehensive training and development program that includes extensive cross-training (for all employees of both securities regulatory branches) and outside training courses and conferences, including training with other securities regulatory agencies, particularly those provided by invitation from the U.S. Securities and Exchange Commission and National White Collar Crime Center, (2) develop closer working relationships with other law enforcement agencies like local police departments, local prosecutors' offices, the Federal Bureau of Investigation, and the Internal Revenue Service in order to coordinate law enforcement activities between agencies and programs in securities enforcement cases where appropriate, (3) develop closer relationships with the media to engage their assistance in raising public awareness of and increase self-protection against potential securities fraud and abuse by reporting on enforcement issues and cases, and (4) develop and implement a more useful case tracking system that will monitor progress of cases more effectively and measure the impact of the professional training program.

### *Accomplishments*

As a result of the enforcement work of the branch, the division issued one (1) Order to Cease and Desist, obtained one (1) final order, three (3) consent orders, five (5) consent agreement, and one (1) judgment in FY05. The staff was required to prepare for and attend numerous hearings and court appearances. These appearances took place before the Administrative Hearings Office of the Department of Commerce and Consumer Affairs and in the Circuit Courts of the State of Hawaii and U.S. District Court.

The Securities Enforcement Branch and the Securities Compliance Branch continued to implement an extensive and comprehensive training program that includes: (1) cross-training with personnel from each branch who teach personnel in the other branch about what they do and how, (2) outside training in the form of seminars and conferences specifically aimed at improving skills and achieving more effective regulatory actions, and (3) frequent interaction with regulators in other states. The training and interaction continued to result in more focused enforcement with attention on more effective regulatory impact to improve the integrity of the marketplace through the use of conduct remedies and monetary penalties. Currently, the branch is supporting training leading to the Certified Fraud Examiners designation for investigators and the Certified Regulatory and Compliance Professional from the NASD Institute for Professional Development for attorneys.

The branch continues to issue press releases and work with the department communications director in order to publicize regulatory actions and raise public awareness of and increase investor self-protection against potential investment fraud and abuse. The result has been more visibility in the community for enforcement efforts.

The branch continues to monitor the progress of its cases. This has been made easier by the implementation of the Complaints Management System (“CMS”), a new case management tracking system. The result has enabled more efficient and effective control of the caseload overall. The additional training, focused procedures and approach, and more media exposure with its intended deterrent effect enabled the branch to conduct more effective regulatory oversight of the securities industry and securities fraud in the State. During the past fiscal year, the branch assessed approximately \$191,000 in fines and penalties, suspended \$100,000 of the fines and penalties in order for investors to receive approximately \$122,000 in restitution and collected \$19,000; and ordered two (2) permanent bars. Also, as a result of the branch’s investigatory efforts, approximately \$336,000 was recovered for investors without prior to the division taking legal action.

Finally, the branch with the assistance of the Department of Taxation has extended the Tax Intercept Program to garnish state tax refunds for delinquent fines and penalties assessed as a result of securities law enforcement actions.

The CRF financial summary relating to BREG for FY 04-05 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,521,294	\$1,198,032	\$4,719,326	\$6,652,299

**CONCLUSION**

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



## CABLE TELEVISION DIVISION (CATV)

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

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

### OVERVIEW

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

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

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

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

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

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

### *Composition*

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

### **GOALS and OBJECTIVES**

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

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

### **ACCOMPLISHMENTS**

Plan for Public, Education, and Government ("PEG") Access – After a year of public meetings on different islands, consideration of the testimony submitted and review of the comments in response to the draft plan, DCCA finalized its PEG Access Plan in January 2004. The Plan sets forth a guide to the future development of PEG access television in Hawaii and DCCA's view on the present agreement with the PEGs and proposed ideas for future agreement. The CATV division has implemented many of the plan components and will continue its collaborative efforts with the PEG access organizations.

Cable Advisory Committee (CAC) – DCCA reconvened the CAC which had been dormant for many years. The CAC first met again in June of 2004 and subsequently, meetings have been held on each

of the major islands. This has allowed neighbor island residents not participate in cable television related matters. The CAC was established by statute to advise the Director and cable operators, at their request, on cable matters.

Consultant's Report on Franchise Fee Collection – DCCA contracted with a certified public accounting firm to conduct a review of the franchise fee payment by the cable operators for each of the different franchise areas. The reports were completed in 2004 and determined that there were over-collections in most franchise areas as well as under-collections in two franchise areas. DCCA is working on decisions and orders to allow for a return of the over-collected amounts by the cable operator to subscribers. In addition, the DCCA will continue these reviews into the future every two (2) years. This will ensure that the franchise fee collection process is being conducted accurately.

Review of Public, Educational and Governmental (PEG) access organizations – DCCA commenced an independent third party review of all PEGs during the fall of 2004. On-site reviews of each PEG by the independent consultant focused on contract compliance, by-law compliance, timely complaints resolution, financial management and accounting, and equipment use and maintenance. The independent consultant's reports have been posted to the DCCA website and current plans call for many of these recommendations to be incorporated into future contracts between the DCCA and PEG access organizations.

Direct Broadcast Satellite (DBS) Service – CATV continues to advocate for equivalent DBS service for Hawaii and maintains its on-going efforts before the Federal Communications Commission ("FCC") to ensure that DBS service to Hawaii is equivalent in programming and pricing to the service found elsewhere in the continental United States. Due to our efforts and those of Senator Daniel Inouye, DBS service is currently available in Hawaii but not at levels found on the mainland. Echostar – DishNetwork has made significant progress in their service offerings, including local-into-local service. Our most recent efforts have been focused on DirecTV which has not offered equivalent services that are available on the mainland. We will continue to lobby for and demand equal treatment by DBS providers.

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

Federal Telecommunications Legislation and FCC Rulemaking – CATV continues to monitor and participate in recent developments in Congress and at the FCC. Proposed telecommunications legislation, which would have replaced the Telecommunications Act of 1996, was expected in 2005. The Congress is now expected to take action on this legislation sometime in 2006. In addition, the FCC has also taken

action on telecommunications matters, most recently relating to broadband services. The CATV division actively monitors these matters and participates in matters affecting cable television consumers in Hawaii.

The CRF financial summary relating to CATV for FY 04-05 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$307,673	\$387,608	\$695,281	\$1,490,943

**CONCLUSION**

The year 2005 was a remarkable year for CATV, due in part to the rapid development of advanced technology by cable companies. The continued deployment of fiber to node architecture provided increased bandwidth capacity for traditional services such as video programming as well as for new interactive and digital services. Thus, given the nascent nature of digital technology relative to cable, CATV had and presently has the continuous task of monitoring the public's present needs and future interests.

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

## DIVISION OF CONSUMER ADVOCACY (DCA)

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

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

### OVERVIEW

The Division of Consumer Advocacy (Consumer Advocate, DCA, or Division) represents the interests of consumers of utility, and transportation services before regulatory agencies, primarily the Hawaii Public Utilities Commission (PUC), and also the Federal Communications Commission (FCC), and the Federal Surface Transportation Board. DCA reviews requests for rate/tariff changes, capital improvement projects, integrated resource plans, issues regarding competition in the telecommunications and electric industries, certificates to operate, and other applications filed with regulatory bodies by utility and transportation companies. In representing the consumer before the PUC, the DCA must analyze financial and statistical data, prior docketed material, industry standards, and the information provided by the utility and transportation companies to support their applications. After analyzing the information, DCA must submit a written statement of position or testimony explaining the analyst's analysis, findings, and recommendations to the PUC. Oral testimony by DCA analysts, subject to utility company cross examination, is required if an evidentiary hearing before the Commission is required to resolve differences between the utility and DCA.

### Composition

The DCA consists of 23 employees, ranging from administrator, secretary, utilities/transportation officer, utilities/transportation specialist, IRP and telecommunications specialists, economist, statisticians, tariff analyst, auditors, engineers, attorneys and clerical support. DCA is located on the third floor of the King Kalakaua Building, 335 Merchant Street. Mailing address is P.O. Box 541, Honolulu, HI 96809; phone number: 586-2800; internet address: [www.hawaii.gov/dcca/dca/](http://www.hawaii.gov/dcca/dca/).

DCA is comprised of the Financial Analysis Branch, the Economics and Pricing Branch, the Engineering Branch, and a Legal Branch.

The *Financial Analysis Branch* examines and analyzes the financial accounts, records and transactions of public utility and transportation companies under differing financial and operational assumptions. This data is utilized in developing projections of companies' operating expenses and rate base for rate-setting purposes. The Branch evaluates the allocation of common costs by analyzing the allocation methodologies to detect discriminatory allocation practices of expenses common to both the regulated and non-regulated operations. The Branch reviews current accounting pronouncements to ensure the compliance in the financial information presented by the regulated companies.

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

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

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

DCA has four exempt staff positions—the Public Utilities/Transportation specialist, Integrated Resource Planning (IRP) specialist, Telecommunications specialist and the Education specialist. The Public Utilities/Transportation specialist assists the Public Utilities/Transportation Officer in managing the overall work pertaining to matters filed before the regulatory agencies such as the PUC and FCC. The IRP specialist focuses on filings pertaining to the electric companies and has primary responsibility for reviewing the integrated resource plans and related demand side management programs applications. The telecommunications specialist focuses on filings pertaining to the telecommunications industry.

DCA's Education Specialist is responsible for consumer education and outreach, monitoring consumer complaints filed with regulatory agencies, and attending public hearings, neighborhood board meetings, and various other community events to gain public input about specific issues affecting consumers. The Education Specialist is also responsible for updating and maintaining the Division's web site content.

## ***GOALS and OBJECTIVES***

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

### ***Consumer Advocacy***

#### ***Goal***

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

#### ***Planned Approach/Methods***

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

A majority of the Division's resources will continue to be focused on PUC proceedings. These proceedings often affect the rates and potentially affect the reliability of utility systems and services. The

Division's involvement in PUC proceedings will typically involve some or all of the following:

1. review of applications to ensure compliance with regulations;
2. attendance at PUC public hearings;
3. procurement of consultant services for complex cases;
4. conducting discovery;
5. analysis of applications and supporting documents to ensure their accuracy, and the reasonableness of the requests;
6. making recommendations to the PUC on the merits of the applications through statements of position or direct testimony; and
7. providing testimony and being subject to cross-examination in proceedings where evidentiary hearings are necessary.

The Division also will remain flexible and willing to work with applicants and the PUC where the negotiation and settlement of proceedings or particular issues within a proceeding is in the consumers' best interest.

While the PUC proceedings often involve rate issues, the Division also considers, to the extent possible, the long term costs and or benefits of proposals in an effort to determine what will ultimately best serve consumer interests with regard to reliable service and reasonable rates.

### ***Measures***

To measure the Division's performance in advocating for consumer interests the Division will continue to track various categories of information. Included are consumer savings due to the its participation in PUC proceedings, the percentage of PUC decisions that agree with the Division's recommendations, the number of service quality investigations it participates in, and the numbers of various types of PUC filings reviewed by the Division.

While these measures can be ascertained by direct measurement, the Division is also very active in many matters where the outcomes have significant impacts on utility, communications, and transportation consumers but cannot be directly measured or quantified. Some of these will be discussed below in the Division's explanation of its policy advancement objectives.

### ***Policy Advancement***

#### ***Goal***

The Division will remain active in determining and promoting policies to protect and advance the interests of utility, communications, and transportation consumers on the local, state and national levels.

#### ***Planned Approach/Methods***

In PUC generic/policy proceedings, the Division follows a similar approach to its review and analysis of applications. After the Division and other parties to the proceeding state their initial position on the issues, discovery and analysis is done on the various parties' positions. Meetings between the parties

are typically held to discuss and educate each other on the issues and positions taken, and where possible agreement is reached. The Division ultimately recommends to the PUC what it believes to be in the best interest of consumers. Specific ongoing policy dockets are discussed later in this report

As a member of the Federal Communications Commission's Consumer Advisory Committee, the Division is able to provide input to the FCC on national communications issues that also affect Hawaii consumers. The Division will continue to be an active participant in helping formulate committee recommendations to the FCC as they make decisions regarding the implementation of our federal communications laws.

The Division has been monitoring and will continue to monitor Congressional activity in the utility, and communications areas. The division will continue to maintain contact with its Congressional delegation, particularly those members sitting on committees that deal with energy and communications, and will continue to provide input where appropriate.

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

The Division will also continue to be actively involved with the State Legislature which ultimately sets policy on the State level. The primary means has been to advise legislators through testimony of the consumer benefits or detriments relating to specific proposals they are considering. The Division has begun to attempt to take a more proactive approach by working with legislators and policy groups on the development of proposals.

### *Measures*

Measuring performance of efforts to promote policy objectives is inexact. While the Division tracks the percentage of its positions that the PUC ultimately agrees with, this measure does not capture the efforts throughout proceedings to educate and work with other parties to come to agreement on issues. The Division can develop similar measures (i.e. whether their recommendations are ultimately agreed with by those setting the policy) at the state and federal agency and legislative bodies, but similar "inexact-ness" will result.

