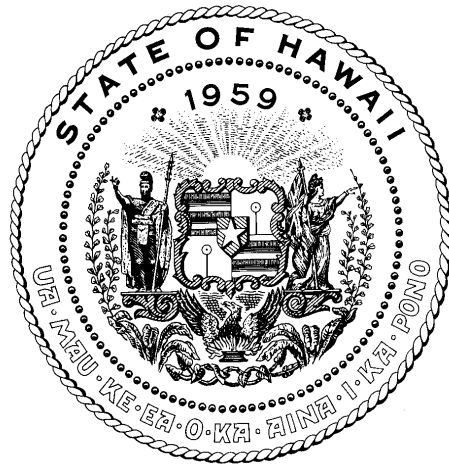


Annual Compliance Resolution Fund Report



**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII
SUBMITTED DECEMBER 2019**

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INTRODUCTION

The Department of Commerce and Consumer Affairs (DCCA or Department) submits its Annual Compliance Resolution Fund (CRF) Report pursuant to Hawaii Revised Statutes (HRS) section 26-9(o). The report describes the use of the CRF for the fiscal year (FY) beginning July 1, 2018, and closing June 30, 2019, by presenting an overview of the functions and activities of core DCCA programs funded by the CRF. In addition, the report provides a financial summary of expenditures from the CRF, including personnel and operating expenses and revenues received.¹ The report complies with Act 100, Session Laws of Hawaii (SLH) 1999, which requires all state departments and agencies to identify their goals, objectives, and policies to provide a basis for determining priorities and allocating limited public funds and human resources.

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

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

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

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

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

OFFICE OF THE DIRECTOR

OVERVIEW AND COMPOSITION

The Office of the Director (Director's Office) provides general policy and administrative leadership in supervising and coordinating various department activities. The Director's Office also includes the **Hawaii Post-Secondary Education Authorization Program (HPEAP)** that provides regulatory oversight of accredited, degree-granting post-secondary educational institutions that have a physical presence in the State, and the Department's **Personnel Office** that provides personnel management services.

Contact information:

Office address:	335 Merchant Street Room 310 Honolulu, Hawaii 96813
Mailing address:	P.O. Box 541 Honolulu, Hawaii 96809
Phone:	(808) 586-2850
Website:	cca.hawaii.gov
Email:	dcca@dcca.hawaii.gov

The Office of the Director includes the Director, Deputy Director, a communications officer, a government affairs attorney/legislative coordinator, an education specialist, two secretaries, an HPEAP administrator, an HPEAP program specialist, a Departmental Human Resources Officer II, two human resources specialists, and a human resources assistant.

GOALS AND OBJECTIVES

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

- Ensure effective and timely oversight of regulated industries and greater promotion of consumer education by providing the Department's divisions with adequate resources to carry out their responsibilities.
- Improve and upgrade existing operating systems and technologies the Department uses to advance its capabilities in responding to consumer issues and helping businesses navigate the regulatory environment.

² The Public Utilities Commission (PUC or Commission) is funded by the PUC Special Fund pursuant to HRS section 269-33 and not in any part by the CRF. HRS section 269-5 requires the Commission to submit its own annual report to the Legislature. Please see the 2019 Public Utilities Commission Annual Report for information on PUC operations.

- Provide transparency and accountability in the Department's operations.
- Improve the regulatory environment for businesses and consumers by collaborating with other agencies to provide effective and efficient regulation, as well as safe and appropriate economic development.

ACCOMPLISHMENTS OF THE DIRECTOR'S OFFICE AND INFORMATION SYSTEMS AND COMMUNICATIONS OFFICE IN FY 2019

Consumer Education Program

In FY 2019, the Consumer Education Program participated in more than two dozen outreach events statewide, including senior fairs, wellness fairs, and disaster preparedness fairs. On March 6, 2019, the program sponsored the 15th Annual National Consumer Protection Week Fair at the King Kalakaua Building in downtown Honolulu. This event had over 24 organizations providing information about services that helped consumers make educated decisions in the marketplace.

The Consumer Education Program provides numerous publications for the public, including the Military Consumer Fraud Guide, a 40-page publication published by the DCCA to equip Hawaii's service members and their families with information as the first line of defense against fraud, and the Consumer Guide to Healthcare Providers, a 14-page publication published by the DCCA. This guide focuses on issues relating to Hawaii healthcare providers and provides: descriptions of the healthcare provider licenses issued by the DCCA; contact information for the healthcare provider boards and programs; tips on how to select a health care provider; and information on how to resolve concerns or complaints.

The Consumer Education Program developed and aired a public service announcement (PSA) to highlight the BusinessCheck website at <http://businesscheck.hawaii.gov/>. The campaign encourages the public to protect themselves from unfortunate circumstances by utilizing BusinessCheck resources to look up and check on companies, individuals, or licensed professionals that they intend to do business with or hire. In addition to airing on local broadcast networks, the PSA can be viewed on DCCA's YouTube channel at <https://youtu.be/eSQSliNWNqU>.

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

Hawaii Post-Secondary Education Authorization Program

In FY 2019, HPEAP issued a new school authorization for the Asia Graduate School of Theology – Pacific. HPEAP also managed the consequences of the precipitous school closure of Argosy University Hawaii. In addition to helping former Argosy University Hawaii students obtain their transcripts and providing them with information on loan forgiveness, transfer options, and veterans assistance, HPEAP assisted former students of two other closed schools: Heald College Honolulu, which closed in April 2015, and the World Medicine Institute, which closed in April 2018.

HPEAP is the designated state portal entity for the State Authorization Reciprocity Agreement (SARA). SARA is an agreement among member states that establishes comparable national

standards for interstate offering of post-secondary education distance courses. In FY 2019, HPEAP added Kapiolani Community College to its list of SARA institutions.

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

Office of the Director's Legislative Coordination

In FY 2019, the Director's Office, including multiple DCCA administrative services and support offices, oversaw the Department's legislative activities concerning budgetary, fiscal, personnel, and administrative matters. The Director's Office assisted with the legislative operations of each division and regularly liaised with other state departments, agencies, branches of government, and community and business groups on legislative matters. During the Regular Session of 2019, the Department submitted 531³ testimonies regarding consumer and commerce matters. In addition, the Department supported various nominees for boards and commissions attached to the DCCA. Several of the Department's legislative proposals, which were introduced as part of the Governor's administration package, received favorable consideration by the Legislature and were subsequently enacted. After adjournment of the 2019 legislative session, the Department's legislative coordinator/government affairs attorney continues to support the DCCA in implementing legislative directives and coordinating departmentwide activities to prepare for the 2020 legislative session.

Information Systems and Communications Office

In FY 2019, the Information Systems and Communications Office (ISCO) Infrastructure team continued updating all desktop systems to Windows 10. ISCO expects to be fully migrated by the end of Q3 2020 and plans to build a hybrid data center model to increase reliability and redundancy against system failure.

ISCO completed upgrading the computer network for neighbor islands.

ISCO began moving to a hybrid data center model and expanding to Microsoft Azure for file servers. ISCO continued deployment and use of Sharepoint and Microsoft Teams for project management, messaging collaboration, and online meetings.

ISCO Solutions evaluated departmental-scale Enterprise Content Management options, which are strategically important for current and future departmental projects and for serving as a repository for migrating stored physical documents toward an electronic document storage that is indexed and searchable.

Lastly, ISCO worked with Enterprise Technology Services to build out the division's technology portfolio management data by leveraging the LeanIX cloud-based system. This is a foundational part of the DCCA's technology strategic plan update.

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

CRF FINANCIAL SUMMARY FOR FY 2019

The following is the Department's CRF financial summary for FY 2019:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$37,208,468	\$11,828,543	\$49,037,011	\$56,755,329

As a special-funded department, the DCCA's financial strategy requires that revenue-generating divisions secure revenues to cover their expenses and contribute equitably to overhead costs, while ensuring that anticipated major improvements and expenditures are addressed and adequate reserves are maintained. In FY 2019, each of the Department's divisions conducted an internal evaluation to determine what each division required in the form of cash reserves and how each division would align its cash balances to its projected expenditures and necessary reserve amounts. The maintenance of an adequate reserve ensures fund solvency and continuation of mandatory public services. Since the onset of the CRF, the Department's primary fiscal goal has been to implement this strategy through conservative spending and adjusting its expenses to align with projected revenues. Accordingly, the Department's financial planning accounts for current FY year expenses, as well as future major projects and expenditures.

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

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

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

The following is the Office of the Director's (includes the Administrative Services Office, Consumer Education Program, HPEAP, ISCO, Office of Administrative Hearings, and Personnel) CRF financial summary for FY 2019:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,262,818	\$3,311,038	\$8,573,856	\$1,137,837

CONCLUSION

In FY 2019, the Department, through its various divisions, boards and commissions, and attached agency, made numerous critical decisions and took necessary actions to ensure Hawaii's consumers received adequate representation and protection. The Department and its affiliated boards and commissions were also involved in other critical determinations affecting regulation of financial institutions, insurance, securities and investments, and consumer protection. The DCCA is committed to improving consumer protection and business regulation in the State. Amid a complex and evolving regulatory environment, the Department continuously strives to make Hawaii a safer place for consumers and a robust place for businesses to operate.

BUSINESS REGISTRATION DIVISION (BREG)

OVERVIEW AND COMPOSITION

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

Contact information:

Main office address:	335 Merchant Street, Room 201 Honolulu, Hawaii 96813 Phone: (808) 586-2744 (Administration) (808) 586-2727 (Documents Registration) (808) 586-2545 (Business Action Center)
Mailing address:	P.O. Box 40 Honolulu, Hawaii 96810
Business Action Center Oahu:	Relocated to BREG's main office in October 2019.
Business Action Center Maui: (new location)	Wells Professional Center 2145 Wells Street, Suite 106 Wailuku, HI 96793 Phone: (808) 243-8679
Business Action Center Hilo:	25 Aupuni Street, Suite 1301 Hilo, Hawaii 96720 Phone: (808) 961-8947 (Business Action Center Resource Days are held on the 1 st and 3 rd Thursday of each month. Please call Business Action Center Oahu to confirm hours.)
Business Action Center Kona:	West Hawaii Civic Center 74-5044 Ane Keohokalole Highway, Building C, 2 nd floor

Kailua-Kona, Hawaii, 96740
Phone: (808) 323-4700
(Business Action Center Resource Days are held on the 2nd Thursday of each month. Please call to confirm hours.)

Website: cca.hawaii.gov/breg

Email: breg@dcca.hawaii.gov

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

The **Business Action Center (BAC)** provides one-stop information and assistance with state business and employer registrations, state taxpayer IDs, and more. The BAC has offices on Oahu and Maui and holds regular resource days on Hawaii Island. Services are delivered in-person and via phone, email, mail, fax, and Live Chat, an instant messaging system that allows customers on the Hawaii Business Express (HBE) website to obtain real-time assistance from a customer service representative. Public computers are available at all BAC locations, enabling customers to access the HBE and the Department of Taxation's and the Internal Revenue Service's online registration systems. The BAC has one business registration supervisor and four business registration assistants.

The **Securities Enforcement Branch (SEB)** enforces state laws governing the securities industry under the Hawaii Uniform Securities Act and franchises under the Franchise Investment Law. The SEB investigates and prosecutes cases involving state securities law and franchise law violations. The branch has one senior enforcement attorney, four attorneys, one supervising investigator, six investigators, one legal secretary, three legal clerks, and one office assistant.