### *Education & Outreach*

#### *Goal*

The Division's goal is to encourage the public to be wiser consumers of public utility services by emphasizing the possible affects that their consumption may have on utility rates and the environment. It is also through the education and outreach process that the Division aims to gather consumer input on utility issues.



### ***Planned Approach/Methods***

Through the use of its web site, public outreach activities, and effective communications the Division can accomplish its goals of positively affecting the habits of consumers throughout the state. With this in mind it has established an action plan to help it reach its goals and objectives.

The Division will continue to update and improve its web site with consumer friendly and useful content while consulting other state consumer advocates and their web sites for new ideas.

The Division will continue to maintain information booths and give presentations at community events, such as home shows and public fairs throughout the State. It will continue to expand these projects while looking for ways to build positive relationships with both business and community members. The Division will continue to strengthen its relationships with DBEDT's Energy Branch and other local, state and federal government agencies. It will also increase its focus on educating small businesses and helping them understand the benefits of demand side management and energy efficiency and how these issues can affect their bottom line.

The Division will also continue to improve communications with consumers and the public through the publication of its quarterly newsletter, and expand its distribution while continually developing relevant and interesting content.

The Division also plans to hold informational seminars and is considering the use of public service announcements, both of which will highlight different utility issues and topics.

### ***Measures***

To measure the Division's performance and progress of its education and outreach activities it will track the number of web page hits, events it attends, the correspondence it receives, and the number of newsletters it produces and distributes.

## **ACCOMPLISHMENTS**

In 2005, results of the Division's efforts to protect and advance the interests of consumers were seen through its work on behalf of individual communities, as well as major utility issues that will have far-reaching impacts on people throughout the state. Several of these efforts are described below.

### ***Hawaiian Telcom***

The Division thoroughly reviewed the application for the sale of Verizon Hawaii to the Carlyle Group, and recommended conditional approval of the transaction to the PUC. After hundreds of information requests, and numerous meetings with the applicants and other parties in the docket, the applicants agreed to abide by several conditions to the sale which were subsequently approved by the Commission. Among the conditions were that the new company (Hawaiian Telcom) would not seek a

general rate increase before 2009 unless there is a compelling need and additional equity is put into the company, that the transaction costs of the sale would not be recovered from ratepayers, and that reporting of various aspects of the company and its affiliates be made available to regulators. Verizon Hawaii also agreed to pay for a customer appreciation credit totaling \$12 million.

### ***Enhanced Wireless 911 Services***

The Division has been an active participant in the state's implementation of an order issued by the Federal Communications Commission (FCC) mandating that enhanced 911 (E-911) service be provided by wireless telecommunication carriers. The passage of Act 159 in 2004 provided the framework to implement the state wireless E-911 system to route emergency calls to emergency responders along with the wireless callers identification and location. Act 159 also established a Wireless Enhanced 911 Board that oversees the collection and distribution of money collected by the E-911 special fund. As a member of the board, the Executive Director of the Division has continued to be an active participant in the implementation of this system which is critical to the public safety of both Hawaii residents and visitors.

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

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

### ***One Call Center Advisory Committee***

The Executive Director of the Division is also a member of the One Call Center Advisory Committee, which makes recommendations to the PUC regarding the implementation of Chapter 269E, Hawaii Revised Statutes (Act 141 SLH 2004). This advisory committee was integral in developing the request for proposals for a vendor to operate this "call-before-you-dig" system. The system, which will be operational by January 1, 2006, will reduce the risk of critical services being disrupted, will insure greater public health and safety, and save excavators time and money.

### ***Distributed Generation and Competitive Bidding***

In FY ending 2004, the PUC initiated two dockets to examine the potential benefits and impacts of distributed generation on Hawaii's electric distribution systems and market, and to evaluate competitive bidding as a mechanism for acquiring or building new generating capacity in Hawaii. Distributed generation involves the use of small-scale electric generating technologies installed at, or near the end user's location. The objective of this proceeding is to develop policies and a framework for distributed generation projects deployed in Hawaii. The competitive bidding process has been widely implemented throughout

the United States, and may serve as an alternative for Hawaii to facilitate wholesale market competition and enhance the potential for higher efficiency and lower costs for its electric industry. The Division has been actively engaged in developing recommendations for the PUC in both dockets by researching and analyzing the many policy and technical issues involved, while ensuring that the interests of Hawaii's consumers are protected. In this vein the Division strives to ensure the provision of continuous reliable service at reasonable costs, while at the same time advancing the state's energy objectives.

### ***Integrated Resource Planning***

Integrated Resource Planning (IRP) is a means for each energy utility to forecast their customers' needs and then create a "blue print" that outlines the actions it will take to meet the energy needs of its customers, both in the short and long term. This blue print will outline the capitol improvement projects necessary to ensure an adequate supply of energy and look at ways to reduce the customer base energy needs through Demand Side Management. The plan must be approved by the PUC, and serves as the guide for future utility projects and plans.

The IRP process is critical to the planning of Hawaii's energy future and must encompass many issues, often considered in isolation, as part of an integrated whole. Among the issues that must be thought out, worked through and integrated into a cohesive plan are those dealing with new central generation, demand side resources, renewable energy resources, distributed generation, interconnection, purchased power, and transmission. The IRP process is a docketed matter before the PUC and as such the Division is playing an active role through participation on various advisory groups and related committees, through attendance at public hearings to ensure that consumer interests are well represented, and in the review of the formal IRP plans as they are submitted to the Commission. It is our goal, that consumers realize savings through careful planning and analysis of the actual need for costly generation plants and effective demand-side management programs.

### ***Hawaii Energy Policy Forum***

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

In addition to the above proceedings, during FY 03-04, the Consumer Advocate reviewed 152 motor carrier tariff change requests, and 117 non-rate applications, such as applications for capital improvement projects, purchase power agreements, and certificates of public convenience and necessity.

**Education and Outreach**

During the past year the division has, for the first time, focused a considerable amount of time and effort on education and outreach activities. This has allowed the Division to significantly increase its ability to educate consumers and extend its reach into communities throughout the state. 2005 saw the publication of the Division’s first newsletters, which have become centerpieces in many of its educational activities. E-mail subscription lists and networks, and public events have proven to be effective, low cost means for distribution. The Division has also used other communications tools such as press releases, its web site, and other in-house produced publications. These tools were used to highlight various utility issues and to encourage greater participation in PUC public hearings, energy conservation and efficiency efforts, and to help promote a better understanding of the local regulated water & wastewater industries. Other successes came through the Division’s first attempt at setting up informational displays at shopping malls on the neighbor islands as it focuses more on meeting the needs of these consumers.

The CRF financial summary relating to DCA for FY 03-04 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,144,000	\$539,661	\$1,683,661	\$2,569,928

**CONCLUSION**

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

## DIVISION OF FINANCIAL INSTITUTIONS (DFI)

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

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

### OVERVIEW

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

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

DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and re-accredited in 1995 and 2000. The CSBS accreditation program sets high standards for state banking regulators nationwide. DFI has continued to meet these high standards, with the support of the Legislature, DCCA Director, and Governor.

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

### Composition

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

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

## **GOALS and OBJECTIVES**

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

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

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

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

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

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

## ACCOMPLISHMENTS

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

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

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

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

Supervision of the Money Transmitter Industry in Hawaii. DFI drafted bills, introduced in both the 2004 and 2005 Legislatures, which proposed the registration of money transmitters doing business at locations in this State. The proposed legislation had the support of many of the principal money transmitters currently operating in Hawaii, along with local and federal law enforcement authorities and the Department of the Attorney General. The Auditor, in a 2004 Sunrise Study, concluded that no regulation of the money transmitter industry in Hawaii appeared necessary, and the Legislature, in both the 2004 and 2005 sessions did not advance money transmitter bills through the full legislative process. However, DFI strongly believes that both the Auditor's report and the Legislature have not adequately considered the use of money transmitters to facilitate the financing of criminal activities and potential terror related events. In addition, the vulnerabilities of legitimate consumers that utilize these services are of continuing concern. DFI is working closely with the industry to have a bill introduced in the 2006 Legislative session which will provide a regulatory framework for necessary non-bank money services, address those concerns relative to criminal activities and terrorist financing, and protect legitimate money service businesses and their customers from unnecessary discrimination due to overzealous enforcement of federal statutes.

Mortgage Broker Regulation. Mortgage Brokers and Solicitors currently register with DCCA's Professional and Vocational Licensing Division (PVL). The significant impact the mortgage broker industry has recently had on consumers has resulted in many states developing statutes to actively regulate and supervise brokers in addition to registering them. The Hawaii Association of Mortgage Brokers (HAMB) introduced a bill in the 2004 legislative session which would have provided more robust

regulation and supervision of the local industry, which is consistent with the objectives of their national association. While that bill was not enacted, and an administrative bill with similar intent introduced in the 2005 session did not pass, more focused regulatory oversight of both the national and local mortgage broker industry still appears to be an appropriate goal. DFI continues to work with HAMB and various individual mortgage brokers to assist them in achieving their objectives in this regard.

Ongoing Efforts to Update the Escrow Depository Law. DFI has, for several years, introduced legislation to comprehensively amend portions of Chapter 449, Escrow Depositories, Hawaii Revised Statutes (HRS). Bills to accomplish this were introduced in the 2004 and 2005 Legislative Sessions. Among significant revisions, the bills included provisions to: authorize a limited liability company to be licensed as an escrow depository; enhance the confidentiality of escrow depository records filed with DFI; provide for more thorough background investigation, including fingerprint checks, for key personnel; adjust the required amount of an escrow depository bond in line with the number of branches operated by an escrow depository; require a mandatory disclosure of risks to escrow parties when escrow funds are deposited in sweep accounts; and simplify the procedures for voluntary termination of business. As these administration bills failed to pass in either the 2004 or 2005 sessions, DFI has now encouraged escrow industry representatives to become more involved in the legislative process and introduce their own bill to update the statutes governing their business operations. DFI continues to provide professional and technical support to the escrow industry association to assist them in updating the laws relevant to their business operations and looks forward to working with them during the 2006 legislative session.

Continued Development of DFI's Emergency Preparedness Program. As a direct result of September 11 and its aftermath, and the recent devastating hurricanes in Florida and the Gulf Coast, DFI continues to develop, implement, and maintain multiple level Emergency Preparedness contingency plans. Maintaining and safeguarding the adequate supply of currency to the public as well as efficient access to deposit accounts is the main objective of these plans. As the overall State of Hawaii coordinator for all the financial institutions operating in Hawaii, DFI has expanded the original concept (Air Transport Contingency Plan) developed by the Financial Institutions Liaison Team (FILT). In 2004 the FILT, under DFI guidance, developed, implemented and tested a statewide emergency communications plan which included all Hawaii financial institutions, with particular emphasis on the depository companies. This plan has been expanded and refined in 2005. DFI will continue to work with the State's financial institutions, Hawaii State Civil Defense, federal regulators, Federal Aviation Authority, the Hawaii Bankers Association, and the Hawaii Credit Union League and others to ensure that robust and comprehensive emergency preparedness plans are developed, implemented and maintained going forward.

Reaccreditation. DFI is accredited by the Conference of State Bank Supervisors (CSBS), the industry association for all state financial service regulatory agencies in the United States. CSBS administers their national accreditation program for state financial service regulatory agencies to insure that the management and staff of these agencies is knowledgeable, appropriately organized, staffed, funded and trained to carry out its responsibilities, which include the authorizing, regulating and supervising of state chartered financial institutions. DFI was originally accredited by CSBS in 1990. Each year thereafter, DFI has been required to file a comprehensive report on the Division's activities, which is evaluated by CSBS, to retain the Division's accredited status for another year. Every 5 years the CSBS staff visits DFI on site in Honolulu to conduct an exhaustive review of every facet of the Division's operations; interview managers, supervisors and staff; and evaluate the overall effectiveness of the program. DFI underwent such an examination in March of 2005, and is currently awaiting the report of results.



Bank Examination Programs. While DFI continues to develop its examination program for Hawaii's two largest banks (which requires DFI's staff to work closely with the Federal Reserve Bank of San Francisco and the Federal Deposit Insurance Corporation on the joint year-round examinations of Bank of Hawaii and First Hawaiian Bank) cutbacks in federal agency examination staffing and the impending addition of new State-chartered and Pacific intra-regional banks to the Honolulu market have necessitated an increased role in the examination process for DFI. Heretofore, DFI has conducted joint examinations, with the federal regulators taking the lead role in the joint examinations. Going forward, DFI will now lead examinations and take a greatly expanded role in conducting the various components of those examinations. In 2005, DFI took the lead and organized, conducted and reported on a full scope safety and soundness examination for one of Hawaii's mid-sized depository institutions, assisted by the FDIC in a supporting role. The last time DFI served as the lead agency on such an examination was in 2002 on a very small depository institution. DFI's ability to take the lead role is a critical element in the CSBS Reaccreditation review. DFI also continues its Off-Site Monitoring program to enhance its ability to detect significant trends or deviations in the safety and soundness components of the depository financial institutions it regulates and in due course plans to extend the program concept to other groups it regulates.

De Novo Bank Applications. Two groups submitted applications to DFI in 2005 to organize and charter new Hawaii state banks under the provisions of the Hawaii Revised Statutes. Both groups were composed of predominately Hawaii residents who apparently felt that the recent consolidation in the local banking industry provided a good business opportunity to attract new financial service customers in the Honolulu market. DFI had not received a de novo bank application since 1989 and had not actually approved a new State bank Charter since 1959. One of the applications has been approved and the second is still in process as of year end 2005. In addition to these de novo applications, an existing bank chartered in the Federated States of Micronesia submitted an application to operate an intra-Pacific bank branch in Hawaii under a little used provision of the Hawaii Revised Statutes. The application, which was unique in that the applicant bank was "foreign", but still insured by the FDIC, involved close interaction with DFI, the FDIC, the Federal Reserve Bank in both San Francisco and in Washington, and selected branches of the federal government which have an ongoing interest in the Federated States of Micronesia.

Waiver of Examination Fees and Costs. The Hawaii State Legislature through Act 182, 1999 Session Laws of Hawaii, mandated an annual deposit on June 30 of each fiscal year of \$2.5 million from the franchise tax collected under HRS Chapter 241 to the Compliance Resolution Fund (CRF) for the support of DFI's program. The deposit from the franchise tax collections was reduced to \$2 million beginning in FY 2001-2002. In a prior fiscal year, the franchise tax collected was less than the franchise tax refunded resulting in a negative amount for the net franchise tax. DFI received \$2 million on June 30, 2004 and \$2 million on June 30, 2005 from franchise taxes to fund its program for FY 2004-2006. With adequate revenues to support the Division from these funds, DFI temporarily suspended collection of Hawaii financial institution hourly examination fees and costs which reimburse DFI for out-of-pocket examination expenses and thereby lessened the financial costs of state regulation on Hawaii financial institutions.

Educational Outreach to Industry and Public. During 2004 and 2005 DFI and the FDIC and other federal financial institution supervisory agencies conducted a number of outreach activities for the benefit of the industry and the general public. These included a full day seminar explaining requirements for financial institutions under the Bank Secrecy Act and a Director's College which outlined the various duties and standards for directors of Hawaii's financial institutions.

In October, 2005, the Commissioner attended an annual meeting of the Association of Financial Supervisors of Pacific Countries (AFSPC) in New Guinea. At this meeting, the Commissioner continued to seek opportunities for Hawaii to play a part in the future activities of this group by promoting its regulatory expertise in training Pacific Island financial institution examiners, money laundering investigators, etc. Hawaii has been accorded formal Observer status in the AFSPC and the Commissioner is pursuing efforts to arrange for AFSPC's 2006 meeting to be held in Hawaii.

The CRF financial summary relating to DFI for FY 04-05 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,670,116	\$258,063	\$1,928,179	\$2,175,645

(Note: FY 99-00 was the last year that DFI received general funds support.)

**CONCLUSION**

During FY 04-05, in addition to its established regulatory and licensing programs, DFI continued to expand, develop and implement examination programs in response to new federal legislation and changing circumstance in the industries regulated by the Division. The formation of new banks in Hawaii and the strict requirements of the CSBS accreditation process have necessitated improved standards of performance – a challenge to which the DFI staff has enthusiastically responded.

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

**INSURANCE DIVISION (ID)**

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

**OVERVIEW**

The Insurance Commissioner heads the Insurance Division and is assisted by the Chief Deputy Insurance Commissioner.

The ID is responsible for administering chapters 431, 431K, 431L, 431M, 432, 432C, 432D, 432E, 435C, 435E, 448D, 481R, 481X, and 488, Hawaii Revised Statutes (HRS), relating to licensing, supervision, and regulation of all insurance transacted in the state by all insurance entities.

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

	<u>@ 6/30/05</u>	<u>@ 6/30/04</u>
Insurance Companies.....	957	963
Captive Insurance Companies.....	153	130
Producers.....	6,064	6,515
Limited Lines Producers.....	1,098	438
Ltd. Lines Motor Vehicle Rental Co. Producers.....	20	13
Nonresident Producers.....	14,516	11,275
Managing General Agents.....	7	n/a
Surplus Lines Brokers.....	382	189
Reinsurance Intermediary Brokers.....	4	n/a
Adjusters.....	592	557
Fraternal Benefit Societies.....	6	6
Fraternal Benefit Society Producers.....	54	158
Mutual Benefit Societies.....	6	7
Health Maintenance Organizations.....	2	2
Independent Bill Reviewer.....	17	18
Service Contract Provider Registration.....	126	123
Vehicle Protection Product Warrantor.....	11	10
TOTAL.....	<u>24,015</u>	<u>20,404</u>

The seven branches of the ID are discussed below in further detail.

**Captive Insurance Branch.** Hawaii’s captive insurance industry began with the enactment of Act 253, Session Laws of Hawaii 1987, which authorized the Insurance Commissioner to license and regulate these specialized insurance companies. was Subsequently codified as Article 19, Chapter 431, HRS, Act 253 was intended to provide local businesses with an alternative to the traditional commercial insurance market, to create a new industry that would help diversify the state’s economy by attracting organizers from out of state, and to create an infrastructure to service this special kind of insurance industry.

In 1998, the Captive Insurance Branch (CIB) was formally established by legislative mandate to provide dedicated resources to prudently monitor, regulate, and develop Hawaii's captive insurance industry, as well as to provide for the sustained development of this industry for Hawaii's economic diversification.

The CIB is currently led by a Captive Insurance Administrator, and includes a Secretary, and 6 Captive Insurance Examiners. The CIB reports directly to the Insurance Commissioner and is responsible for all aspects of licensing, regulating, and developing the captive insurance industry for the State of Hawaii. The size and scope of Hawaii's captive insurance industry has recently surpassed the size and scope of Hawaii's domestic insurance companies.

The growth and refinement of Hawaii's captive insurance industry is anticipated to continue for at least the next 10 years because of the continued hardening of the local, national and international insurance marketplace, the increasing sophistication and demands of businesses to better control their insurance costs, and the emerging need for better insurance products for Japanese and other Asia-based risks.

Effective FY 2005-06, funds expended for the ID's captive insurance program will be defrayed from the Captive Insurance Administrative Fund, pursuant to Act 1, Special Session Laws of Hawaii 2005, .

**Compliance and Enforcement Branch.** When a complaint is filed with the ID, the Compliance and Enforcement Branch (C&E) conducts an investigation to ensure compliance with the applicable statutes and rules. Appropriate disciplinary actions are taken by the C&E when necessary. In addition, the C&E is responsible for processing administrative hearing requests, qualifying applicants to the Hawaii Joint Underwriting Plan Assigned Claims program, qualifying challenges on medical care and treatments to peer review organizations, and coordinating and qualifying Applications for Written Consent received by the Commissioner pursuant to USC § 1033 and HRS § 431:2-201.3. The C&E is comprised of a chief investigator and 3 other investigators.

**Financial Surveillance and Examination Branch.** The Financial Surveillance and Examination Branch (FS&E ) conducts a continuous program of financial analysis and examination of Hawaii-domiciled insurance companies to assure compliance with laws and financial solvency in an effort to safeguard consumer interests and maintain professionalism in the industry. The work of the FS&E is subject to review by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Program (Accreditation Program). The NAIC Accreditation Program requires that insurance departments have adequate statutory and administrative authority to regulate an insurer's corporate and financial affairs, and that they have the necessary resources to carry out that authority. Accredited insurance departments undergo a comprehensive review every five years by an independent review team to ensure they continue to meet baseline standards. The ID was first accredited by the NAIC in 1996 and re-accredited in 2001. The FS&E is comprised of a manager, 7 examiners, and 2 certification specialists.

Other work performed by the FS&E includes:

- Reviewing the Uniform Certificate of Authority Application, filed by companies not domiciled in Hawaii, that are applying for authorization to transact the business of insurance in Hawaii;
- Receiving and auditing premium tax statements from all domestic and foreign insurers;
- Reviewing and processing surplus lines premium tax;
- Licensing and regulating self-insurers;
- Registers risk retention groups and risk purchasing groups; and
- Conducting agency financial examinations when necessary.

**Health Insurance Branch.** The Health Insurance Branch (HI) is responsible for regulating health insurers, including health maintenance organizations and mutual benefit societies. The HI's primary responsibilities are: to receive inquiries and complaints pertaining to health insurance, including long-term care insurance; to receive requests from consumers for external reviews of a health plan's coverage decisions under the Hawaii Patient Bill of Rights and Responsibilities Act and to administer the external review process; to review premium rate filings of health insurers; and to conduct financial surveillance of health insurers. The HI also reviews advertising materials of long term care insurers. The HI is headed by the Program Administrator and has 10 other authorized positions.

**Legal Branch.** The Legal Branch advises the Commissioner, the Chief Deputy, and the ID on all legal matters and is the interface between the ID and the Department of the Attorney General. The Legal Branch functions includes serving as hearings officers for administrative hearings as assigned by the Commissioner; researching insurance issues, providing interpretations of applicable laws and rules, and reviewing and analyzing administrative decisions and rulings, drafting legislative bills and legislative testimony, drafting administrative rules, and preparing requests for formal and informal legal opinions. The Legal Branch also assists ID branches in enforcing compliance provisions within Title 24, HRS, and provides assistance to the Financial Surveillance and Examination, Health Insurance and Captive branches in regards to supervision, rehabilitation, and liquidation proceedings. The Legal Branch is comprised of a supervising attorney, 3 staff attorneys, and a legal assistant.

**Licensing Branch.** The Licensing Branch (LB) oversees the license examination process, issues licenses to qualified applicants, and maintains records for various insurance licensees. The major license types are insurance producer, nonresident producer, and adjuster licenses. The LB is also responsible for continuing education deficiency notices, license renewal notifications, processing of remittance checks, and confirmation and cancellation of these insurance licenses. The LB also works with the Commissioner's advisory board on continuing education requirements for producers. The LB is comprised of a licensing assistant, 6 licensing clerks, and a clerk typist.

**Motor Vehicle Insurance Fraud Investigations Branch.** The Insurance Fraud Investigations Branch (IFIB) conducts a statewide program for the prevention,

investigation, and prosecution of motor vehicle insurance fraud cases and complaints relating to motor vehicle insurance fraud. The IFIB reviews referrals submitted by the insurance industry, other agencies, and members of the public and initiates an investigation in all cases where there is reason to believe that a crime may have been or is currently being committed. The IFIB has a toll-free insurance fraud hotline.

State law requires any insurer or insurer's employee or agent who believes that a fraudulent claim is being made to refer the case to the IFIB within 60 days. The IFIB also employs special deputy attorney generals to initiate criminal prosecutions. By employing deputies who are trained in insurance fraud, all cases receive prompt attention and representation in the criminal justice system.

The IFIB consists of an administrator, 5 investigators, 2 forensic auditors, and a legal clerk. The administrator and 2 contract attorneys are designated as Special Deputy Attorney Generals and are responsible for initiating criminal prosecutions. By employing deputies who are trained in insurance fraud, all cases receive prompt attention and representation in the criminal justice system.

**Office Services Branch.** The Office Services Branch (OS) provides general reception; answers and screens telephone calls; and provides clerical, stenographic, typing, duplicating, and other administrative services for the ID. OS also maintains the ID's central administrative files, including ID's memorandum, newspaper articles, documents, reports; orders office supplies and equipment for the ID; maintains its inventory; and handles the receiving and distribution of ID's general mail. The OS is comprised of a clerical supervisor, a clerk-steno, and 5 clerk typists.

**Rate and Policy Analysis Branch.** The Rate and Policy Analysis Branch (RPA) provides systems and procedures for the conduct and analyses of rate and policy filings of domestic, foreign and alien insurance companies for compliance with State insurance laws. The RPA analyzes and approves or disapproves rate filings for casualty, property, motor vehicle, inland marine, surety, credit life and disability, and medicare supplement insurance. The RPA also reviews policy form filings for workers' compensation, motor vehicle, credit life and disability, long term care, medicare supplement, temporary disability, and title insurance. The RPA is comprised of a manager and 8 rate and policy analysts.

### **GOALS and OBJECTIVES**

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

#### **Short and Long Term Goals the Insurance Division Hopes to Accomplish.**

The ID's goals include the following:

1. Meet its statutorily-mandated requirements
2. Retain accreditation from the NAIC
3. Protect policyholders by examining insurers and captive insurers to ensure financial compliance with statutory requirement and strive for early detection of any potentially hazardous financial conditions to preserve the assets of the insurer
4. Increase the efficiency of the ID's operations
5. Address national insurance issues by working with other state regulators and the NAIC
6. Provide and improve internet access by the public for insurance licensees' public data
7. Provide on-line processing of rate and policy form filings, information on licensing and filing requirements, and forms for licensees

**Policies Explaining How Goals Can and Will be Accomplished.**

1. Through proper personnel and case load management, the ID will strive to meet the statutorily-mandated requirements in the Insurance Code.