The **Securities Compliance Branch (SCB)** is responsible for the registration of securities broker-dealers, securities agents, investment advisers, investment adviser representatives, investment companies, securities offerings, and the filing of franchise offering circulars in the State. The SCB also conducts field examinations of broker-dealers and investment advisers in Hawaii. The branch has one securities compliance specialist, two supervising securities examiners (one in the securities examination section and one in the securities licensing section), five examiners, three licensing clerical staff, one clerical assistant, and one secretary.

The **Investor Education Program (IEP)** falls under the SCB and provides investor education and financial literacy outreach statewide. The program maintains outreach programs in the areas of: (1) kupuna (seniors) and caregivers; (2) working families and union members; (3) keiki (youths); (4) industry professionals; (5) military; and (6) Hawaiian and other ethnic communities. The IEP's

free educational materials, presentations, and exhibits help consumers and investors detect and prevent securities fraud and report securities law violations. The program has one education specialist, one program assistant, and one multimedia education specialist.

GOALS AND OBJECTIVES

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

- The use of multimedia technology to reach audiences in a current and relevant manner.
- An industry training program to help financial professionals report financial exploitation and securities fraud.
- A securities training program for law enforcement agencies to build partnerships to help prosecute financial fraud.

ACCOMPLISHMENTS IN FY 2019

BREG launched a new online system for its securities branches that replaced the SEB's case management system. The new system serves as a portal for the SCB to file and process securities filings online. Cases are now handled digitally, from the moment a complaint is filed to the investigation and legal processes. The securities branches can also communicate and share important regulatory information with each other more easily through the system. The amount of paper handled by both the SEB and the SCB has been drastically reduced, resulting in greater efficiency in the processing, management, and analysis of information.

BREG launched a completely redesigned HBE website. HBE services now include: business registrations and changes, annual report submissions, business name search, document purchases, and notifications and reminders. The redesign includes highly requested features, such as a uniform layout across devices, improved organization and navigation of services, and a new dashboard that provides access to receipts, purchased documents, filing statuses, and summaries of due and overdue items. BREG is continuously looking at ways to improve its systems for users, as online filing results in quicker, more accurate filings and efficient processing.

The SEB and IEP developed and implemented an outreach training program for local law enforcement agencies to help them understand what securities are, how securities fraud can be detected and prevented, and the role of BREG. The first presentation was held in July 2019 for the Maui Police Department. Presentations are also scheduled for the Kauai and Hawaii Police Departments, with additional presentations pending. Feedback has been positive, and BREG hopes to continue strengthening this program to better protect the community from fraud.

CRF FINANCIAL SUMMARY FOR FY 2019

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,609,319	\$1,221,498	\$6,830,818	\$12,227,444

BREG's financial plan centers around funding the replacement of outdated IT systems, continuing its move from paper to electronic filings (i.e., scanning), and document management. BREG has completed phase one of its IT replacement with the successful transition from a server-based securities enforcement complaints management system to a cloud-based system. It hopes for budget approval in the upcoming budget cycle to embark on a much larger and more ambitious project to upgrade its outdated business registrations system with a platform and system that will provide greater functionality for BREG employees and the public. In addition, although much of BREG's business registration process is currently electronic, the division plans to scan older hard copies so that historical documents are more readily available to the public.

As a special-funded division, BREG has planned for a projected one-time cost and recurring costs of the phase two IT replacement and scanning project by temporarily increasing its cash reserve balance while maintaining a 15-month reserve. A 15-month reserve is necessary to ensure continuity of BREG operations, since most of BREG's revenue is collected in the third quarter (as opposed to every quarter), and it is difficult to project with certainty the available fund balance throughout the year. Now that cash balances appear sufficient to fund the costs of the replacement and enhancement projects, BREG has sought and obtained approval for a fee reduction in FY 2020.

CONCLUSION

BREG continues to receive business filings, requests to purchase business documents, business registration inquiries, securities and franchise registration filings, securities and franchise inquiries, and securities and franchise complaints that indicate an enduring need for essential government services involving BREG's business registry, the BAC, securities law enforcement, securities registration, and investor education outreach functions. BREG also continues to investigate and take legal action against securities fraud in the State.

The demand for BREG's services has necessitated improved information systems, more sophisticated online support, and increased training to handle the division's workload and regulatory oversight. In addition, BREG continues to work with the North American Securities Administrators Association to assist in national regulatory reform and to promote and advocate positions that best support Hawaii's consumers.

CABLE TELEVISION DIVISION (CATV)

OVERVIEW AND COMPOSITION

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

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

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

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

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

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

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

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

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

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

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

Contact information:

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Room 101
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Mailing address: P.O. Box 541
Honolulu, Hawaii 96809

Phone: (808) 586-2620

Website: cca.hawaii.gov/catv

Email: cabletv@dcca.hawaii.gov

The CATV has an administrator, two staff attorneys, four program specialists/analysts, and a secretary.

GOALS AND OBJECTIVES

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

- Provide efficient management of INET and use negotiated INET benefits for the optimal benefit of state and county government and educational facilities.
- Bridge the broadband availability gap by facilitating broadband infrastructure deployment and supporting a competitive marketplace.
 - Work with federal, state, and county agencies, broadband providers, and other stakeholders to identify policies and programs to facilitate deployment of broadband infrastructure and expand access to broadband services.
 - Assist with identification of broadband service gaps in unserved and underserved areas of the State.
 - Assist with identification of funding methods to extend broadband infrastructure and service in unserved and underserved areas of the State.
 - Work with the BAAC to identify means to streamline government permitting and approval processes.
 - Monitor development and deployment of new advanced services.
- Support and facilitate broadband adoption initiatives and programs to drive use of high-speed broadband.
 - Support and facilitate government broadband programs, as well as consumer-focused initiatives and applications.
 - Support other state agencies' efforts to increase use of broadband through digital literacy and other adoption programs.
 - Work with the BAAC to identify programs and policies to advance broadband adoption and use of applications.

ACCOMPLISHMENTS IN FY 2019

Federal Proceedings and FCC Rulemaking

The CATV monitors developments in Congress and at the FCC relating to cable television, telecommunications, and broadband. In FY 2019, the CATV took an active role in three FCC proceedings that directly impact cable television subscribers in Hawaii:

Cable Franchise Fees (MB Docket No. 05-311)

On September 25, 2018, the FCC issued its Second Further Notice of Proposed Rulemaking, which changes how local franchising authorities (LFAs) may regulate incumbent cable operators. Among other matters, the FCC proposed that cable-related "in-kind" contributions required by franchising agreements, including costs associated with the construction, maintenance, and services of INETs, are franchise fees subject to the 5% cap and are to be valued at fair market value. As this determination would significantly impact the distribution of franchise fees for the State, the DCCA/CATV, along with numerous LFAs, government agencies, and PEG organizations across the country, submitted Comments on November 14, 2018, and Reply Comments on December 14, 2018, opposing the proposed rules. The DCCA/CATV submitted another filing on May 9, 2019, in response to the position of Charter and other cable providers on the fair market valuation of services. Throughout this proceeding, the CATV sent notices and updates to the INET Partners and the counties to prepare them for potential changes in cost and application of

INET connections that have historically been negotiated with the cable operators to be provided at no cost or “at-cost” (i.e., discounted).

On August 1, 2019, the FCC voted to adopt the new rules and issued its order on August 2, 2019. In addition to “in-kind” contributions falling under the franchise fee cap and valued at fair market value, the new rules also clearly state that any existing franchise order terms to the contrary will be automatically preempted, thereby prospectively negating any such previously negotiated benefits for the State. The FCC’s new rules on franchise fees were made effective on September 26, 2019. A number of appeals by various LFAs and entities have been filed since the effective date of the order.

On October 24, 2019, the DCCA/CATV, on behalf of the State, appealed the FCC’s order in the United States Court of Appeals for the Ninth Circuit on the bases that the FCC’s 2019 order on franchise fees is arbitrary, capricious, and an abuse of discretion and, thus, should be vacated. The CATV will continue to represent the State’s interest on appeal and monitor developments regarding this matter.

Effective Competition (MB Docket No. 18-283; CSR No. 8965-E)

In June 2015, the FCC adopted a rebuttable presumption that cable operators are subject to one type of effective competition, referred to as “competing provider effective competition.”⁵ Absent a demonstration to the contrary, the FCC now presumes that cable systems are subject to competing provider effective competition, and it continues to presume that cable systems are not subject to any of the other three types of effective competition, as defined by section 623(l) of the Communications Act and section 76.905 of the FCC’s rules.⁶ Through this and certain prior proceedings, the FCC essentially revoked the DCCA/CATV’s authority to regulate basic cable service rates throughout the State, except for the basic cable service rates on Kauai.

On September 14, 2018, Charter Communications, Inc. (Charter), the parent company of Spectrum Oceanic, LLC (Spectrum, formerly known as Oceanic Time Warner Cable LLC), filed a Petition for Determination of Effective Competition in certain Massachusetts communities and on Kauai. Charter stated that these areas, including Kauai, are now subject to effective competition under the Local Exchange Carrier Test due to the presence of AT&T’s DIRECTV NOW (now known as TV Now) streaming service. In response to Charter’s petition, the CATV filed Hawaii’s Opposition to Charter’s Petition with the FCC on October 25, 2018, as well as an additional filing on April 26, 2019, to note that the services provided by AT&T do not constitute effective competition under federal law.

On October 4, 2019, the FCC issued its draft order finding that AT&T’s TV Now streaming service meets the elements of effective competition and granting Charter’s petition. On October 25, 2019, the FCC adopted and issued its order as proposed. The CATV will

⁵ See Amendment to the Commission’s Rules Concerning Effective Competition; Implementation of Section 111 of the STELA Reauthorization Act, Report and Order, 30 FCC Rcd 6574 (2015).

⁶ See 47 U.S.C. § 543(l)(1); 47 C.F.R. §§ 76.905(b), 76.906.

continue to represent the State's interests and monitor developments regarding this FCC matter.

Cable Television Rate Regulation (MB Docket Nos. 17-105 & 02-144; MM Docket Nos. 92-266 & 93-215; CS Docket Nos. 94-28 & 96-157)

On October 2, 2018, the FCC released a draft Notice of Proposed Rulemaking seeking to update and "streamline" the FCC's rules for rate regulation of the cable basic tier and also proposing to eliminate rate regulation for the rental of equipment used to receive cable television service. After reviewing the Notice of Proposed Rulemaking and discussing with various consultants, the CATV filed its comments with the FCC on February 8, 2019, supporting the streamlining of rules in a manner that would not unnecessarily burden LFAs or cable providers' resources. The CATV continues to monitor this proceeding and awaits the FCC's decision.

Designation of WiFi Hotspots

On December 17, 2015, the DCCA/CATV issued Decision and Order No. 366, which conditionally approved the Charter/Time Warner Cable Merger completed on May 18, 2016. This conditional approval requires Spectrum to, among other things, provide 1,000 new public WiFi access points throughout the State, with one hundred of these new access points designated at public parks, civic and community centers, and other public areas and gathering places at the DCCA/CATV's direction.