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

3. To protect policyholder from insolvent insurers, the ID will continue the timely review and detailed analysis of financial statements filed by insurers to assure their compliance with the statutory financial requirements; perform on-site financial examination at least once every five years or more frequently as necessary as required by statute; and incorporate risk assessment methodology into the examiner's financial analysis work product.

4. For increase efficiency of operations, the ID has moved to computerization and the use of the Internet. The ID developed a database named the Hawaii Insurance Division System (HIDS), which is an integrated system with the licensing module at its core and subsystems to support the other functions of the ID. HIDS provides better management of the large volume of transactions handled by the ID. It has greatly reduced the manual processes and has allowed for the dissemination of information to the public through the internet. The ID's current project is the modification and enhancement of HIDS, and to interface HIDS with the NAIC and the Hawaii Information Consortium databases. The interfaces will improve the efficiency of the ID and provide better services and information via the web to consumers and insurance licensees. This project is scheduled to be completed in FY 2007.

5. To address the regulatory, marketplace and national issues, the ID

participates in NAIC proceedings and attends the NAIC meetings. The members of NAIC are all of the state insurance regulators. The ID is actively involved with NAIC by membership in various committees and by serving as chair of one committee and vice chair of another.

6. The ID's web site provides the public to access to general information on insurance, information on licensees, comparative auto & homeowners premiums, information on how to file a complaint. The ID's current project to interface its database with NAIC and the Hawaii Information Consortium databases will increase the capability of providing more information to consumers on the web site.

The ID will work with contracted vendors to develop additional on-line processing capabilities for insurers, producers and other licensees. Currently, insurers and producers can renew their licenses by paying the fees, obtain license application forms, submit rate and form filings, add or remove producer appointments, and check on continuing education credits on-line. The ID plans to develop on line processing for license applications, producers' continuing education credit submittal, allow for additional rate and form filings, premium tax payments., and searching on complaint information.

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

Hawaii is an Interstate Compact State. Over the next two years, it is anticipated that the Interstate Compact will be triggered and implementation will take place. Continuing improvements to the HIDS, website and interfaces with the NAIC and eHawaii.gov will take place.

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

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

- Resolve 90% of complaints resolved within 30 days.
- Complete 100% of financial examinations of insurers within statutory time requirement.
- Review 90% of rate and policy filings reviewed within statutory time requirement,
- Resolve 80% of motor vehicle fraud cases in favor of the State
- Review and resolve captive insurance related issues within statutory mandate and program time requirements:
  - Complete 100% of applications and business plan amendments.
  - Complete 100% of triennial and organizational examinations



## ACCOMPLISHMENTS

**Captive Branch.** Since the creation of the CIB and the hiring of the Captive Insurance Administrator in 1999, Hawaii has become the premier domicile for captives in the Pacific Basin, and is also second in the U.S., and within the top ten in the world. During this period, over 110 new companies were incorporated in Hawaii and granted licenses to operate as captive insurance companies. Captive organizers come mainly from the U.S. mainland, with about 18 owned by Hawaii companies, and about 6 by Japanese based companies. The organizers come from a diverse range of industries, including manufacturing, high technology, healthcare and medical, real estate ownership and development, construction, banking, insurance, transportation, petroleum and energy, and retail.

The following is a summary of information about Hawaii's captive insurance industry for the last 4 fiscal years (dollar amounts rounded to the nearest \$1 million):

	<u>FY 2004</u>	<u>FY 2003</u>	<u>FY 2002</u>	<u>FY 2001</u>
No. of Captive Insurance Licensees	147	112	89	78
Combined Total Assets	\$ 5,245	\$ 3,957	\$ 2,851	\$ 2,052
Combined Total Capital and Surplus	\$ 1,707	\$ 1,344	\$ 933	\$ 650
Total Premium	\$ 1,875	\$ 1,057	\$ 1,086	\$ 538
Total Hawaii Investments	\$ 1.320	\$ 741	\$ 524	\$ 384

**Compliance and Enforcement Branch.** During 2004, consumers saved or recovered more than \$878,000 from insurance companies and agents with the assistance of the ID. A total of 519 complaints and request for assistance were received for the following classes of insurance:

MOTOR VEHICLE INSURANCE received the largest number of cases with 323 or 62.24% of the total. Of this amount, 305 cases involved claims and claims handling. Claims involving personal injury protection coverage (PIP) for medical and other related benefits accounted for 145 cases, where benefits were contested or denied by the insurer and referred for formal resolution by administrative hearing. In the area of material damage cases, there were 33 complaints on delay of settlement or resolution of claims. There were 34 complaints disputing the fault or coverage on their claims. Complaints other than claims included 17 in the area of premiums, 9 policy cancellations, one involving marketing and sales, and one refund. In addition to these categories, there were 75 miscellaneous involving incorrect billing and policy adjustments, acknowledgment delays, and dissatisfaction with services rendered by agents and adjusters. A total of 178 cases were resolved or referred to the appropriate agency for resolution. A total of 145 cases involved PIP denials and were referred for formal resolution by administrative hearing. Two cases remain pending.

**GROUP ACCIDENT & HEALTH:** There were 11 complaints received or 2.12% of the total. Of this amount, 8 were for individual policies involving Marketing complaints, coverage dispute and failure to respond. There was 1 complaint on a denial of group insurance and 2 miscellaneous complaints. There is one case pending.

**LIFE/ANNUITY INSURANCE:** There were 51 complaints received or 9.83% of the total. Of this amount, 20 involved possible misrepresentation and fraudulent transactions, 21 involved policy servicing, 5 involved claims, and 5 involved underwriting (cancellations and nonrenewals). A total of 45 cases were resolved or referred to the appropriate agency for resolution. Six cases remain pending.

**WORKERS' COMPENSATION:** There were 29 complaints received or 5.59% of the total. Of this amount, 16 involved claims and payment delay and 13 involved underwriting (premium billing). All 29 cases were resolved or referred to the appropriate agency for resolution.

**FIRE/HOMEOWNERS INSURANCE:** There were 37 complaints received or 7.13% of the total. Of this amount, 10 involved underwriting (rating, cancellations, and nonrenewals), and 27 involved claims. All 37 cases were resolved and referred to the appropriate agency for resolution.

**GENERAL LIABILITY:** There were 16 complaints received or 3.08% of the total. Of this amount, 4 involved underwriting (refund, cancellations, and nonrenewals), 10 involved claims, and 2 involved marketing and sales. Twenty-eight cases were resolved and referred to the appropriate agency for resolution. One case remains pending.

**MISCELLANEOUS:** In addition to the above categories, there were 52 complaints received or 10.01% of the total, relating to other classes or matters of insurance (dental, disability, marine, motorcycle, surety, and miscellaneous). 51 cases were resolved or referred to the appropriate agency for resolution. One case remains pending.

**ASSIGNED CLAIMS PROGRAM:** There were 102 applications for benefits to the assigned claims program that were received and reviewed. Of this amount, 74 applications were processed to servicing carriers for further handling.

**DISCIPLINARY ACTION:** There were 20 formal actions filed that involved the Compliance and Enforcement Branch. Of this amount 16 Letter of Caution were issued, 2 suspensions, 1 revocation, and 1 Consent Order was issued. A total of \$10,000 was levied in fines.

**Financial Surveillance and Examination Branch.** To protect the policyholders, domestic insurance organizations, including insurers and risk retention groups, are regularly examined for solvency and compliance with the Hawaii Revised Statutes. Examinations which were conducted during the fiscal year and for which reports have

been officially filed are as follows:

First Insurance Company, Ltd.  
 First Fire & Casualty Insurance of Hawaii, Inc.  
 First Indemnity Insurance of Hawaii, Inc.  
 First Security Insurance of Hawaii, Inc.  
 Island Insurance Company, Ltd.  
 Island Premier Insurance Company, Ltd.  
 Royal State National Insurance Company, Ltd.  
 Tradewind Insurance Company, Ltd.  
 Zephyr Insurance Company, Inc.  
 Attorneys Insurance Mutual Risk Retention Group  
 College Liability Insurance Company, Ltd., A Reciprocal Risk Retention Group  
 First Automotive Insurance Risk Retention Group, Inc.  
 Hawaii Insurance Guaranty Association  
 PrimeGuard Insurance Company, Inc., A Risk Retention Group

The FS&E completed the following examinations during the fiscal year.

• Foreign insurers licensed	25
• Mergers and acquisitions reviewed	33
• Risk purchasing groups registered	12
• Risk retention groups registered	4
• Reviewed Service Contract Provider submission	102
• Annual premium tax returns received and audited	2,157
• Quarterly premium tax returns received	4,000

**Health Insurance Branch.** The HIB receives inquires and complaints pertaining to federal and state laws governing health insurance, including long-term care insurance. A total of 96 complaints were received, of which 75 were resolved and 3 are stilling pending. Of the remaining 18 complaints, the HIB had no jurisdiction for 9 complaints, and 9 were referred to another agency. Of the total cases, 30 involved claims appeals; 15 involved reimbursement timeliness; 8 involved termination of coverage; and the remaining 43 involved miscellaneous issues such as unfair marketing and denial of coverage.

During the same period, the HIB responded to 429 formal inquiries. There were 79 inquiries regarding obtaining health insurance coverage; 50 inquiries for information on health insurers financial filings; 46 regarding a health plan or policy; 42 regarding federal regulations; 35 regarding the Prepaid Health Care Act; 27 regarding rate increases; 23 regarding health discount cards; 22 regarding clean claims; and the remaining 105 were miscellaneous health insurance questions.

To protect the policyholders, domestic insurance organizations, including mutual benefit societies and health maintenance organizations, are regularly examined for solvency and compliance with the Hawaii Revised Statutes. Reports have been officially

filed for the examinations of AlohaCare and the United Puerto Rican Association of Hawaii.

In addition, the HIB reviewed 38 premium rate filings of managed care plans, pursuant to Article 14F, Chapter 431, HRS. The administration of the rate review and approval process resulted in the reduction of aggregate premium dollars by approximately \$5 million.

The HIB also reviewed filings for long-term care advertising issued by long-term care insurers licensed in the state for compliance with Article 10H, Chapter 431, HRS. A total of 213 long-term care advertising filings were received and reviewed.

The HIB also conducts independent external reviews of managed care plan coverage decisions that are appealed by the plan member, pursuant to Chapter 432E, HRS. A total of 35 requests for an external review were received during the fiscal year.

**Motor Vehicle Insurance Fraud Investigations Branch.** The IFIB received a total of 176 referrals. Of the referrals accepted, criminal indictments were obtained against 40 individuals. The number of indictments reflects a 5% increase from the previous fiscal year. Of the 40 individuals indicted during the fiscal year, 30 have been sentenced, and 10 have not reached the sentencing phase.

The IFIB obtained restitution orders totaling \$159,000 for the cases that reached final disposition. In those cases that reached final disposition, the IFIB also obtained fines payable to the State of Hawaii totaling \$9,250, payments in the amount of \$6,225 to the Crime Victim Compensation Fund, probation services fees in the amount of \$1,275, and community service totaling 3150 hours.

The IFIB endeavored to meet its statutory mandate to prevent insurance fraud by distributing copies of its informational brochure on the topic of auto insurance fraud to the community. During the fiscal year, more than 1,000 brochures were distributed to private citizens, insurance companies, law enforcement, and state agencies.

One of the primary goals of the IFIB is to educate the public, insurance industry, and law enforcement about motor vehicle insurance fraud. To meet this objective, the Fraud Unit conducted 15 informational presentations attended by more than 500 individuals. Presentations were conducted for various insurance companies, the Hawaii Chapter of the American Academy of Professional Coders, Leeward Oahu Lions Club, and Hawaii Physical Therapy Association.

**Rate and Policy Analysis Branch.** A total of 5,743 rate filings and 2,570 policy filings were reviewed in the current fiscal year; in the preceding year (fiscal year 2003-2004), 2,617 rate filings and 3,513 policy filings were reviewed. The RPA also reviewed and analyzed approximately 7,300 motor vehicle reports and statements.

On November 21, 2001, Hawaii became the 40<sup>th</sup> state to begin accepting

electronic form filings for life insurance products through the NAIC's filing process known as SERFF or the System for Electronic Rate and Form Filing. A total of 546 electronic form filings were processed.

The CRF financial summary relating to INS for FY 04-05 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,069,987	\$2,868,306	\$6,938,293	\$4,028,962

**CONCLUSION**

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

## OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

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

### **OVERVIEW**

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

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

Lastly, an integral part of OAH's responsibilities is the Medical Claims Conciliation Panel (MCCP). The MCCP program is responsible for conducting informal conciliation hearings on claims against health care providers before such claims can be filed as lawsuits. The decisions of the MCCP panels are advisory in nature and are not binding on the parties, in the event that any party still wishes to pursue the matter via the courts. An annual report is separately produced of MCCP activities.