Throughout FY 2019, the DCCA/CATV sought input from various government agencies and stakeholders to designate the location of the one hundred new Spectrum WiFi access points to provide internet access primarily in rural, underserved communities and also in gathering places that would benefit the public. At the end of FY 2019, 57 WiFi hotspots were designated, and 54 were installed and activated for public use. These designated hotspots currently provide the general public with one hour of free WiFi service per device, per day.

The 57 WiFi access points include: 14 bus stops across the island of Kauai; 8 locations in and around Hana, Maui; 5 locations in Wailuku, Maui widely used for its First Friday event; 10 locations in Kalaupapa, Molokai; 2 locations in the Princess Ruth Keelikolani Building for use by residents doing business with the Department of Taxation and the Department of Labor and Industrial Relations; 6 locations in Kaunakakai, Molokai, including parks and government service centers; and 12 community centers and gathering spots in Hawaii Island, including the Hamakua Coast, Volcano, Pahoa, Kapaau, Hilo, Kamuela, Captain Cook, Kailua-Kona, Naalehu, and Pahala.

Broadband Projects/Activities

In FY 2019, the DCCA/CATV conducted broadband-related activities that included:

- Working with the FCC and internet service providers on Hawaii's participation in the FCC's Measuring Broadband America program, which can expand the amount of data gathered about subscriber broadband service performance across the State.
- Gathering data on unserved and underserved areas and broadband performance across the State to enhance policymakers' understanding of the State's broadband landscape and to better inform their policies and strategies to advance the State's broadband goals. The

DCCA/CATV deployed the No Internet Service application to gather and map consumer provided data on locations where no internet service is available. In addition, the DCCA/CATV procured 2018-2019 Hawaii internet speed data and drafted a second DCCA public report on fixed wireline broadband speeds in Hawaii. The report is scheduled for release in July 2019.

- Connecting with stakeholders to identify possible opportunities to partner on, facilitate, or support projects to extend broadband access and increase broadband adoption.
- Implementing a DCCA/CATV pilot WiFi project on Hawaii Island to provide community access to WiFi at government locations in unserved and underserved areas around the island. The pilot locations will provide access to broadband-level internet services. This pilot project may serve as a model for implementing similar WiFi projects across the State.
- Disseminating information to stakeholders on funding opportunities for broadband projects and best practices for broadband infrastructure deployment.
- Supporting and facilitating provider efforts to extend and improve broadband infrastructure, including serving as a liaison with other government entities and the public.
- Supporting and facilitating discussions and activities of the BAAC and soliciting recommendations to expand broadband access and use.
- Assisting the public with broadband-related inquiries.
- Monitoring and supporting a project to close the fiber optic network gap on Hawaii Island (Hawaii Island Fiber Gap Project), for which the DCCA/CATV had convened a stakeholder group consisting of the County of Hawaii, the National Park Service, public utilities, and broadband and cable providers.
- Maintaining the CATV broadband website to support statutory duties under HRS chapter 440J and Act 151, SLH 2011; providing access to broadband coverage information and broadband deployment resources; and providing digital literacy resources and consumer information.

Reduction of Cable Administration Fees

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

CRF FINANCIAL SUMMARY FOR FY 2019

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$872,482	\$1,050,646	\$1,923,128	\$3,117,084

Like all the other divisions of the Department, the CATV is special-funded. However, unlike many other divisions, the CATV's only source of revenues (aside from application fees, which are very rare) is annual fees from the State's two cable operators. Annual fees are collected during the beginning of the third quarter of each fiscal year, traditionally at the end of January, and amounts are based on each cable operator's gross revenues for the prior calendar year. Revenues for the CATV are dependent on the market for cable services in the State, which varies from year-to-year and is projected to decline as the market for streaming services over the internet continues to expand. Due to these factors, the CATV targets to maintain a reserve of approximately 24 months to ensure continuity of the division's operations as the cable market changes. With this target in mind, on May 9, 2019, Decision and Order No. 375 was issued to reduce the annual fees collected each year from 1% to zero, beginning on July 1, 2019, to better align the CATV's cash balance with its reserve target.

CONCLUSION

The CATV was very active in FY 2019, amid the rapid development of telecommunications technology and its implications on cable television service, the internet, and other related services, as well as changes in content distribution and its impact on subscriber services. The division continued monitoring the obligations and requirements set forth in cable franchise agreements, orders approving cable transfers, and multiple cable franchise renewals. In addition, the CATV participated in numerous FCC proceedings, was involved in the designation of all four PEG access organizations, and conducted various broadband-related activities. Through its many regulatory activities and additional responsibilities to facilitate broadband access, the CATV continues to strive to: ensure fairness in providing improved cable television services to the public; provide valuable INET benefits to state and county agencies; provide technology and provider-neutral support to the extension of broadband service; and foster fair competition among providers to provide Hawaii residents with greater access to reasonably priced broadband services.

DIVISION OF CONSUMER ADVOCACY (DCA)

OVERVIEW AND COMPOSITION

The Division of Consumer Advocacy (DCA) represents, protects, and advances the interests of consumers of utility and transportation services before regulatory agencies, primarily the Commission. The DCA reviews requests for rate and tariff changes, capital improvement projects, integrated resource plans, certificates for authority to operate, and other applications filed by public utility and transportation companies, in addition to other proceedings opened by regulatory agencies to investigate or review generic issues. In representing the consumers of utility and transportation services before the Commission, the DCA must analyze financial and statistical data, prior docketed material, industry standards, and the information provided by the utility and transportation companies to support their applications. Based upon analyses of this information, the DCA files either written statements of position or testimonies explaining its analyses, findings, and recommendations with the Commission. When necessary, DCA analysts provide oral testimony, subject to utility company cross-examination, in contested case evidentiary hearings to resolve differences among the parties in utility proceedings.

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The DCA has 16 incumbent employees, including the Executive Director, a secretary, a utilities/transportation specialist, an education specialist, rate analysts, researchers, engineers, attorneys, and clerical support.

The **Rate Analysis Branch**⁷ reviews and analyzes economic conditions, investor requirements and returns, and other aspects relating to the capital structure of regulated public utilities and transportation companies. In addition, the branch evaluates and develops recommendations

⁷ Due to legislative action, as of July 1, 2019, the DCA no longer has a rate analysis branch. Instead, because of the increased complexity, high volume of work, and differing skillsets needed to meaningfully participate in current proceedings, analyses of rates and economic conditions will be completed along with other analyses and reviews by the remaining branches.

relating to rate schedules, effects of rates, sales levels, and other pertinent considerations in establishing rates.

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

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

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

GOALS AND OBJECTIVES

Consumer Advocacy

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

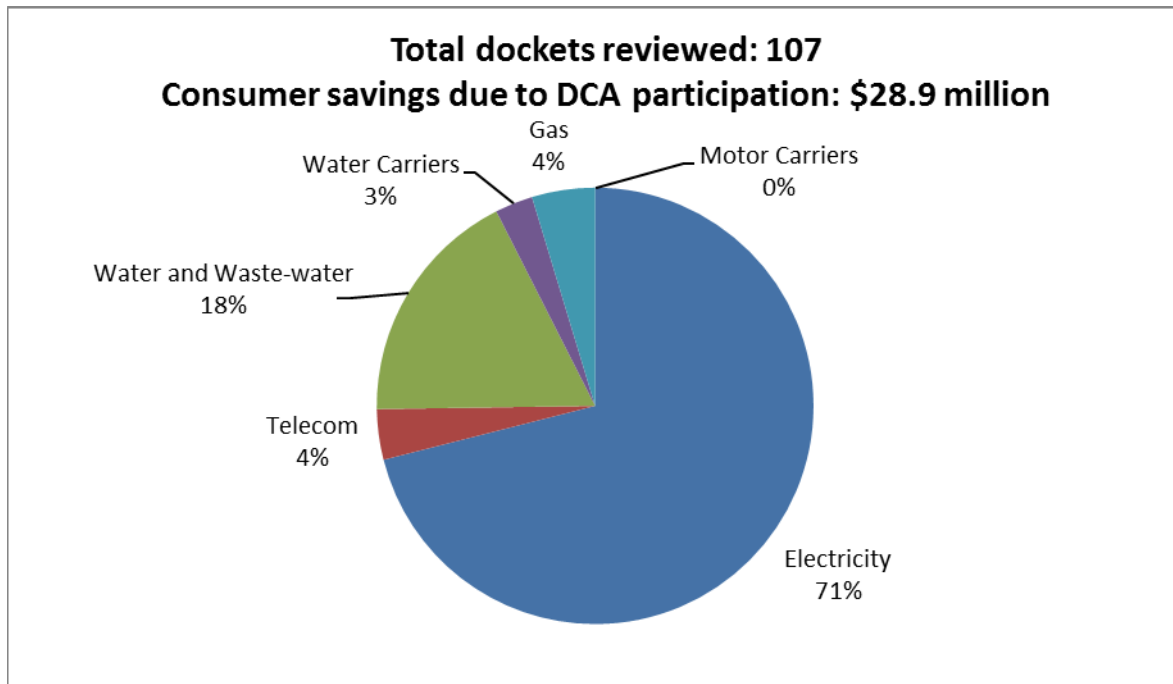
The DCA's resources are focused on PUC proceedings, which often affect the rates and reliability of utility and transportation systems and services. The DCA's participation in PUC proceedings will typically involve some or all of the following:

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

To measure the DCA's performance in advocating consumer interests, the DCA tracks various categories of information. The DCA monitors consumer savings resulting from its participation

in PUC proceedings, the percentage of PUC decisions that adopt settlements reached by parties to a proceeding, the number of service quality investigations the DCA participates in, and the number of filings before the Commission that are reviewed by the DCA. Chart 1 describes the total number of dockets the DCA reviewed, the proportion of dockets reviewed by area, and the total consumer savings due to DCA participation.

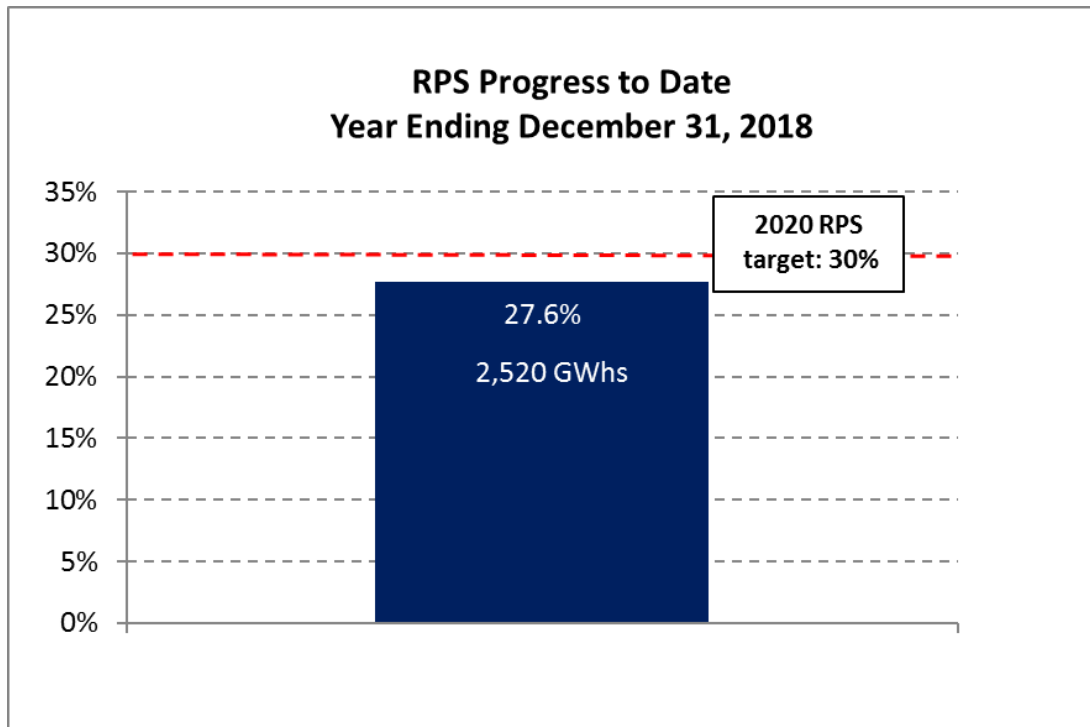
Chart 1: Dockets Reviewed by Area and Overall Consumer Savings, FY 2019



Policy Advancement

The DCA seeks to promote policies to protect and advance the interests of utility and transportation consumers on the local, state, and national levels. The division will continue to promote and facilitate Hawaii's transition from using imported fossil fuels to clean renewable energy, as well as advance federal and state broadband initiatives. Chart 2 reflects Hawaii's progress on its Renewable Portfolio Standard (RPS) goals. The percentage of renewable generation remained constant as compared to last year, in part due to lower levels of renewable generation on Hawaii Island following the Kilauea eruption in May 2018.⁸

⁸ The Puna Geothermal Venture facility shut down in May 2018 after fast-moving lava threatened the facility. See <https://www.hawaiipublicradio.org/post/puna-geothermal-track-reopen-2019#stream/0>.

Chart 2: Hawaii's RPS Goals

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

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

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

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

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

The DCA is actively involved with the Legislature and provides testimonies that detail consumer benefits or detriments of specific proposals and bills being considered by various legislative committees. In the 2019 legislative session, the DCA monitored and/or testified on 90 bills and resolutions and submitted written testimony on 56 occasions.

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

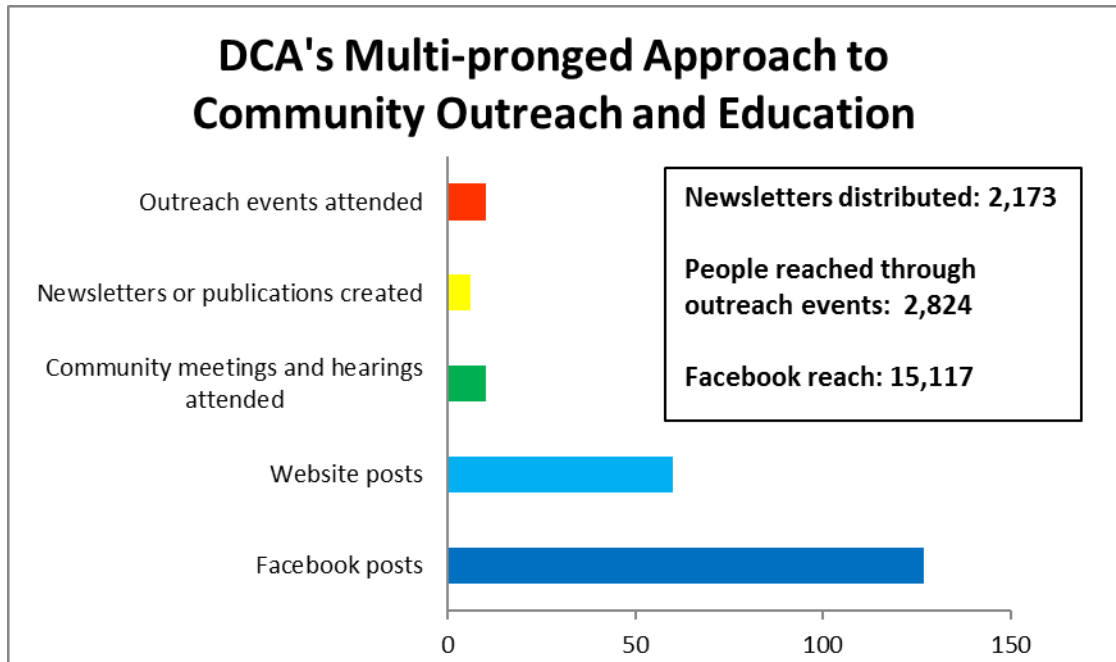
Education and Outreach

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

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

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

To measure its performance and progress on education and outreach activities, the DCA tracks the number of people reached through education and outreach events, newsletters and other publications distributed, and consumers assisted with complaints and other issues. Chart 3 illustrates various ways the DCA engaged in community outreach and education in FY 2019.

Chart 3: DCA's Multi-pronged Approach to Community Outreach and Education**ACCOMPLISHMENTS IN FY 2019****Advocacy Before the Public Utilities Commission**

The DCA's primary activities consist of its advocacy before the Commission. The following are some of the division's key actions in FY 2019.

Energy Dockets**Resource Planning**

Throughout most jurisdictions, energy utility companies are required to conduct long-term planning processes to efficiently plan on how to meet customer needs with an optimal mix of resources, such as central station generation, distributed generation, and demand-side resources. The need for energy planning is heightened in Hawaii since Hawaii's RPS and Energy Efficiency Portfolio Standard objectives require careful planning to ensure that Hawaii's energy rates do not unreasonably escalate or the reliability and resiliency of electric services do not suffer. Although such planning was historically done through Integrated Resources Planning proceedings, and more recently as Power Supply Improvement Plans proceedings, the Hawaiian Electric Companies (HECO Companies) began conducting a series of Integrated Grid Planning meetings and workshops as part of Docket No. 2018-0165. The DCA will continue to actively review and provide recommendations regarding the utilities' resource planning efforts.

Renewable Energy Procurement

In Docket No. 2017-0352, the Commission provided the forum through which the HECO Companies could issue requests for proposals to acquire new renewable energy projects. The DCA was an active party in this proceeding and sought to ensure that the procurement of new resources would benefit all consumers and be at reasonable costs. In this docket, the use of new contract terms addressed concerns raised by the DCA. These concerns related to seniority curtailment issues, where the energy from newer and cheaper sources of renewable energy would be queued behind older projects that had seniority but were possibly more expensive and less helpful in meeting grid needs. As a result of phase 1, eight projects with a potential capacity of over 274 megawatts were selected by the HECO Companies and were the subject of separate purchased power agreements before the Commission. The Commission approved six of the eight projects.⁹ The projects consisted of two projects on Maui, two projects on Hawaii island, and four projects on Oahu.

Distributed Energy Resources, Grid Modernization, Microgrids, and Advanced Rate Design

The Commission opened Docket No. 2014-0192 to review various issues related to distributed energy resources (DER) (e.g., photovoltaic rooftop systems) and the measures required to both facilitate the continued adoption of DER and ensure that a sustainable market for DER will exist that does not adversely affect other renewable energy markets or consumers. The Commission set forth an accelerated timetable for analysis of these issues in this proceeding.

In addition, due to a need to upgrade the grid to facilitate DER, among other things, the Commission began investigating grid modernization in Docket No. 2018-0141. The anticipated result is having the grid provide more information to the utilities to better manage resources, as well as provide the opportunity for customers to manage their use and/or work with third-party providers of energy services.

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

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

⁹ One additional project has since been approved, and one project is still pending before the Commission.

Performance-Based Ratemaking

Act 5, SLH 2018 required the Commission to establish performance incentives and penalty mechanisms to tie revenues to performance instead of investments. In addition, the Commission opened Docket No. 2018-0088, which is investigating performance-based ratemaking. In Docket No. 2018-0088, the Commission set forth the plan to look at performance-based ratemaking in two phases, with a 21-month timeline (nine months for phase 1, and 12 months for phase 2). The DCA has been actively participating in this proceeding to protect consumers' interests, as the possible outcomes could be favorable to the HECO Companies and/or third-party special interests – to the detriment of the consumers.

Community-Based Renewable Energy Program

In November 2015, the Commission suspended a HECO Companies' tariff to open a proceeding to investigate community-based renewable energy program (CBRE) issues. Subsequently, the Commission filed its staff proposal for a CBRE program and requested comments on that proposal. The Consumer Advocate's proposal supported the need for a CBRE program but noted the proposal did not include sufficient customer safeguards and may have been too favorable to industry and developer interests. The Consumer Advocate highlighted the need for low-cost options for renters, multi-unit dwelling residents, and low-income customers and for an initial program that would be relatively simple, rather than a complex program that might doom any future CBRE efforts. The Commission proposed a CBRE framework, which the Consumer Advocate and other stakeholders analyzed and offered comments. The Commission approved a framework but, due to various issues, no CBRE projects are commercially available yet. Additional work is underway to evaluate what further actions might be taken.

Dockets Involving Other Industries

The Consumer Advocate participated in various dockets involving regulated water, wastewater, telecommunications, utility gas, and transportation companies. These dockets included ongoing rate proceedings for water/wastewater utility companies, a rate case for Young Brothers, and eligible telecommunications carrier certification for various telecommunications companies. The Consumer Advocate also handled various dockets related to Hawaii Gas.

Advocacy through Participation on Committees and Boards

The DCA seeks to represent, protect, and advance customers' interests by participating in various committees and boards that are related to regulated utility and transportation services. Some of the committees and boards that the DCA served on in FY 2019 include the following:

- **Enhanced Wireless 911 Services:** Pursuant to Act 168, SLH 2011, the Enhanced Wireless 911 (E911) Board and the E911 Fund were created to ensure that the State's E911 system can meet emergency needs.
- **One Call Center Advisory Committee:** Pursuant to Act 141, SLH 2004, the One Call Center Advisory Committee seeks to properly educate contractors and customers about procedures and services available to help avoid damaging underground utility facilities and associated injuries.

- **Hawaii Energy Policy Forum:** This is an organization that brings together various entities from government, education, industry, and other interested stakeholders to discuss energy-related issues and how to best pursue changes that are consistent with the State’s goals and objectives.
- **Hawaii Clean Energy Initiative:** Initiated by a memorandum of agreement between the U.S. Department of Energy and the State of Hawaii, the Hawaii Clean Energy Initiative is a key driving factor in Hawaii’s clean energy transition efforts.

Education and Outreach

In FY 2019, the DCA continued to expand its education and outreach activities. This allowed the DCA to better educate consumers and extend its reach into communities throughout the State. In addition to attending community fairs, the DCA published its own newsletter and informational materials. The DCA also shifted its focus to keeping its online information relevant and informative.

The DCA continued to use Facebook to reach consumers more quickly through social media. Through Facebook, the DCA educates consumers by posting energy and water-saving tips and notifying consumers of pertinent, utility-related online newspaper articles, blog posts, and radio and television programs. The Facebook page is also used to announce upcoming utility-related public hearings, consumer fairs, utility and green energy conferences, and media events.

CRF FINANCIAL SUMMARY FOR FY 2019

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,687,914	\$1,212,417	\$2,900,331	\$4,418,326

The DCA is funded through the PUC special fund, which, in turn, is funded through a surcharge on regulated utility revenues. As a special-funded division, the DCA targets a 12- to 16-month reserve to ensure continuity of operations and to account for unforeseen downturns in utility revenues and large, complex projects. In addition, the DCA anticipates the need to make capital investments to accommodate recently approved positions added to the organization. Given the existing reserve balance, however, the DCA anticipates reducing the requested transfer of funds from the PUC special fund in FY 2020 and perhaps FY 2021.