### ***Composition***

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

### **GOALS and OBJECTIVES**

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

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

1. Revising the Office of Administrative Hearings data base to include additional data fields so that all pending cases can be tracked for timeliness throughout the entire hearings process;
2. Physical inventories of all Office of Administrative Hearings cases in February and July of each year;
3. Specific procedures for the disposition of cases in which no action has been taken by the parties; and
4. Monthly reports to the Director of all cases pending the issuance of decisions.

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

[www.hawaii.gov/dcca/areas/oah/oah\\_decisions/](http://www.hawaii.gov/dcca/areas/oah/oah_decisions/)

**ACCOMPLISHMENTS**

The following table summarizes the CRF-related activities conducted by OAH for the 2004-2005 fiscal year:

Type of Proceeding Conducted	Number
Pre-hearing conferences	140
Status conference	141
Motions	52
Hearings	137
Oral arguments on written exceptions	16

The following table summarizes the number of cases and the relative percentage of CRF-related activities conducted by OAH for the 2004-2005 fiscal year, by referring Division of OAH:

DCCA Divisions Referring Matters to OAH	Case Filed	%
Insurance Division (denial of personal injury protection benefits)	284	64%
Regulated Industries Complaints Office (disciplinary proceedings)	108	24%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, violations of securities laws)	20	5%
Professional and Vocational Licensing (license denials)	19	4%
Office of Administrative Hearings (procurement protests)	13	3%

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

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

### **CONCLUSION**

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



## OFFICE OF CONSUMER PROTECTION (OCP)

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

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

### OVERVIEW

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

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

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

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

## ***Composition***

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

The Consumer Resource Center (CRC) handles the intake of complaints for OCP. CRC is staffed by investigators who answer consumers' questions, distribute OCP complaint forms to consumers, receive written consumer complaints, and forward cases to OCP for review, closing or further investigation. In addition, a division within CRC answers telephonic requests for prior complaint history. If circumstances permit, consumers also have the opportunity to visit OCP's Honolulu office to view the actual case files. Prior to the release of any file, OCP's staff reviews its contents to ensure that legally protected private information is not disclosed. See Table 2, statistics on OCP Information Requests.

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

OCP's investigation section receives cases from CRC and gathers evidence to determine whether violations of consumer laws have occurred. Investigators' tasks include site inspections, witness interviews, document collection, evidentiary analysis, report writing and the service of subpoenas. See Table 3, Number of OCP Complaints Filed; Table 4, Numerical Breakdown of Dispositions of All OCP Cases; and Table 5, OCP Complaints by Subject Matter for FY 2003-2004 statistics.

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

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

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

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

### ***OCP also provides the following services: Consumer Education***

In an effort to enhance consumer awareness of various consumer problems, OCP continuously strives to promote consumer education. During the past year, the office joined in

the production of four public service announcements highlighting the problem of identity theft in Hawaii. The office issues press releases on a variety of consumer topics, and prepares and distributes written materials to provide specific consumer information. OCP also offers a series of Consumer Dial messages dealing with a variety of landlord-tenant and general consumer protection issues. Interested parties can call 24 hours a day and receive information on a variety of topics. In addition, OCP staff has participated in numerous educational forums in which hundreds of consumers and business persons have received extensive information about consumer protection in Hawaii.

### ***Neighbor Island Assistance Requests***

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

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

### ***GOALS and OBJECTIVES***

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

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

## **ACCOMPLISHMENTS**

### ***Consumer Education***

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

In particular, OCP focused on the growing problem of identity theft. This past summer, OCP assisted in the production of four public service announcements warning consumers regarding the dangers associated with ID Theft. In conjunction with the public service announcements, OCP/DCCA created a website devoted to assisting consumers who have questions or concerns. The website can be found at [www.hawaii.gov/dcca/quicklinkks/id\\_theft\\_info](http://www.hawaii.gov/dcca/quicklinkks/id_theft_info).

### ***Cases***

OCP handled several significant cases in 2005 involving nearly every area of consumer protection. It filed and resolved numerous cases relating to alleged violations of Hawaii's laws governing unaccredited degree granting institutions, car rentals, airlines, credit practices, living trusts, sweepstakes and prizes, door-to-door sales, refund and exchanges, and unfair or deceptive trade practices. OCP's involvement successfully resulted in recovering thousands of dollars in restitution for Hawaii consumers as well as obtaining injunctive relief and fines against violators. In several cases, OCP secured temporary restraining orders against violators of Hawaii's consumer protection laws, successfully preventing them from continuing to harm and exploit Hawaii consumers.

## **LEGISLATION**

### ***Anti-Phishing Task Force***

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

OCP assisted in developing several bills for the 2006 legislative session designed to combat identity theft. The bills included:

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

- Social security number protection – Restricting the use and transmittal of social security numbers.

The CRF financial summary relating to OCP for FY 04-05 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,028,255	\$116,262	\$1,144,517	\$272,518

**CONCLUSION**

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

**Table 1: Laws Enforced by OCP**

HRS §209-9	Price Gouging
HRS §290-11	Towing
HRS §437	Motor Vehicle Sales – Spot Delivery
HRS Chapter 437D	Motor Vehicle Rental
HRS Chapter 446	Debt Adjusting
HRS Chapter 446E	Unaccredited Degree Granting Institutions
HRS Chapter 457G	Occupational Therapists
HRS Chapter 467B	Charitable Solicitations
HRS Chapter 476	Credit Sales <sup>5</sup>
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices <sup>6</sup>
HRS Chapter 480D	Collection Practices <sup>7</sup>
HRS Chapter 480F	Check Cashing
HRS Chapter 481A	Uniform Deceptive Trade Practice Act
HRS Chapter 481B	Unfair and Deceptive Practices, including Unsolicited Goods; Commercial Mail Order Buying Clubs; Offers of Gifts or Prizes; Aid to Handicapped; Refunds and Exchanges; Solar Energy Devices; Sales of Computers; Sensitivity Awareness Group Seminar; Credit Repair Organizations; Gift Certificates
HRS Chapter 481C	Door-to-door Sales
HRS Chapter 481D	Going Out of Business Sales
HRS Chapter 481F	Sale of Fine Prints
HRS Chapter 481H	Water Treatment Units
HRS Chapter 481K	Assistive Technology Warranty Act
HRS Chapter 481L	Motor Vehicle Lease Transactions
HRS Chapter 481M	Rent-to-Own
HRS Chapter 481P	Telemarketing Fraud Prevention Act
HRS Chapter 481 X	Service Contracts
HRS Chapter 486N	Health Clubs
HRS §487-5	Laws Enacted and Rules Adopted for the purpose of consumer protection <sup>8</sup>
HRS Chapter 487A	Plain Language Law
HRS Chapter 506	Reverse Mortgage Loan
HRS Chapter 521	Landlord Tenant Code <sup>9</sup>
ACT 146 (1999)	Check Cashing
Act 282 (1997)	Assistive Device Warranty Act
Act 222 (2000)	Service Contracts

<sup>5</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>6</sup> OCP also has enforcement power over certain Lemon Law agreements (HRS §481I-4), and has filed lawsuits based upon HRS §486-119, "Made in Hawai'i" law. Also HRS Chapter 514E sets forth a comprehensive regulatory scheme for time-share development, sales and maintenance. However, there is a section which makes thirteen specific types of conduct *per se* violations of HRS §480-2. Under HRS §490:2A-104, UCC leases are explicitly subject to state consumer protection statutes and case law.

<sup>7</sup> See also, Collection Agencies HRS §443B-20.

<sup>8</sup> E.g. Motor vehicle advertising, HRS §437-4.

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

**Table 2: OCP Information Requests**

REQUEST AND INQUIRIES	FY 02-03	FY 03-04	FY 04-05
Requests for Prior Complaint History	6629	7,555	5564
Requests for Landlord/Tenant Information	10,996	9,660	10641
Complaint Inquiries	17,682	20,505	15012
Requests for Records Review	105	15	12
<b>TOTAL</b>	<b>35,412</b>	<b>37,735</b>	<b>31,229</b>

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

COMPLAINANT	FY 02-03	FY 03-04	FY 04-05
Public	1631	1428	1641
OCP	38	57	40
<b>TOTAL</b>	<b>1669</b>	<b>1485</b>	<b>1681</b>

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

DISPOSITIONS	FY 02-03	FY 03-04	FY 04-05
Complaint Withdrawn	7	10	7
Legal Action & Referrals to Legal	238	192	135
Advisory Contact	62	37	31
Civil Dispute/Personal Matter	71	52	46
Monetary Threshold	13	14	10
Complainant Uncooperative	13	31	41
Consumer Complaint Resolved	18	33	35
Respondent Died or Bankrupt	97	101	135
Business vs. Business	22	20	20
No Jurisdiction	6	9	21
Refer to Investigation	263	143	107
Other	3	3	7
Warning Letter	75	53	83
Insufficient Evidence	416	460	444
Transferred to Other Gov't. Agency	785	621	609
No Violation	23	27	20
Information Only/Inquiry	30	150	251
<b>Total</b>	<b>2142</b>	<b>1956</b>	<b>2002</b>

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

A complaint may cover multiple subject matters

SUBJECT	FY 02-03	FY 03-04	FY 04-05
Animals	4	4	5
Breeders	1	3	0
Pet Grooming	1	3	2
Pet Shops	5	2	2
Kennels/Boarding	0	1	0
Refund Law – Refunds/Exchanges/Merchandise Credit	-	44	52
Gift Certificates	-	9	11
Apparel/Accessories	15	35	44
Laundry/Dry Cleaning/Laundromats	3	0	0
Dressmaker/Tailors	1	0	1
Fabric/Notions/Etc.	0	2	0
Shoes/Etc.	3	6	1
Clothes	16	14	7
Appliances	12	11	6
Refrigerator/Freezer/Stove/Range	7	7	17
Water Heaters/Air Conditioners	4	4	1
Washer/Dryer	0	5	2
Radio/Stereo/Tape Deck/CD Player	3	10	15
TV/VCR	10	5	21
Sewing Machine	2	1	3
Vacuum Cleaner	10	9	8
CB Radios	0	0	0
Computers/Software	87	82	59
Health Services/Products	21	20	19
Exercise Devices	2	2	3
Exercise/Health Clubs/Clinics	16	13	12
Health Foods	1	0	0
Weight Reduction	2	5	1
Cosmetics/Beauty Products	10	5	4
Wigs/Hairpieces	0	0	2
Entertainment/Music	2	5	5



**2005 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Concerts/Events	2	1	2
Ticket Sellers/Promoters	0	6	2
Theaters	1	2	0
Night Clubs/Discotheques	0	0	0
Musical Instruments/Lessons	4	3	9
Audio Records/Tapes/CD/Etc.	10	3	3
Buying Clubs - Record/Tape/CD/Video	5	2	0
Video Records/Tapes/CD/Etc.	9	11	10
Florists/Nurseries	3	2	6
Food/Drink	23	14	14
Food Stores/Markets	8	5	12
Drive Inns	0	0	1
Caters/Deli	2	0	0
Bakery	0	0	1
Restaurants	13	10	6
Banquet Halls	0	0	0
Bars/Cocktail Lounges	1	0	0
Energy/Fuels	0	0	2
Solar Energy	1	0	2
Gas, Propane, Etc.	4	5	8
Energy Saving Devices	0	1	0
House Materials/Goods/Services	22	10	20
Beds & Mattresses	15	6	5
Furniture	14	23	22
Cookware	1	2	3
Drapery	0	1	0
Carpet/Rugs	4	5	4
Clocks	0	0	0
House Hardware/Fixtures	9	5	4
Woodwork/Metal craft/Glass/Etc.	6	2	4
Interior Decorators	0	1	0
Lawn Care Products/Yard Service	1	3	5
Upholsters	1	3	2

**2005 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Water Purifiers/Filters	2	1	3
Cleaning Services	5	7	3
House Construction/Remodeling	17	6	8
Vermin/Bug Extermination	1	0	0
Tools	5	2	7
Insurance	12	25	17
Extended Warranties	3	7	2
Service Agreements/Contracts	8	19	37
Jewelry	22	22	22
Precious Stone & Metals	4	3	1
Watches	4	9	15
Medical	12	8	11
Hospitals/Clinics	14	16	9
Pharmacies	1	1	2
Convalescent/Nursing Homes	0	0	1
Medical Equipment	2	4	3
Medical Service Companies	4	2	3
Medical Laboratories	3	3	0
Home Care Facilities	0	0	1
Psychiatric Counseling/Group Therapy	0	0	0
Other Counseling/Group Therapy	1	0	0
Occupational Therapists (457G)	0	0	0
Morticians, Cemeteries & Other	0	1	1
Moving & Storage	19	10	6
Private Storage Company	3	1	3
Bill of Lading	0	0	0
In-transit Storage	2	0	0
Delivery Service	5	7	3
Air Cargo Service	0	1	0
Multi-Product Retailer/Wholesalers	10	11	3
Buying Clubs	3	2	3
Department Stores	6	6	1
Photography	8	7	2