CONCLUSION

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

DIVISION OF FINANCIAL INSTITUTIONS (DFI)

OVERVIEW AND COMPOSITION

The Division of Financial Institutions (DFI) provides regulatory oversight for the State's financial service providers, which include both bank and nonbank companies. The DFI provides supervision, regulation, and examination of all Hawaii state-chartered and state-licensed financial institutions, including banks, foreign banking agencies and representative offices, savings banks, trust companies, financial services loan companies (both depository and nondepository), and credit unions. In supervising financial institutions authorized to take deposits, the DFI works closely with the Federal Deposit Insurance Corporation (FDIC), Federal Reserve Bank of San Francisco (FRB), Consumer Financial Protection Bureau, and National Credit Union Administration.

The major functions of the DFI are to:

- Charter, supervise, regulate, and examine all state banks and credit unions, foreign bank branches, agencies and representative offices, and intra-Pacific branches.
- License, supervise, regulate, and examine nondepository companies, including escrow depositories, money transmitters, mortgage loan originators, mortgage loan originator companies, and mortgage loan originator branches and mortgage servicer companies.
- Accept and investigate complaints by consumers.

The DFI is recognized by two accreditation organizations for appropriately licensing, supervising, and examining chartered and licensed companies, providing consumer protection to individuals, and providing the highest standards of training for its staff. The DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and reaccredited in 1995, 2000, 2005, 2012¹⁰, and 2018. The CSBS accreditation program sets high standards for state banking regulators nationwide. Forty-seven out of 52 states¹¹ meet CSBS accreditation requirements.

In 2Q FY 2015, the DFI was the eighteenth state in the nation to be accredited by the CSBS/American Association of Residential Mortgage Regulators (AARMR)¹² for mortgage supervision. The CSBS/AARMR accreditation program sets high standards for state mortgage regulators nationwide. Currently, 26 of 66 mortgage regulatory agencies meet CSBS/AARMR accreditation standards. The accreditation program includes the mortgage loan originators, mortgage loan originator companies, and mortgage servicer programs. Hawaii was also recognized for its robust regulatory scheme and oversight, as well as for its mature examination program.¹³

¹⁰ Hawaii did not seek reaccreditation in 2010. A new commissioner was appointed in 2011.

¹¹ Includes the District of Columbia and Puerto Rico.

¹² The AARMR is a trade organization for mortgage regulators.

¹³ In 2009, the Hawaii Secure and Fair Enforcement for Mortgage Licensing, or SAFE, Act was passed, giving the DFI authority to supervise, regulate, and examine mortgage loan originators and mortgage loan originator companies.

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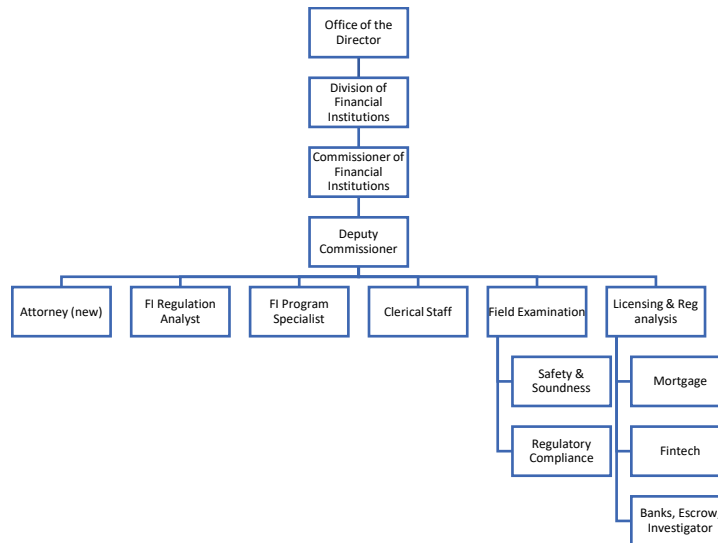
Phone: (808) 586-2820

Website: cca.hawaii.gov/dfi

Email for general matters: dfi@dcca.hawaii.gov

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

The DFI is led by the Commissioner of Financial Institutions, who is assisted by the **Administrative Section**, which has a deputy commissioner, a staff attorney, a specialist, a regulation analyst, and secretarial staff supervised by the secretary of the division. This section coordinates and facilitates activities within the DFI, with other divisions, and with other state and federal agencies regarding regulatory and supervisory oversight issues.



The **Licensing and Regulatory Analysis Branch** is composed of financial institution examiners and supervised by a branch manager. The branch is responsible for licensing activities and other regulatory approvals, the quarterly off-site monitoring program, responding to complaints and inquiries from consumers and licensees, and investigating alleged violations of state and federal laws. Licensing activities include reviewing and analyzing all applications for new financial institutions (bank and nonbank), opening, relocating, or closing branches, and adding new or

unique services to determine whether consumers may be harmed by the action of any licensee. The branch reviews all license renewals for state and federal compliance before issuing an approval. The branch has two sections: one section focuses on emerging financial technology (fintech) companies including money transmitters, while the other section focuses on the mortgage industry, including mortgage loan originators, mortgage loan originator companies, and mortgage servicers. This branch also oversees banks and escrow depositories and includes an investigator who conducts investigations in all industries supervised by the DFI.

The **Field Examination Branch** is composed of financial institution examiners and supervised by a branch manager. The branch is responsible for on-site and off-site examinations of all state-chartered and state-licensed financial institutions. Examinations, unlike accounting audits, are forward-looking and risk-based reviews of factors underlying the safety and soundness of financial institutions. For example, examiners not only evaluate existing and projected financial information, but also assess the effectiveness of management, its policies, and implementation of those policies in administering the institution's risk management programs and practices. The branch is divided into two sections: one section focuses on the safety and soundness of state-chartered banks, credit unions, and money transmitters, while the other section focuses on compliance with federal and state regulatory laws and guidance for mortgage-related industries.

GOALS AND OBJECTIVES

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

onsite with the licensee, saving money for the licensee and travel times by the examiners. The DFI still accepts paper inquiries and complaints from consumers, although more consumers have taken advantage of the DFI's online consumer complaint process.

- The DFI has been developing a career path for employees to advance and retain employees. The DFI has been successful in recruiting new employees and retaining employees once trained.
- The DFI leverages its resources with other state and federal agencies to provide oversight over state-chartered and licensed companies. This coordination involves communication skills to efficiently discuss and take appropriate action on licensees.
- Have effective and efficient operations and programs.
 - The DFI continues to work with a vendor to implement a workflow process that would include a searchable database.
 - The DFI continues to use the Nationwide Multistate Licensing System (NMLS) for licensing and supervision of its nondepository licensees.
- Achieve the DFI's strategic objectives.
 - The DFI's goals and objectives center on the orientation, training, and effective deployment of its examiners and providing best practices to licensees in a professional manner. Federal training programs administered by the FDIC and the Federal Reserve System are regularly used for this purpose, as are web-based programs provided by the CSBS, Risk Management Association, and Hawaii Bankers Association. On-the-job training is also a valuable component of the training plan. The DFI's goals also focus on recruiting new staff who will be able to adjust to the rapidly changing landscape of the financial services industry. New financial service products continue to be created, modified, and initiated by licensees regulated and supervised by the DFI. Delivery methods have also expanded through use of the internet, cellular phones, and other mobile devices, as well as their impact upon cybersecurity. Consequently, it is challenging for examiners to stay up-to-date with the latest iteration of products, services, and delivery methods.

ACCOMPLISHMENTS IN FY 2019

During FY 2019, the DFI strengthened its relationship with other sister state agencies, its federal partners, and the CSBS, AARMR, Money Transmitter Regulators Association, National Association of Consumer Credit Administrators, and the National Test Maintenance Committee.

- The Commissioner is a board member of the CSBS Board of Directors, the chairperson of the CSBS legislative committee, and a member of the CSBS District V region (Western states). The Commissioner provided training at the Money Transmitter Regulators Association school and conference.

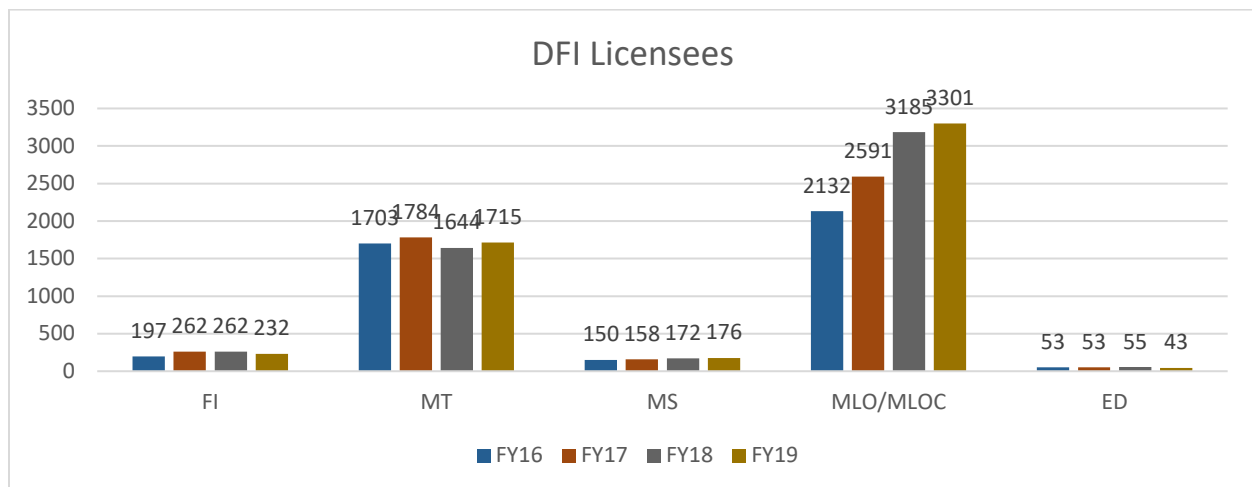
- The Deputy Commissioner is a member of the CSBS Performance Appraisal Committee. This committee reviews policies and best practices for bank, mortgage, and money transmitter accreditation.
- The Mortgage Supervisor is a member of the National Test Maintenance Committee, which is comprised of regulators, mortgage experts, and the mortgage industry.

The DFI continued to foster effective and efficient state regulation through training, educational programs, and examiner tools. Various examiners taught other state examiners about regulatory oversight, regulatory supervision, safety and soundness supervision, and money transmitter laws and examination procedures. Many DFI examiners and staff attended cybersecurity training to support consumer protections.

The DFI used the NMLS to license and register nonbank financial service providers (mortgage industry, money transmitters, and escrow companies). See below chart for the number of institutions the DFI regulated and supervised in FY 2016 through FY 2019.

Chart 1: Number of Institutions Regulated and Supervised

(FI = financial institutions; MT = money transmitters; MS = mortgage servicers; MLO = mortgage loan originators; MLOC = mortgage loan originator companies; ED = escrow depositories)



In addition, the DFI implemented two fintech solutions to assist in managing the supervision of DFI licensees. The DFI implemented the first fintech solution, which was a new database system and workflow system to replace the outdated legacy DFI database system. The second fintech solution was a nationwide solution through the NMLS. The NMLS system will allow the states to conduct multi-state examinations more efficiently and to share the examination reports. Hawaii is a member of the pilot program.