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**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Photo Studios	0	2	0
Film Processing	2	1	0
Camera/Equipment	23	17	10
Photographic Services	7	4	2
Professional Services	0	8	10
Attorneys/Legal Services	2	3	3
Accountants/Bookkeeping	0	1	1
Tax Services	3	3	2
Medical Professional	2	6	3
Adoption Agencies	2	0	0
Printers	2	2	3
Regulated Services (Trade & VO Caption)	2	3	2
Protection Devices	1	2	1
Fire/Burglar Alarms	0	3	1
Heat/Smoke Detectors	1	0	0
Locks (Windows, Doors, Etc.)	0	1	1
Fire Extinguisher	0	0	0
Recreation/Toys/Game/Etc.	18	15	8
Arts & Crafts	8	7	1
Boats & Airplanes	4	5	2
Toys	12	9	13
Surfboards	2	0	1
Video Games	9	9	10
Camping Equipment	0	0	1
Sporting Goods	22	11	14
Recreational Rentals	9	3	2
Transportation	11	7	4
Cabs	1	1	1
Moving Companies/Storage	2	7	0
Pedi-Cabs	0	0	0
Tour Buses and Limos	1	1	0
Automobiles	25	26	24
Car/Truck Rental	10	18	25

**2005 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Car/Truck Lease	1	2	0
Moped Rentals	3	0	1
Other Transportation Rentals	1	3	1
Towing	16	16	17
Parking	10	5	5
Body/Paint Shops	35	22	18
Auto Parts/Repair	65	58	35
Rustproofing/Undercoating	1	1	2
Glass Tinting	1	3	1
Vehicle (Incl Mopeds) New & Used Sales	2	7	15
Warranties	5	7	8
Travel/Vacations	17	18	21
Air Travel Services (Airlines, Etc.)	20	19	15
Ocean Travel Services (Cruises & Ships)	4	6	5
Discounted Tickets - Travel/Entertainment	10	3	2
Hotels & Motels	18	13	11
Bed & Breakfast	7	2	3
Tour Services	10	10	5
Travel Clubs	2	0	0
Passports & Visas	1	0	0
Utilities	3	0	4
Gas Provider	0	2	0
Electric	1	1	0
Telephone/Cellular/Pagers	78	56	74
Water	3	0	0
Cable	3	2	4
Telecommunications/Electronic Devices	12	12	13
Dating Services	2	6	4
Investment/Financial	11	12	12
Chain Letter	0	0	0
Consumer Credit	17	13	19
Credit Card	89	61	61
Identity Theft	-	0	5

**2005 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Checking Accounts	5	7	3
Debit Accounts	2	1	4
Promissory Notes	0	0	1
Buying on Account	0	0	1
Information to Obtain Credit/Credit Cards	0	0	1
Discount Coupons/Books	0	4	3
Financial Institutions	13	9	4
Credit Reporting Agency	9	4	2
Credit Repair	5	4	1
Collection of Debts	7	7	6
Advance Fee Loans	1	1	1
Bank/Savings & Loan/Industrial Loan Companies	5	2	3
Escrow Services	1	1	1
Loan/Mortgages	15	12	12
Investment/Opportunity Scheme	7	6	13
MLM/Pyramids/Endless Chain Schemes	2	2	2
Referral Sales	1	1	0
Get Rich Programs	1	0	3
Work-at-Home Programs	8	7	5
Coins/Currency	1	1	4
Stocks & Bonds	0	1	1
Oil/Gas Lottery	0	0	0
Art	2	2	0
Securities	0	0	1
Tax Planning/Devices	1	2	0
Contract Sellers	0	2	0
Pawn Shops	1	1	1
Auctioneers	6	1	1
Second Hand Dealers	2	0	0
Real Estate	20	7	12
Sweepstakes/Lottery/Games of Chance	15	22	21
Contests	1	4	0
Gambling	0	0	0

**2005 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Education/Information	4	22	6
Schools (Elementary, High)	1	4	0
Degree Granting Schools	6	13	4
Unaccredited Degree Schools	23	40	18
Trade/Vocational Schools	2	2	0
Home Study	0	1	0
Correspondence Schools	0	0	0
Dance Schools	1	0	0
Modeling Schools	2	0	1
Day Care Centers	1	0	34
Employment	3	10	0
Resume Preparation	0	0	0
Modeling Agency	4	5	2
Regular Periodic Information Service	0	0	1
Magazine	10	14	8
Subscription Services	42	17	9
Newspaper	3	3	2
TV Broadcasting	3	1	5
Radio Broadcasting	0	2	0
Computer Information Services	12	17	19
Internet Transactions	407	455	587
Books/Encyclopedia	13	4	2
Self-Improvement Seminars	0	1	0
Encounter Group Therapy	0	0	0
Charitable Solicitations	7	4	7
Environmental Claims	0	0	0
Religious	1	1	0
Emergency: Prize/Freeze/Gouging/Rent Termination	0	0	0
Rent to Own	0	0	0
Elderly Issues	2	9	7
Civil Procedures/Statutory Constructions	0	0	1
Multistate Projects	9	13	9
Spamming	1	2	1

**2005 Compliance Resolution Fund Report**

**Office of Consumer Protection (OCP)**

<b>SUBJECT</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
MS – Newspaper Advertisement	8	15	12
MS – Other Regular Printed Media Ad (Magazine, Etc.)	15	17	10
MS – Television/Cable	6	3	4
MS – Info Commercial	5	2	5
MS – Telemarketing	22	15	9
MS - 1-900 Numbers	1	0	0
MS – Direct Mail	36	9	6
MS – Information Brochure	1	2	0
MS – Response Card/Letter	0	1	1
MS – Home Presentation (Door-to-Door)	4	2	4
MS – Radio	0	1	0
MS – Product Show	0	0	0
MS – Information/"How To" Seminar	11	2	4
MS – Mail Order	39	17	9
<b>TOTAL COUNT</b>	<b>2038</b>	<b>1986</b>	<b>2017</b>

**Table 6: OCP Neighbor Island Assistance FY 2005**

<b>DIVISION</b>	<b>HILO</b>	<b>MAUI</b>	<b>TOTAL</b>
Division of Financial Institutions	13	0	<b>13</b>
Business Registration	27	29	<b>56</b>
Cable Television	1	1	<b>2</b>
Insurance Division	11	6	<b>17</b>
Division of Consumer Advocacy	2	2	<b>4</b>
Professional & Vocational Licensing	22	33	<b>55</b>
Regulated Industries Complaints Office	203	243	<b>446</b>
Non-Departmental Related	124	142	<b>266</b>
Other DCCA Divisions	14	9	<b>23</b>
<b>TOTAL</b>	<b>417</b>	<b>465</b>	<b>882</b>

## PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)

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

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

### OVERVIEW

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations for 45 different professions and vocations. Twenty-five (25) licensing regulatory boards and commissions are administratively attached to DCCA/PVL, as well as twenty (20) licensing programs (those without a board or commission). The division provides staff support to the licensing regulatory boards, handles applications, licenses, reviews and processes renewals, and maintains license records. The division provides guidance for proper implementation of the licensing laws and administrative rules for the 45 licensing areas. Additionally, PVL responds to phone inquiries on whether a person or entity is properly licensed, a service that can assist consumers in making a decision on whether or not to utilize a licensed professional.

PVL's projects to promote accessibility for licensing information on the Internet are very user friendly. PVL continues to explore ways to enhance public accessibility to licensing information, the licensing process, and the licensee roster. PVL's web page, a site that provides general licensing information for all 45 licensing areas, features downloadable license applications, publications, links to Hawaii Revised Statutes and Hawaii Administrative Rules, as well as a means to request an application or contact the board or program staff via e-mail. The website address is <http://www.hawaii.gov/dcca/areas/pvl>.

Public accessibility to licensee information is enhanced by the PVL Online Inquiry, a fully interactive site that enables the public to access the licensee roster online. The roster may be searched to confirm licensing by license name, license number, and other identifying information. Updates to the online information occur within 30 minutes of the update to the licensing database. Feedback received on the on-line roster indicates that the site benefits a wide range of users, including consumers, licensees, employers, and government agencies, both in Hawaii and out-of-state. Links to other DCCA sites provide easy access to additional useful consumer information, such as a licensee's complaints history. The address for PVL's Online Inquiry is <http://www.ehawaii.gov/pvl>.

This is the fifth year that online renewals are being made available to licensees. This entirely paperless process enables licensees to complete, file and pay for their license renewal electronically. During Fiscal Year 2004-2005, 18,207 licensees renewed their licenses electronically. This represents 52.1% of the total number of licensees that could take advantage of the online service. Compared to the prior biennial renewal cycle of 2003 for these licensees, there was an increase in 2005, as Fiscal Year 2003 had only 10,144 licensees renew online, representing 32.3% of the total number of licensees. While a fair share of renewals are still mailed in by licensees and manually processed by PVL, the division is hopeful that even more licensees will take advantage of online renewals in the future. In time, PVL hopes to be able to



offer all licensed areas the opportunity to renew online. Online renewals are available at <http://www.ehawaii.gov.org/pvl/renew>.

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

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

### ***Composition***

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

***Examination Branch (Phone 586-2711)*** arranges for the administration of all the licensing examinations, confirms the validity and reliability of exams, revises board constructed examinations to ensure its continued validity and reliability, and advises boards on all technical aspects of examinations.

***Administration Branch*** (See Hawaiian Telcom Government Pages, State Offices, Page 13, last column, Executive Offices for Boards/Commissions & Programs) serves as the liaison between the director of the department and the 25 boards and commissions administratively attached to DCCA. On a daily basis, the Administration Branch handles board affairs such as the coordinating, preparing, facilitating and recording of board meetings; ensuring board compliance with applicable laws that guide and direct their conduct; and implementing board decisions on applications, policies and procedures, and disciplinary actions. The Administration Branch also responds to requests for interpretation of the licensing laws and rules; oversees licensing and examination activity; and guides and assists with regulatory compliance issues. The same activities are done for the 20 programs (absent the necessity of board meetings) on behalf of the director of the department. There are also substantial coordination and facilitation activities

performed by the Administration Branch with other state, county, and federal agencies involved with licensing and regulatory issues.

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

In summary, all Branches within PVL work toward efficient and expedient processing of applications, licenses, and renewals to ensure the public has choices amongst competent, licensed practitioners. For a statistical summary of PVL key activities, see Table 1: PVL Statistical Overview; Table 2: Total number of Current PVL Licensees; Table 3: Total number of Online Renewals; Table 4: Total number of Website "Hits," and Table 5: Total Number of Email Inquiries.

## **GOALS and OBJECTIVES**

### *Customer Service*

PVL is currently involved in the DCCA Customer Service Improvement Project, working in collaboration with the Department of Human Resources Development (DHRD). The division's first objective is to provide the best possible customer service that PVL's Licensing Branch can provide to the public by assessing quality of customer service, identifying possible areas for improvement, designing and implementing actions/intervention, and evaluating the effectiveness of the project. The objective will be accomplished by (1) conducting a performance analysis of the licensing branch to determine where there are gaps between actual performance and desired performance, (2) conducting a root cause analysis to determine the causes of the identified performance gaps, and (3) designing interventions/actions to be taken to overcome the performance gaps, and (4) implementing the interventions/actions; monitoring/evaluating the extent to which the interventions/actions have closed the gap between actual and desired performance. The performance of the project will be measured by the extent to which the performance gaps listed above have been reduced. Upon the successful completion of this project, it can then be used as a model for other State departments.

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

In pursuing the division's objective of improving and expanding online service offerings, PVL would like to see the number of online renewals increase for businesses and professionals. One way to attain this goal is to better educate our licensees by informing them that their license renewals can be done online. PVL has been informing licensees about doing online renewals by mail, email, press releases, and by posting renewal information on the respective web pages. In a

couple of instances, licensees were informed of online renewals by having literature distributed at their place of employment or if time permitted, distributions were made at conventions or meetings of the respective industry. Our goal would be to find other means to encourage online use so that we may attain close to having 100% online renewal participation. The performance will be measured by the number of online renewals that occur during the biennial renewal cycles.

Our goals include a 24/7 system to allow surety companies to submit insurance updates on contractor and pest control licenses, a partnership with the Department of Labor and Industrial Relations (DLIR) by which DLIR's workers' compensation information will be incorporated into PVL's ALIAS database, a Customer Appreciation Credit for online renewals, improvement of the PVL List Builder online service, and online system to allow individuals to update their PVL records online.

We are also working to provide a 24/7 online system to allow surety companies the ability to submit insurance updates on contractor and pest control licensees. The online insurance submittal system will further facilitate more immediate and timely updates to the licensees' public records providing consumers with the most current information in determining if a licensee is in compliance with the mandatory insurance requirements. A concerted effort will be made to bring as many sureties as possible on board. Our goal is to relieve the surety companies from having to submit paper copies of liability insurance updates to PVL. Attaining this goal will be accomplished by evaluating mandatory licensing and statutory insurance requirements, the current processing of paper submittals, PVL's ALIAS database system and the database system of the surety companies; developing a web interface submittal for smaller surety submittals, a bulk file interface upload for larger surety submittals, surety user access and verification through Insurance Division's surety user account database; testing the submission, processing, validity, integrity and integration of insurance data into our ALIAS database system, and addressing and resolving submittal testing and processing problems that arise; and rolling out the system by soliciting sureties to use the submittal system, overcoming and resolving surety concerns, increasing user rate via meetings, presentations, press releases, and informing licensees of the benefits in encouraging their surety to use the system. This system will be up and running in 2006. The performance of this project will be measured by the number of surety companies that participate, online submittals of insurance updates, and by the reduction of paper submittals received by PVL.

PVL is also implementing a Customer Appreciation Credit (CAC) for online renewals for those licensees eligible under section 92-28, HRS, in FY 2006. This affords a discount to licensees who renew online. The CAC is designed to serve as an appreciation to PVL licensees who have used the online system and as an incentive for more licensees to adopt the online renewal process. Attaining this goal will be accomplished by incorporating the CAC discount into our online renewal system; amending chapter 53, HAR, to allow all licensees renewing online the ability to receive the discount; and inform licensees of the savings they will receive by renewing online via mail, email, press releases, and posting renewal information and benefits on the respective web pages. Licensees will receive this credit in FY06 thru FY07. The performance of this project will be measured by the ability to afford the discount to all licensees and an increase in our online renewal user rate.

PVL continues to improve the PVL List Builder Online Service. This twenty-four hour

service allows the public to obtain lists of licensees from PVL's database that is updated daily. The customized lists can be based on license type, license status, geographical criteria, and other factors. We are working on improving the system and increasing the user rate. Attaining this goal will be accomplished by evaluating user feedback, improving user friendliness, and functionality; adding the ability to purchase lists of pest control operators, professional engineers, nurses, motor vehicle repair industry, barbering and cosmetology licensees based on their specialty classifications; and issuing press releases and informing the public on the availability and ease of compiling lists through this service. There is no specific timetable for this project, as we continually enhance the PVL List Builder Service. The performance of this project will be measured by user feedback and the number of lists built over the prior years.

PVL would also like to provide an online system to allow individuals to update their PVL records online, such as allowing them to make an address change or a name change. Attaining this goal will be accomplished by evaluating the frequency and type of changes requested, type of documents required in requesting changes, and the processing and updating requirements to initiate changes; developing system requirements, processing of change updates, population of updates into PVL's ALIAS database system, and user account access verification; testing the validity of change updates, data integrity, integration of updates into our ALIAS database system, resolving programming and processing problems as they arise; and rolling out the system by informing licensees on the availability and convenience of the service, by issuing press releases, notices to licensees via mail and postings on PVL's web pages; and evaluate the user feedback on improving the system's user friendliness. We hope to have this records online system completed within the next two years. The performance of this project will be measured by user rate and the reduction of manual changes requiring the assistance of staff.

*Incorporating DLIR's Workers Compensation Information into PVL's Database*

PVL is also planning to develop a partnership with the Department of Labor and Industrial Relations (DLIR) in order that DLIR worker's compensation information filed by surety companies for contractor and pest control licensees can be populated into PVL's ALIAS database system. This will relieve the surety companies from having to submit worker's compensation information to PVL. The objective will be accomplished by having further discussions with DLIR and informing them of the positive benefits to the licensees and surety companies; addressing and resolving DLIR's concerns in allowing other agencies access to their database system; evaluating DLIR's database system; verifying that insurance information collected by DLIR is in compliance with contractor and pest control licensees mandatory licensing and statutory requirements; and determining how insurance information will be accessed and transferred to PVL and populated into our ALIAS database system without compromising the confidentiality and integrity of the data. We will continue our discussion of access with DLIR in 2006. The performance of this project will be measured by our ability to access DLIR's database, relieving the surety companies from having to submit worker's compensation insurance information to PVL, and by the reduction of paper submittals received from the surety companies.

*Real Estate Branch Education Programs*

PVL's final objective includes improving the Real Estate Branch's offering and delivery

of prelicensing courses and post-licensing educational programs. On the condominium side, this includes enhancement to on-line public access to condominium projects and AOA registrations, and for the newly enacted condominium law, the development and implementation of a comprehensive education program for the condominium community and developers. For a comprehensive report on the tasks associated with the goals and objectives of the Real Estate Branch and the Real Estate Commission, please refer to <http://www.hawaii.gov/dcca/reports> to view their Annual Report for fiscal year ending June 30, 2005.

## **ACCOMPLISHMENTS**

PVL continues to work with DHRD on the Customer Service Improvement Project (CSIP). There are four phases to the project. The first phase was to assess the quality of the customer service that the unit provided. The second phase was to identify possible areas for improvement. The third phase was to design and implement actions/interventions to bring about the improvements. We've completed the first three phases and are currently involved with the fourth phase of the project, which is to evaluate the effectiveness of this project.

As was mentioned in PVL's overview, the number of online renewals for licensees had increased considerably. We are pleased to report that a majority of Hawaii's nurses and acupuncturists renewed their professional licenses online during the 2005 renewal cycle. This represents that more than 62% of Hawaii's nurses and acupuncturists renewed their licenses online, compared to the 2003 renewal cycle. In 2003, about 36% of the nurses renewed online. In 2005, the numbers almost doubled. 63% of the nurses renewed online and 41% of the acupuncturists chose to renew online.

PVL continues to enhance the PVL List Builder Online Service. One of the enhancements that have been made to this service since its inception in February 2004 is the addition of "Live Help" access. This allows the user to instant message a warm body for assistance with List Builder. Another enhancement to this system is that the user can now see the number of records that have a business address. In FY04, the number of lists built was 76 and in FY05, the number of lists built was 245. The number of lists built was three times that of FY04. Individuals may also purchase lists based on contractor specialty classifications.

PVL had a successful 2005 Legislative Session. The Legislature supported changes proposed by the PVL Administration relating to: dental and dental hygienist examinations, and facilitating the license restoration process for military personnel while the member is on active duty and deployed during a state or national crisis.

Act 121 amended the Dentistry chapter by allowing for a dental applicant to take and pass the American Board of Dental Examiners (ADEX) examination (a national uniform examination) once the ADEX examination is available. Act 122 amended the Dental Hygienists chapter by also allowing for a dental hygienist applicant to take and pass the national examination once it becomes available.

Act 170 amended the Uniform Professional and Vocational Licensing chapter by adding

a new section to allow for any license held by a member of the armed forces, national guard, or a reserve component that expires, is forfeited, or deemed delinquent while the member is on active duty and deployed during a state or national crisis shall be restored provided that certain requirements are met.

PVL is also very proud of what the Real Estate Branch (REB) and the Real Estate Commission (REC) have accomplished. The 2004 Legislature passed Parts I (General Provisions), II (Applicability), and VI (Management of Condominiums) of the condominium law recodification bill, SB2210 (Act 164). Parts II (Creation, Alteration, and Termination of Condominiums), and (V) (Protection of Condominium Purchasers) were considered during the 2005 Legislative Session. This resulted in the passage of SB1132 (Act 93). This recodification bill was approved by the Governor on June 2, 2005. The REB completed an update broker's prelicense education curriculum and a new licensing exam in addition to developing a new salesperson's prelicense education curriculum. For a comprehensive report on the accomplishments for the Real Estate Branch and the Real Estate Commission, please refer to <http://www.hawaii.gov/dcca/reports> to view their Annual Report for fiscal year ending June 30, 2005.

The CRF financial summary relating to PVL for FY 04-05 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,199,375	\$929,728	\$4,129,102	\$5,547,876

**CONCLUSION**

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

**Table 1: PVL Statistical Overview**

	FY 03-04	FY 04-05
No. of applications received	12,897	16,849
No. of applicants licensed	11,427	12,166
No. of licenses renewed	43,820	58,730
No. of current licensees	112,848	121,059
Total licensee population (all statuses - i.e. Current, forfeited, delinquent)	257,080	274,604

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

Boards and Commissions (shown by asterisk *), and Programs	FY 03-04	FY 04-05
Accountants*	2,428	2,560
Activity Desks	659	709
Acupuncturists*	514	566
Barbering and Cosmetology*		
Barbers	1,056	1,167
Barber Shops	196	209
Beauty Operator*	6,129	6,832
Beauty Instructor	64	78
Beauty School	6	8
Beauty Shops	1,058	1,184
Boxing (all categories)*	32	55
Cemeteries and Pre-Need Funeral Authorities	23	23
Chiropractors*	574	610
Collection Agencies	402	428
Contractors*	9,791	10,017
Dentists*	1,288	1,326
Dental Hygienists	722	776
Dispensing Opticians	147	152
Electricians (all categories)*	2,432	2,533
Plumbers (all categories)*	990	960
Electrologists	21	17
Elevator Mechanics*	211	202
Employment Agencies	94	89
Engineers, Architects, Surveyors, and Landscape Architects:*		

**2005 Compliance Resolution Fund Report**

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

<b>Boards and Commissions (shown by asterisk *), and Programs</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Engineers	4,771	4,808
Architects	2,039	2,105
Surveyors	191	185
Landscape Architects	134	142
Hearing Aid Dealers & Fitters	82	94
Marriage and Family Therapists (established 12/31/98)	100	121
Massage Therapists*	5,399	5,743
Massage Establishments	709	655
Medical and Osteopathy*		
Physicians	6,733	7,285
Podiatrists	69	78
Osteopaths	457	465
Physician Assistants	98	116
Emergency Medical Technicians	388	435
Mobile Intensive Care Technicians	340	357
Mortgage Brokers	350	456
Mortgage Broker Branch Offices	105	102
Mortgage Solicitors	3,413	3,482
Motor Vehicle Dealers*	227	254
Motor Vehicle Salespersons	1,547	1,938
Motor Vehicle Repair Dealers*	950	1,001
Motor Vehicle Mechanics	2,238	2,344
Naturopaths*	81	89
Nursing*		
Registered Nurses (RN)	14,676	16,415
Licensed Practical Nurses (LPN)	2,697	2,983
Advanced Practice Registered Nurse (APRN)	646	777
APRN with Prescriptive Authority (established 10/24/98)	127	146
Nurse Aides	9,097	10,685
Nursing Home Administrators	132	124
Occupational Therapists (established 1/1/99)	435	406
Optometrists*	326	352
Pest Control Operators*	168	161
Pest Control Field Representatives.	128	157



<b>Boards and Commissions (shown by asterisk *), and Programs</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Pharmacists*	1,594	1,681
Pharmacies	210	221
Wholesale Prescription Drug Distributors	61	62
Miscellaneous Permit	204	246
Physical Therapists*	1,011	982
Port Pilots	9	9
Deputy Port Pilots	4	3
Private Detective Agencies*	29	31
Private Detectives	110	113
Guard Agencies	50	57
Guards	86	86
Psychologists*	642	669
Real Estate Appraisers (all)	381	418
Real Estate Brokers*	5,452	5,616
Real Estate Salespersons	11,740	11,961
Real Estate Branch Offices	93	102
Condominium Hotel Operators	17	16
Social Workers (established 7/1/95)	1,051	1,409
Speech Pathologists*	410	464
Audiologists	52	55
Travel Agencies	1,309	1,478
Veterinarians*	357	351
<b>TOTAL</b>	<b>112,785</b>	<b>120,922</b>

**Table 3: Total Number of Online Renewals**

<b>License Types</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Accountant	809	
Activity Desk	50	
Acupuncture		202
Audiologist	20	
Barbering and Cosmetology		
Barber	88	
Barber Shop	4	

**2005 Compliance Resolution Fund Report**

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

<b>License Types</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Beauty Operator	873	
Beauty Instructor	10	
Beauty Shop	101	
Chiropractor	125	
Dentist	294	
Dental Hygienist	157	
Dispensing Optician	31	
Electrologist		4
Elevator Mechanic	47	
Engineer, Architect, Surveyor, and Landscape Architect		
Engineer	1,648	
Architect	605	
Surveyor	72	
Landscape Architect	35	
Hearing Aid Dealer and Fitter	18	
Marriage and Family Therapist		38
Massage Therapist	1,308	
Medical and Osteopathy		
Osteopath	141	
Emergency Medical Technician	128	
Mobile Intensive Care Technician	131	
Mortgage Broker		142
Mortgage Solicitor		861
Motor Vehicle Consumer Consultant	3	
Motor Vehicle Salesperson	195	
Naturopath	31	
Nursing		
Registered Nurse (RN)		8,420
Licensed Practical Nurse (LPN)		1,250
Advanced Practice Registered Nurse (APRN)		354
Nursing Home Administrator	34	
Occupational Therapist		135
Physical Therapist		378
Real Estate Broker		1,982
Real Estate Salesperson		4,441

License Types	FY 03-04	FY 04-05
Social Worker	338	
<b>TOTAL</b>	<b>10,635</b>	<b>18,207</b>