Although the DFI's partnership with other agencies and training is ongoing, every effort the division undertook sought to ensure the safety and soundness of the financial system, protect

consumers, and encourage economic growth — all while promoting innovative and responsive supervision.

Lastly, through the efforts of state banking agencies, including the DFI, state regulators were represented through the State Liaison Committee on the Federal Financial Institutions Examination Council, which: issued updated Bank Secrecy Act examination procedures; issued new customer due diligence and beneficial ownership examination procedures; and identified areas of the supervisory process that could be modernized to reduce burden and improve efficiency.

CRF FINANCIAL SUMMARY FOR FY 2019

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,946,910	\$813,251	\$4,760,161	\$5,503,582

As a special-funded division, the DFI receives approximately half its revenue in the second quarter of the FY from the renewal fees of nondepository licensees, and approximately half its revenue in the following FY from the franchise tax. The DFI targets to maintain a reserve of approximately 18 months to continue operations and have sufficient funding to replace its outdated database and records management system. With this target in mind, effective July 1, 2019, the DFI reduced by 50% the mandated renewal fees by licensed companies and individuals and annual assessments paid by state-chartered financial institutions. This reduction of renewal fees and assessments is for one year. In addition, the DFI ceased collection of fees for the mortgage loan recovery fund until the fund reaches the statutory level. However, the high cost customers incur to receive remuneration from the fund makes this recovery untenable for consumers.

As a result of this fee reduction, it is anticipated that in FY 2020, the DFI will exhaust the majority of its reserve, leaving it with an 18-month reserve, which is exactly what DFI the requires to continue operations and provide consumers protection. In FY 2021, the DFI will not have a sufficient reserve amount to continue operations at its current level. In FY 2022, unless fees are adjusted, the DFI will lack sufficient reserves to continue operations at its current level. During FY 2021, the DFI anticipates it will need to adjust fees for all industries to provide appropriate consumer protection and continue its operations.

	FY 2019	FY 2020	FY 2021	FY 2022
Estimated carryover beginning balance	\$11,209,350	\$10,794,204	\$8,853,325	\$8,371,967
Estimated ending balance	\$10,794,204	\$8,853,325	\$8,371,967	\$7,826,544
Estimated ending balance (number of months)	22.4	18.1	17.1	16.0

The DFI's reduction in revenue will impact its ability to regulate certain disruptors of the financial services industry, including:

- The proliferation of nonbank companies, including mortgage, money transmission, and escrow industries. Nonbank companies have entered nearly every sector of the financial services industry, due to the concentration of banking services in a few of the biggest mainland banks and the increase of unbanked and underbanked populations.
- Nonbank fintech companies, which deliver services through different channels and often in a more cost-effective manner. Fintech companies are largely unregulated, and there are issues surrounding compliance with consumer protection laws.
- Innovators from outside the banking industry that target unbanked and underbanked populations. These customers are generally financially insecure as a result of declining wages, increased income volatility, and eroding public and private safety nets. Their mistrust of banks seems to stem in part from the changes in the regulatory environment since the 2008 foreclosure financial crisis. The unbanked and underbanked populations also take note of the cultural difference between banks and nonbanks, with the latter embracing a more entrepreneurial nature and therefore providing more perceived personalized or customized services.

In addition, the DFI's reduction in revenue will hinder its ability to properly train its staff to regulate this rapidly evolving financial services landscape. The DFI is working with the CSBS to brainstorm ways to train examiners through multistate online training and through blogging to notify and receive just-in-time comments and advice from multistate examiners. However, these training options are costly, as most of the classroom training with the CSBS, FDIC, FRB, and trade organizations occurs out-of-state. Training and travel expenses will likely decrease or cease entirely in FY 2022, as the DFI will lack sufficient revenue to meet its operational needs. This, in turn, could cause the division to lose its accreditation, lose its skilled workforce, and most importantly, lose its ability to effectively supervise banks and nondepository licensees and to stop consumer harm by bad actors.

CONCLUSION

As the State's banking regulator, the DFI must retain its ability to protect Hawaii consumers while, at the same time, fostering an environment conducive to commerce. Nonbank companies are playing a larger and more integral role in the financial services industry, and they are increasingly interacting with consumers through their use of technology. State regulators, like the DFI, are at the forefront of nonbank company supervision. Consequently, the DFI has substantial experience in balancing consumer protections with concerns for developing efficient markets.

With respect to supervising financial institutions authorized to take deposits, the DFI, in conjunction with the FDIC and FRB, continues to maintain its dual responsibility of ensuring that business is conducted in a safe and sound manner and that consumers are protected. The DFI will continue to focus on three fundamentals of supervision: financial condition, compliance, and consumer protection. The division will monitor financial condition, test for compliance with laws

and regulations, investigate situations of consumer harm, seek remediation or restitution, and impose enforcement orders in appropriate circumstances.

The DFI and its federal partners have provided Hawaii's state-chartered banks and financial institutions with the supervision necessary to operate in a safe and sound manner, and with adequate capital and capable management. During FY 2019, the DFI strove to overcome its resource challenges while it continued its regulatory, supervisory, and licensing programs and implemented its new mortgage servicer and mortgage loan originator examination programs. Previous legislative appropriations to increase DFI staffing should improve the division's ability to appropriately supervise, regulate, and examine licensees to protect consumers. In addition, the DFI continues to use technology and social media to inform and educate licensees and consumers, process applications from applicants and licensees, and conduct examinations on licensees.

Overall, the DFI has met its mission and goals through its service to applicants, state-chartered institutions, state-licensed companies and individuals, and Hawaii's residents. As nonbank companies and innovators from outside the banking industry increasingly disrupt the financial services landscape, the DFI will endeavor to keep pace with these rapid changes through appropriate training and licensee oversight.

INSURANCE DIVISION (INS)

OVERVIEW AND COMPOSITION

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

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

<u>Type of License</u>	<u>Licenses as of June 30, 2019</u>	<u>Licenses as of June 30, 2018</u>
Adjuster	3,236	2,998
Captive	232	228
Certificate of authority (insurer)	1,045	1,031
Foreign risk retention group (registered)	59	57
Fraternal benefit society	7	7
Health maintenance organization	4	4
Independent bill reviewer	31	29
Life settlement broker	24	23
Life settlement provider	21	18
Limited lines motor vehicle rental company producer	40	38
Limited lines portable	16	19
Limited lines producer	1,608	1,543
Managing general agent	48	45
Mutual benefit society	5	5
Nonresident producer	61,037	56,250
Pharmacy benefit manager	34	29
Producer	7,826	7,634
Purchasing group (registered)	230	230
Reinsurance intermediary broker	37	38
Service contract provider registration	184	173
Surplus lines broker	2,127	2,003
<u>Vehicle protection product warrantor registration</u>	<u>44</u>	<u>43</u>
TOTAL:	72,445	64,730

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

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Email: insurance@dcca.hawaii.gov

The Insurance Commissioner heads the INS, with assistance from the Chief Deputy Commissioner and branch chiefs. The INS is divided into nine branches:

The **Captive Insurance Branch** handles all aspects of licensing, regulating, and developing the State's captive insurance industry. With 232 active licenses as of June 30, 2019, Hawaii's captive insurance domicile is ranked eighth worldwide and fifth in the U.S. for the largest captive domiciles. Pursuant to Act 1, SLH 2005, the Captive Insurance Administrative Fund defrays funds expended for the INS' captive insurance program. Accordingly, the CRF does not fund the cost of this program. The branch has a captive insurance administrator, a secretary, a captive program specialist, and 13 captive insurance examiners.

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

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

- Licenses more than 1,300 domestic, foreign and alien insurers.
- Processes and collects more than \$174 million in premium and surplus lines taxes on behalf of the General Fund and workers' compensation levies on behalf of the Department of Labor and Industrial Relations.
- Processes and administers tax credits claimed against insurance premium taxes.
- Authorizes and monitors accredited, certified and trusteed reinsurers.
- Registers purchasing groups and foreign risk retention groups.
- Regulates self-insurers.
- Maintains security deposits.
- Monitors market share and competitive standards of mergers and acquisitions.

The INS is subject to periodic review by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Program (FRSAP), which requires state insurance departments to regulate domestic insurers' corporate and financial affairs. The Financial Surveillance and Examination Branch introduces legislation and administrative rules to ensure the INS has adequate statutory and administrative authority and the resources necessary to satisfy its regulatory obligation. The branch has a chief examiner, a certification specialist, and 12 insurance examiners.

The **Health Insurance Branch** regulates health insurers, including health maintenance organizations and mutual benefit societies. The branch's primary responsibilities include: receiving inquiries and complaints pertaining to health insurance, including long-term care insurance; receiving requests from consumers for external reviews of a health plan's coverage decisions under HRS chapter 432E and administering the external review process; reviewing premium rate filings and forms to ensure readability and disclosure of required information; and coordinating with the Financial Surveillance and Examination Branch to conduct financial surveillance of health insurers. The Health Insurance Branch has a program administrator and 12 other established positions.

The **Insurance Fraud Investigations Branch** conducts a statewide program for the prevention, investigation, and prosecution of insurance fraud cases and complaints. Effective July 1, 2009, the branch's jurisdiction includes all lines of insurance, except workers' compensation, pursuant to Act 149, SLH 2009. The branch reviews referrals submitted by the insurance industry, other agencies, and the public and initiates an investigation when a crime may have been or is being committed. State law requires that any insurer, insurer's employee, or insurer's agent that believes a fraudulent claim is being made refer the case to the Insurance Fraud Investigations Branch within 60 days. The branch has an administrator, a staff attorney, five investigators, two forensic investigators, and a legal clerk. The administrator and staff attorney are both trained in criminal prosecution and, as a result, all cases receive the benefit of the staff's high level of expertise and ability to ensure representation in this area.

The **Legal Branch** advises the Insurance Commissioner, Chief Deputy Commissioner, branch chiefs, and the INS on all legal matters and serves as the interface between the INS and the Department of the Attorney General. The branch serves as hearings officers for administrative

hearings as assigned by the Insurance Commissioner; researches insurance issues; interprets statutes and rules; reviews and analyzes administrative decisions and rulings; prepares legislative bills, legislative testimonies, and administrative rules; responds to requests for formal and informal legal opinions; assists other INS branches in enforcing compliance with the Insurance Code; and provides assistance to other branches in supervision, rehabilitation, and liquidation proceedings. The branch has a supervising attorney, three staff attorneys, and a legal assistant.

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

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

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

GOALS AND OBJECTIVES

- Continue meeting its statutorily mandated requirements.
 - The INS will continue complying with the Insurance Code and the Hawaii Administrative Rules (HAR) through proper personnel and caseload management.
- Maintain accreditation status with the NAIC.
 - Accreditation of state insurance regulators is administered by the NAIC and requires state insurance departments and divisions to maintain adequate statutory and administrative authority, as well as sufficient resources to effectively regulate the financial solvency of insurance companies. To maintain its accreditation status,

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

- Improve Hawaii's world ranking as a leading captive insurance domicile.
 - Hawaii has long been an attractive domicile for the captive insurance industry because of its rigorous standards and geographical location. The INS continues to review its marketing strategy and amend existing components to remain competitive with the maturing and dynamic captive market in the U.S. Hawaii actively pursues opportunities in Asia and has maintained its standing as a captive insurer domicile world leader.
- Redevelop and redesign the INS' database.
 - As the INS looks to the future, it is focused on exploring system solutions to replace the outdated legacy Hawaii Insurance Database System. In the 2019 legislative session, the division was granted an appropriation out of the CRF for FY 2020 and FY 2021 to fund the replacement of this system and for corresponding licensing, maintenance, and independent verification and validation costs. The replacement system will interface with the NAIC and the Hawaii Information Consortium, which provides the internet portal for the State's website. Keeping up with rapid technological changes in the insurance regulatory arena will improve the INS' efficiency and provide better online services and information to consumers and insurance licensees.