**Table 4: Total Number of Website "Hits"**

Boards and Programs	FY 03-04	FY 04-05
Accountancy	46,191	32,780
Activity Desk	5,038	3,518
Acupuncture	12,293	8,373
Barbering and Cosmetology	41,883	34,155
Boxing		1,769
Cemetery and Pre-Need Funeral Authority	5,543	3,737
Chiropractor	27,166	13,411
Collection Agency	11,195	6,468
Contractor	153,172	129,990
Dentist and Dental Hygienist	41,902	33,886
Dispensing Optician	7,719	4,335
Electrician and Plumber	19,407	15,395
Electrologist	4,194	3,005
Elevator Mechanic	5,897	4,527
Employment Agency	6,250	4,202
Engineer, Architect, Surveyor, and Landscape Architect	76,599	59,502
Hearing Aid Dealer and Fitter	4,119	2,811
Marriage and Family Therapist	11,608	11,832
Massage Therapy	41,254	34,367
Medical and Osteopathy	97,232	75,842
Mental Health Counselor		6,664
Mortgage Broker and Solicitor	53,335	51,443
Motor Vehicle Industry	19,120	13,148
Motor Vehicle Repair	12,026	8,186
Naturopathy	4,989	3,507
Nurse Aide	3,016	2,362
Nursing	148,491	108,800
Nursing Home Administrator	8,056	4,665
Occupational Therapist	5,956	4,547

<b>Boards and Programs</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Optometry	16,640	10,247
Pest Control	12,170	9,571
Pharmacy and Pharmacist	47,862	35,018
Physical Therapy	17,383	15,952
Private Detective and Guard	18,275	11,439
Psychology	16,257	13,394
Real Estate	774,640	679,159
Real Estate Appraiser	45,486	34,598
Social Worker	22,773	15,974
Speech Pathology and Audiology	8,005	4,350
Subdivision		2,292
Time Share	9,797	8,071
Travel Agency	10,017	7,451
Veterinary	6,699	5,835
<b>TOTAL</b>	<b>1,879,655</b>	<b>1,541,659</b>

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

<b>Boards and Programs</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Accountancy	520	532
Activity Desk	6	32
Acupuncture	113	116
Barbering and Cosmetology	229	260
Boxing	0	0
Cemetery and Pre-Need Funeral Authority	22	28
Chiropractor	195	208
Collection Agency	38	56
Contractor	157	476
Dentist and Dental Hygienist	294	323
Dispensing Optician	13	11
Electrician and Plumber	71	110
Electrologist	9	4
Elevator Mechanic	0	0
Employment Agency	11	6
Engineer, Architect, Surveyor, and Landscape Architect	601	599

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

<b>Boards and Programs</b>	<b>FY 03-04</b>	<b>FY 04-05</b>
Exam Branch	60	63
Hearing Aid Dealer and Fitter	9	6
Marriage and Family Therapist	36	139
Massage Therapy	289	391
Medical and Osteopathy	714	653
Mental Health Counselor		134
Mortgage Broker and Solicitor	125	256
Motor Vehicle Industry	72	83
Motor Vehicle Repair	28	39
Naturopathy	22	28
Nurse Aide	26	23
Nursing	805	1453
Nursing Home Administrator	21	12
Occupational Therapist	89	34
Optometry	99	93
Pest Control	23	36
Pharmacy and Pharmacist	122	622
Physical Therapy	116	678
Private Detective and Guard	56	63
Psychology	120	238
Professional Vocational Licensing (PVL)	964	924
Real Estate	4,408	8,854
Real Estate Appraiser	960	466
Social Worker	240	209
Speech Pathology and Audiology	49	51
Time Share	363	337
Travel Agency	42	54
Veterinary	88	77
<b>TOTAL</b>	<b>12,225</b>	<b>18,789</b>

## **REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)**

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

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

### **OVERVIEW**

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

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

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

### ***Composition***

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

#### ***Consumer Resource Center (Education, Information, Intake and Alternative Dispute Resolution)***

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

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<sup>1</sup> **See**, Section 26-9, and 26H-4, Hawaii Revised Statutes.

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

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

Another important aspect of CRC's work is the service provided by CRC's Licensing & Business Information Section (LBIS). The LBIS is a consolidated service operated by RICO for the Office of Consumer Protection, the Business Registration Division, the Professional and Vocational Licensing Division, and RICO. The service allows callers to use just one telephone number (587-3222) to find out (1) basic business registration information; (2) whether a business holds a professional license; and (3) complaints history on file with RICO and OCP. Through LBIS' service, callers are able to gather important information about a particular licensee or business without having to call multiple state offices.

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

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

### ***Field Investigation***

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

Field investigators are responsible for gathering evidence in RICO cases to determine whether licensing law violations have occurred. RICO's investigators also

take an active part in resolving cases, and in issuing administrative citations where unlicensed activity can be observed.

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

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

### ***Legal Branch***

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

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

As a result of the enforcement work of the division, during the past fiscal year, RICO issued 128 citations for unlicensed activity, and 104 judgments (based on lawsuits or consent judgments) were entered for unlicensed activity. 152 Board orders were entered against licensees, including 42 revocation orders, 4 suspension orders, 13 voluntary surrenders, 3 censures and 1 order of probation. Fines and penalties assessed totaled \$1,055,946.

***State Certified Arbitration Program*** The State Certified Arbitration Program (SCAP), more commonly known as the lemon law program, provides an arbitration forum for a consumer to resolve a warranty-related dispute with a motor vehicle manufacturer without having to hire an attorney. SCAP handled 77 cases (compared to 57 cases last year) and helped consumers recover over \$700,000 during the year.



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

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

### **GOALS and OBJECTIVES**

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

1. In upholding a fair and safe marketplace, RICO activities are directed toward achieving the following objectives and policies:
  - a. Address license violations and complaints and inquiries through appropriate referral, investigation, resolution and/or prosecution.
  - b. Make regulation more effective.

*1 year, 2 year and 5 year initiatives:* Sweeps, stings and compliance checks are important tools used by RICO to identify and deter instances of unlicensed activity, particularly in the contracting area. During FY06, RICO plans to continue to conduct regular unlicensed activity sweeps, with the frequency of sweeps increasing over the next 5 years. Performance would be measured by the number of sweeps, stings or compliance checks that occur during a particular fiscal year.

2. In providing excellent customer service, RICO activities are directed toward achieving the following objectives and policies:
  - a. Enable members of the public to become knowledgeable participants in transactions with licensed professionals, and foster an awareness of the importance of licensure.
  - b. Provide meaningful assistance and support to the public in a user-friendly manner.

*1 year, 2 year and 5 year initiatives:* For FY06, RICO plans to increase participation in relevant consumer fairs and shows, especially on the neighbor islands, and increase outreach education in specific communities such as new subdivisions that may be particularly susceptible to problems with unlicensed building activity, with the number of educational contacts increasing over the next five years.

For FY06, RICO is currently working with a vendor to provide the public with easier online access to complaints information and board orders. In addition in FY06,

RICO will increase the number of online videos that are available to educate the public about various licensing issues.

3. In optimizing operational efficiency, RICO activities are directed toward achieving the following objectives and policies:

- a. Promote internal case handling systems and related tools and systems that aid in fair, timely and effective enforcement.
- b. Enable (train) and assist staff in fulfilling RICO objectives and policies.

*1 year, 2 year and 5 year initiatives:* For FY06, RICO is currently exploring various programming enhancements and internal procedures that will simplify the exchange of information between RICO, PVL D and the Office of Administrative Hearings. Also in FY06, the Field Investigations Branch will be continuing its efforts to simplify its internal report formats for certain types of cases. In order to address increased case volume and process cases expeditiously, the branch is in the process of filling all available field investigator positions. The division is increasing the number and variety of training opportunities for investigators and attorneys. It is expected that these efforts will be ongoing. Performance in this area is gauged by a balance of case processing volume and speed, proactive investigations (sweeps and stings), and staff training.

### **ACCOMPLISHMENTS**

*Unlicensed Activity Sweep & Citations:* RICO conducted a sweep for unlicensed activity in Kauai, including the investigation of construction occurring at a hotel. As a result of the investigation, several citations for unlicensed activity were issued, and disciplinary action was taken against licensees who were aiding and abetting unlicensed activity. The investigation and coordination with federal law enforcement officials also led to the removal from the state of a number of undocumented workers.

*No Rules Combat legislation:* During the 2005 legislative session, DCCA proposed legislation to enhance regulation of no rules combat events. The resulting law significantly increases the protection provided to no rules combat fighters. Following the enactment of the Act, the division developed informational materials and notices to affected promoters, distributed applications forms, and actively monitor events.

*Consumer and Licensee Outreach:* RICO continues to work with the building industry to provide contracting law information to consumers as part of a series of BIA presentations about remodeling issues and has participated in a number of home shows including the Kauai First Time Homebuyer's Fair, and the BIA Home Show. In addition, RICO made presentations to a number of industry groups including the Maui Contractors Association, the Kauai Contractors Association, the Hawaii Island Board of Realtors, and the Hawaii Society of Certified Public Accountants. At the same time, all of RICO's consumer brochures were placed online, and a new brochure called "Advertising Professional or Occupational Services in Hawaii -- What Advertisers and Producers

Should Know” was created in response to frequently asked questions about advertising by licensees. Display materials were designed and obtained for RICO’s Honolulu office and each neighbor island office to facilitate increased consumer education and outreach at each office location.

*Online enhancements:* Informational videos relating to the division’s State Certified Arbitration Program were uploaded to the RICO website and are now readily accessible to anyone with web access. In the past, these videos were only available for viewing at the Honolulu office.

*2005 Case Processing Project:* During the latter half of the fiscal year, RICO engaged in a concerted effort to address concerns about the age of pending cases. The division’s investigators and attorneys were tasked with clearing off a backlog of over 375 cases. By the end of the fiscal year, virtually all backlogged cases were appropriately acted upon. For the field investigations branch, because the vast majority of older cases were on the neighbor islands, the project required a redistribution of cases throughout the RICO offices. At the same time, both branches adopted new performance targets to prevent similar occurrences. The project has raised the awareness within the division of the factors that can contribute to case aging and the need for vigilance in processing cases in a timely manner.

In FY05, the division also streamlined unlicensed building “tip” handling by having specific intake staff responsible for conferring with field investigators on an expedited basis when reports of ongoing unlicensed activity are received. This more immediate contact with field investigators allows the division to move quickly and efficiently when receiving tip information.

The CRF financial summary relating to RICO for FY 04-05 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,402,182	\$654,628	\$4,056,811	\$5,791,527

### **CONCLUSION**

With responsibility for the enforcement of the licensing laws of over 46 boards, commissions and programs, RICO continues to receive a large number of inquiries, complaints and other requests for assistance. Rapid changes and increased complexity in the way many of the licensed professionals conduct business, as well as changes in state law have spawned new enforcement issues and new challenges for RICO. Through strategic initiatives, enhanced training, and a commitment to continual improvement, the division will continue its efforts to provide a fair and safe marketplace for the consumers, businesses and professionals it serves.

**Table 1: RICO Consumer Resource Center**

	2004	2005
Requests for Complaints History	89,507	80,349+
Complaint Inquiries & Forms issued	19,298	17,784+
<b>TOTAL</b>	<b>108,805</b>	<b>98,133+</b>

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

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

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

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**Regulated Industries Complaints Office (RICO)**

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

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

**Table 3: Assistance Provided to the Public for other DCCA divisions by Neighbor Island RICO Offices in FY 2005**

<b>DIVISION</b>	<b>HILO</b>	<b>KAUAI</b>	<b>KONA</b>	<b>MAUI</b>	<b>TOTAL</b>
Division of Financial Institutions	38	39	0	7	84
Business Registration	734	626	345	565	2,270
Cable Television	0	9	0	0	9
Insurance Division (+ MVID)*	63	44	0	20	127
Division of Consumer Advocacy	36	8	2	2	48
Professional & Vocational Licensing	845	533	321	658	2,657
Office of Consumer Protection	364	550	32	276	1,222
Non-Department Related	589	681	259	236	1,765
<b>Totals</b>	<b>2,669</b>	<b>2,490</b>	<b>1,259</b>	<b>1,764</b>	<b>8,182</b>

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

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

	SCAP COMPLAINTS
<b>DAIMLER CHRYSLER</b>	<b>16</b>
<b>FORD</b>	<b>15</b>
<b>GM</b>	<b>10</b>
<b>HONDA</b>	<b>5</b>
<b>HYUNDAI</b>	<b>1</b>
<b>ISUZU</b>	<b>1</b>
<b>KIA</b>	<b>6</b>
<b>MAZDA</b>	<b>2</b>
<b>MERCEDES-BENZ</b>	<b>3</b>
<b>MINI</b>	<b>1</b>
<b>NISSAN</b>	<b>7</b>
<b>SUBARU</b>	<b>1</b>
<b>TOYOTA</b>	<b>5</b>
<b>VOLKSWAGEN</b>	<b>3</b>
<b>VOLVO</b>	<b>1</b>
Total Cases	77
Cases Arbitrated*	35
Cases Settled	39
Cases Withdrawn/Dismissed	3
Total Refunded to Consumers	>\$692,860

*\*Of the cases arbitrated, 18 arbitrations were in favor of the manufacturer and 17 cases were in favor of the consumer.*