ACCOMPLISHMENTS IN FY 2019

Captive Insurance Branch

In calendar year 2018, the captive insurance companies licensed and domiciled in the State eclipsed \$10 billion in gross written premiums for the first time ever. In addition, the captive insurance companies licensed and domiciled in the State held over \$1.6 billion in investments in local banks and over \$30 million in expenditures spent in Hawaii, which include fees to service providers, license fees, travel expenses to Hawaii, and other miscellaneous expenses.

Compliance and Enforcement Branch

Consumers and the insurance industry saved or recovered \$1,134,143 from insurers and agents, with the branch's assistance in handling consumer and industry complaints. The branch received 533 complaints and initiated eight formal actions: four license revocations, three license suspensions, and one revoked certificate of authority. The branch levied \$255,000 in fines.

Financial Surveillance and Examination Branch

An independent FRSAP conducts a comprehensive review of all accredited state insurance departments at least once every five years to ensure compliance with NAIC standards. First accredited by the NAIC FRSAP in 1996, the INS was reaccredited in 2001, 2006, 2011, and 2016.

Below is a summary of activities administered by the branch during the last two calendar years (dollar amounts are rounded to the nearest thousand):

	<u>2018</u>	<u>2017</u>
Direct premiums written in Hawaii – licensed companies*	\$13,068,093,000	\$12,510,598,000
Surplus lines premiums written in Hawaii	\$272,379,000	\$255,858,000
Foreign risk retention group premiums written in Hawaii	\$8,755,000	\$7,704,000
Premium tax returns processed	9,600+	9,600+
Premium taxes and levies collected**	\$172,255,000	\$180,664,000
Total Hawaii investments***	\$10,127,299,000	\$8,993,923,000

* Includes annuities, fraternal benefit societies, mutual benefit societies, health maintenance organizations, and dental insurers that are not subject to premium taxes. Annuities and premiums for fraternal benefit societies, mutual benefit societies, health maintenance organizations, and dental insurers in 2017 and 2016 were \$7,782,113,000 and \$7,346,419,000, respectively.

** Net of premium tax credits.

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

Active Company Licenses and Registrations	Companies Active as of December 31, 2018	Change During 2018		Companies Active as of December 31, 2017
		Admitted	Withdrawn or Merged	
Type of License				
Life	368	5	4	367
Health****	24	3		21
Fraternal benefit societies	7			7
Health maintenance orgs.	4			4
Mutual benefit societies	5			5
Property and casualty	628	10	6	624
Title	15	1		14
Dental	1			1
<u>Licenses authorized in Hawaii</u>	<u>1,052</u>	<u>19</u>	<u>10</u>	<u>1,043</u>
Foreign risk retention groups (registered)	58	3	1	56
Purchasing groups (registered)	232	17	7	222
<u>Total active licenses and registrations</u>	<u>1,342</u>	<u>39</u>	<u>18</u>	<u>1,321</u>

**** Includes five prescription drug plans

Health Insurance Branch

In FY 2019, the branch received 87 complaints and written inquiries, with the resolution of complaints saving consumers \$211,731. The branch also reviewed 113 rate and policy form filings, resulting in consumers saving \$27.9 million.

The branch conducts independent external reviews of managed care plan coverage decisions that are appealed by the plan member pursuant to HRS chapter 432E. In FY 2019, the branch received 16 external reviews, resulting in a consumer savings of \$117,420. For a comprehensive report on these external review cases, please visit <http://cca.hawaii.gov/ins/reports/> to view the 2019 Annual External Review Report.

The branch was awarded a grant from the Department of Health and Human Services to assess whether innovative measures are needed to strengthen the marketplace and to enhance the consumer complaints investigations process. The branch has refined the policies and procedures governing health insurance enforcement and consumer protections.

Insurance Fraud Investigations Branch

In FY 2019, the branch received 439 referrals from insurance companies, various agencies, and the public. Of those accepted for prosecution, criminal indictments were obtained against 25 individuals who submitted fraudulent claims totaling \$173,175 for the FY.

The branch obtained restitution orders totaling \$122,000, with \$32,000 payable to the Crime Victim Compensation Fund, \$2,000 in fines to the State, and 260 hours of community service. The branch also obtained probation service fees in the amount of \$4,125 and miscellaneous fees of \$3,133.

Rate and Policy Analysis Branch

In FY 2019, the number of filings reviewed decreased slightly, as compared to FY 2018. Review of property and casualty rate filings saved consumers over \$24.2 million, primarily in auto insurance.

For a comprehensive report on the official business of the INS for the FY ending June 30, 2019, the official transactions of the Financial Surveillance and Examination Branch and Captive Insurance Branch for the calendar year ending December 31, 2018, and condensed financial statements of all authorized insurance companies and associations in Hawaii, please visit <http://cca.hawaii.gov/ins/reports/> to view the 2019 Annual Report of the Insurance Commissioner of Hawaii.

CRF FINANCIAL SUMMARY FOR FY 2019

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$7,402,665	\$1,831,917	\$9,234,582	\$9,510,730

S-313, CRF-Insurance Regulation Fund

The CRF-Insurance Regulation Fund is anticipating a reserve of \$2.2 million, or two months of budgeted ceiling, at June 30, 2020. The target reserve for this fund would be nine months. This fund has the authority to assess insurance carriers' additional amounts to fund the operations of the division. Currently, non-assessment revenues do not sufficiently cover the allocated expenditure ceiling and therefore necessitate an annual assessment between \$1-\$2 million per year. By statute, the assessment the INS is allowed to charge cannot exceed \$5 million. Furthermore, the assessment is limited to a calculated amount of zero reserve balance at fiscal year-end. There are no anticipated reserve adjustments.

CONCLUSION

The INS continues to respond to emerging issues at a global, national, and local level. The division remains committed to implementing technological advancements to improve operational efficiency. The INS continues to meet its mission and goals to maintain a secure and competitive insurance marketplace for consumers.

OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

OVERVIEW AND COMPOSITION

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

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

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

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

Another integral part of the OAH's responsibilities is its administration of the Medical Inquiry and Conciliation Panel (MICP) and the Design Claim Conciliation Panel (DCCP). The MICP conducts informal conciliation hearings on inquiries regarding health care providers before any claims against those providers can be filed as lawsuits. Similarly, the DCCP conducts informal conciliation hearings on claims against design professionals (i.e., engineers, architects, surveyors, and landscape architects) before those claims can be filed as lawsuits. The MICP does not make any decisions on the merits of the parties' positions. The decisions of the DCCP are advisory and not binding on the parties, should a party decide to pursue the matter in court. For a comprehensive report on MICP and DCCP activities, please visit <http://cca.hawaii.gov/oah/reports/> to view the 2019 Annual Report on the Medical Inquiry and Conciliation Panel and Design Claim Conciliation Panel.

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The OAH includes: a Senior Hearings Officer, a division secretary, four additional hearings officers, a legal clerk, and an MICP/DCCP clerk.

GOALS AND OBJECTIVES

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

ACCOMPLISHMENTS IN FY 2019

The below table summarizes CRF-related activities the OAH conducted in FY 2019:

Type of Proceeding Conducted	Number
Pre-hearing conferences	85
Status conferences	121
Motions	25
Hearings	133

The below table summarizes the number of cases and relative percentage of CRF-related activities the OAH conducted in FY 2019.

DCCA Divisions Referring Matters to the OAH	Cases Filed	%
Insurance Division (denial of personal injury protection benefits and enforcement actions)	211	64%
Regulated Industries Complaints Office (petitions for discipline and appeals from citations for unlicensed activities)	54	16%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, and violations of securities laws)	27	8%
Professional and Vocational Licensing (license denials)	19	6%
Hawaii Employees' Retirement System (retirement benefit denials)	11	3%
Procurement Administrative Reviews (protest denials)	7	2%
Other CRF-related hearings	1	1%

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

In FY 2019, the OAH updated and posted on its website fillable forms and instructions to assist members of the public to initiate and maneuver through the contested case hearings process. The OAH also completed updating the *Hawaii Procurement Code Desk Reference*, a reference manual that the OAH originally prepared in 1994 and that digests all OAH decisions issued under HRS chapter 103D.

CONCLUSION

The OAH will continue working closely with all CRF-related boards, commissions, programs, and divisions to ensure that cases are processed expeditiously and that all participating entities and the public have access to the OAH case database and archives of past decisions. The OAH will also continue its efforts to ensure that all of its decisions are thorough, based on sound reasoning, and consistent with the law, and that the hearings process remains accessible to the public.

OFFICE OF CONSUMER PROTECTION (OCP)

OVERVIEW AND COMPOSITION

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

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

The OCP received more than 600 consumer complaints in FY 2019. The actual number of OCP complaints varies from year to year depending on circumstances. Many factors influence the number of complaints to the OCP in any given year, such as the number of victims impacted by a business' illegal conduct. During the past several years, the OCP averaged approximately 600 consumer complaints per year.

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

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

Contact information:

Main office address:	Leiopapa A Kamehameha Building (State Office Tower) 235 South Beretania Street Suite 801 Honolulu, HI 96813 (808) 586-2630
Maui office address: (new location)	Wells Professional Center 2145 Wells Street Suite 106 Wailuku, HI 96793 (808) 243-4648
Hilo office address:	Bank of Hawaii Building 120 Pauahi Street Suite 212 Hilo, Hawaii 96720 (808) 933-8845
Website:	cca.hawaii.gov/ocp
Email:	ocp@dcca.hawaii.gov

The **Consumer Resource Center (phone: 808-587-4272)** performs intake of complaints for the OCP. The center is staffed by intake investigators at the Regulated Industries Complaints Office who answer consumers' questions, distribute OCP complaint forms to consumers, receive written consumer complaints, and forward cases to the OCP for review, closure, or further investigation. In FY 2019, the center resolved approximately 991 OCP complaint inquiries without a formal complaint. In addition, a section of the center answers phone requests for prior complaint history. If circumstances permit, consumers can also visit the OCP's Honolulu office to view hard copies of case files. Prior to the release of any file, the OCP reviews its contents to ensure legally protected private information is not disclosed.

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

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

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

The OCP also provides the following services:

Consumer Education

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

Neighbor Island Assistance Requests

The OCP offers assistance to neighbor island residents in DCCA-related matters and other areas. See Table 5 for statistics on OCP's Neighbor Island Assistance in FY 2019.

GOALS AND OBJECTIVES

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

ACCOMPLISHMENTS IN FY 2019**Consumer Education**

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

Most recently, the OCP has continued focusing on the growing problems of identity theft, data breaches, and scams affecting seniors by providing important information to Hawaii residents on what they can do to avoid becoming victims of identity theft or fraudulent schemes.

In FY 2019, the OCP responded to more than 65,000 requests and inquiries from the public, including more than 9,000 requests for information through its Residential Landlord-Tenant Information Center. See Table 2: OCP's Information Requests.

Legislation

The OCP testified and provided input on numerous measures related to consumer protection during the Regular Session of 2019, including bills relating to the Residential Landlord-Tenant Code, refunds, disclosures, gift certificates, peer-to-peer motor vehicle sharing, foreclosures, towing, warranties, advertisements, on-demand delivery applications, privacy, and online ticket sales.

Cases

The OCP handled many significant cases in FY 2019 that involved nearly every area of consumer protection. These cases involved alleged violations of Hawaii's consumer protection laws governing mortgage rescue fraud, data breaches, gift certificates, door-to-door sales, wire transfers, refunds and exchanges, advertising, and unfair or deceptive trade practices, including complex multistate enforcement actions based on unfair or deceptive marketing practices by pharmaceutical companies.

Through its efforts, the OCP recovered more than \$4,000,000 in fines, penalties, costs, and restitution for Hawaii consumers.

CRF FINANCIAL SUMMARY FOR FY 2019

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,778,002	\$464,224	\$2,242,226	\$4,431,926

As a special-funded division, the OCP derives its revenue from fines and penalties. The monies obtained are placed in a CRF sub-account, and are used to support the division's ongoing operations, consumer protection matters, future consumer protection enforcement actions, and education. A 12-month cash reserve is necessary to ensure the continuity of OCP operations. The amount of fines, penalties, and costs the OCP collects varies greatly from year to year.

The OCP is involved in transitioning from a legacy database system that it shares with the Regulated Industries Complaints Office to its new complaints management system, Investigative Management Processing and Case Tracking (IMPACT). In addition, the OCP anticipates additional enhancements to the new system that will among other things enable the OCP to receive consumer complaints online. The OCP's financial plan also involves placing greater emphasis and resources on providing consumer education, scam prevention, and information about division enforcement activities to consumers and the public with the request for a consumer protection information specialist position. The division and public would benefit greatly from increased emphasis and focus on educating and advising consumers on a wide variety of consumer protection topics. Also, the OCP is requesting approval of an additional staff attorney position through an intradepartmental position transfer.

CONCLUSION

The OCP continues to receive numerous requests for assistance. Consumer complaints are diverse in nature and range from isolated cases to widespread practices affecting every Hawaii citizen. Through regular training and information exchange with law enforcement agencies and consumer protection agencies throughout the country, the OCP attempts to keep abreast of the latest consumer problems and "rip-offs" to prevent them from occurring or to at least limit their impact. Through its proactive efforts to prevent widescale consumer problems before they occur and through its enforcement actions and consumer and business education, the OCP strives to protect Hawaii consumers and fulfill its mission.

Table 1: Laws Enforced by OCP

HRS section 127A-30	Rental or sale of essential commodities during a state of emergency; prohibition against price increases
HRS section 290-11	Vehicles left unattended on private and public property; sale or disposition of abandoned vehicles
HRS chapter 437D	Motor Vehicle Rental Industry Act
HRS chapter 446	Debt Adjusting
HRS chapter 446E	Unaccredited Degree Granting Institutions
HRS chapter 476	Credit Sales ¹⁴
HRS chapter 477E	Fair Credit Extension
HRS section 480-2	Unfair competition, practices, declared unlawful ¹⁵
HRS chapter 480D	Collection Practices ¹⁶
HRS chapter 480E	Mortgage Rescue Fraud Prevention Act
HRS chapter 480F	Check Cashing
HRS chapter 481A	Uniform Deceptive Trade Practice Act
HRS chapter 481B	Unfair and Deceptive Practices, including: Unsolicited Goods; Commercial Mail Order Buying Clubs; Unlawful Offers of Gifts or Prizes; Misrepresentation as to Aid to Handicapped; Returns for Refunds, Merchandise Credits, and Exchanges; Sale of Solar Energy Devices; Sale of Computers; Sensitivity-Awareness Group Seminars; Credit Repair Organizations; Gift Certificates; and Ticket Brokers and Fees
HRS chapter 481C	Door-To-Door Sale
HRS chapter 481D	Going Out of Business Sales
HRS chapter 481F	Sale of Prints
HRS chapter 481H	Water Treatment Units
HRS chapter 481K	Assistive Technology Warranty Act
HRS chapter 481L	Motor Vehicle Lease Disclosure Act
HRS chapter 481M	Lease-Purchase Agreements for Personal Property
HRS chapter 481P	Telemarketing Fraud Prevention Act
HRS chapter 481X	Service Contracts
HRS chapter 486N	Health Clubs
HRS section 487-5	General functions, powers, and duties of director of OCP
HRS chapter 487A	Language of Consumer Transactions
HRS chapter 487J	Personal Information Protection
HRS chapter 487N	Security Breach of Personal Information
HRS chapter 487R	Destruction of Personal Information Records
HRS chapter 506	Mortgages of Real Property or Fixtures
HRS chapter 521	Residential Landlord-Tenant Code ¹⁷

¹⁴ HRS section 476-31. The OCP has also filed cases based upon the Federal Truth in Lending Act and the State's usury statute, HRS chapter 478.

¹⁵ The OCP also has enforcement power over certain lemon law agreements under HRS section 481I-4 and has filed lawsuits under HRS section 486-119 (Hawaii-made products; Hawaii-processed products). Also, HRS chapter 514E sets forth a comprehensive regulatory scheme for time-share development, sales, and maintenance and establishes 13 specific types of conduct that constitute *per se* violations of HRS section 480-2. Under HRS section 490:2A-104, Uniform Commercial Code leases are explicitly subject to state consumer protection statutes and case law.

¹⁶ See also HRS section 443B-20 (Unfair competition, unfair or deceptive acts or practices of collection agencies).

¹⁷ HRS section 521-74.5 provides that a landlord who recovers possession of a dwelling unit by willful interruption of utilities or other essential services violates HRS section 480-2. In addition, HRS section 521-77 provides that the OCP may receive, investigate, and attempt to resolve any dispute arising under HRS chapter 521.

Table 2: OCP's Information Requests

REQUEST AND INQUIRIES	FY 2017	FY 2018	FY 2019
Requests for prior complaint history	6,238	5,959	4,671
Website inquiry general information	34,386	35,229	32,780
Website inquiry landlord/tenant information	19,098	13,980	10,326
Requests for landlord/tenant information	10,853	10,577	9,717
Complaint inquiries	9,920	8,333	5,545
Requests for records review	12	0	5
TOTAL	80,507	74,078	63,044

Table 3: Numerical Breakdown of Dispositions of all OCP Cases

DISPOSITIONS	FY 2017	FY 2018	FY2019
Complaint withdrawn	4	1	3
Legal action and referrals to Legal Section	85	135	78
Advisory contact	6	3	4
Civil dispute/personal matter	43	36	23
Monetary threshold	0	4	0
Complainant uncooperative	12	7	14
Consumer complaint resolved	23	24	8
Respondent died or bankrupt	10	11	12
Business vs. business	18	10	15
No jurisdiction	8	4	13
Refer to investigation	128	143	241
Other	4	1	0
Warning letter	8	0	3
Insufficient evidence	80	34	62
Transferred to other government agency	191	118	111
No violation	27	25	19
Information only/inquiry	88	77	140
TOTAL	802	633	746

Table 4: OCP's Top Ten Complaints

SUBJECT	FY 2017 (rank/total)	FY 2018 (rank/total)	FY 2019 (rank/total)
Travel/vacation	#2.78	#2.74	#1.171
Transportation (sale/repair/rent/tow/parking)	#1.84	#1.127	#2.131
Food/drink service		#9.20	#3.84
Internet crime complaints (National White Collar Crime Center)		#6.28	#4.80
Scams	#7.29	#3.50	#5.62
Internet transactions (PC/software/server)	#9.25	#4.37	#6.55
Refunds			#7.52
Price gouging			#8.38
Insurance			#9.33
Towing			#10.31
Gift certificate			#10.31
Exercise/health club (exercise, devices, clubs, foods)	#4.42		
Real estate	#5.34		
Appliances (purchase/repair)	#7.29	#9.20	
Identity theft/security breach	#6.30	#5.34	
Investment/financial	#3.49	#8.21	
Education (trade, vocational, home study, unaccredited degree-granting institution)	#8.27	#7.25	
Medical (hospital, clinic, convalescence, equipment, service company, laboratory)	#10.23	#9.20	
Professional services (attorney, accountant, bookkeeper, Regulated Industries Complaints Office)	#10.23	#9.20	
Utilities (electric, telephone, cable)	#10.23	#10.19	

Table 5: OCP's Neighbor Island Assistance in FY 2019

DIVISION	HILO	MAUI	TOTAL
Division of Financial Institutions	3	*	3
Business Registration	7	*	7
Cable Television	1	*	1
Insurance Division	7	*	7
Division of Consumer Advocacy	0	*	0
Professional and Vocational Licensing	4	*	4
Regulated Industries Complaints Office	25	*	25
Non-DCCA related	15	*	15
Other DCCA divisions	4	*	4
TOTAL	66	*	66

*Calls and cases were handled by the Honolulu and Hilo offices.

PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)**OVERVIEW AND COMPOSITION**

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations of 52¹⁸ different professions and vocations. The division: provides support to licensing regulatory boards, commissions, and programs; handles applications and licenses; reviews and processes renewals; maintains license records; provides guidance to properly implement licensing laws and administrative rules; and responds to consumer inquiries on whether a person or an entity is properly licensed, to help them decide whether to use the services of that person or entity.

Through the PVL's website (cca.hawaii.gov/pvl), consumers can access a wealth of information, including: the licensing information of all 52 licensing areas; fillable license applications; publications; licensing laws and administrative rules; FAQs; a link to the division's online services (cca.hawaii.gov/pvl/e_services); board meeting schedules, agendas, and meeting minutes; and a geographical report that lists current active or inactive licensees by county.

Significantly, the PVL offers a license search website that is accessible through the Department's centralized business search website, <http://businesscheck.hawaii.gov/>, or directly from the PVL's dedicated search website, www.pvl.ehawaii.gov/pvlsearch. This website allows new applicants or existing licensees to monitor their application status, regardless of whether it is a new license application or a license renewal, online, 24/7, in real-time. This website also enables consumers to verify the licenses of businesses or individuals online, at no cost. The information provided includes: license identification number; current status of license (e.g., active, inactive); current status; original date of licensure; expiration date of licensure; current and former persons, businesses, or tradenames; information on "conditional license" codes and descriptions; and any formal disciplinary action taken against the licensee.

In addition, the PVL allows the public to create a customized list of licensees using the division's list builder website (<https://pvl.ehawaii.gov/pvllistbuilder/>). This list is sortable by license number, name, status, and initial date of licensure. Lists are available for download within 24 hours of making the request.

Lastly, the division's MyPVL (pvl.ehawaii.gov/mypvl) is a one-stop shop for all PVL licensees to access information and services 24/7 from a single dashboard, including managing or renewing¹⁹ their existing licenses. The success of MyPVL is demonstrated by the usage data of over 146,512 individual accounts managing 159,169 licenses and 26,887 applications. Seventy-six percent of all new security guard employee applications and 92% of renewals are completed online through MyPVL.

¹⁸ Twenty-five licensing regulatory boards and commissions are administratively attached to the DCCA/PVL, as well as 27 licensing programs whose board duties and functions are vested in the DCCA Director.

¹⁹ While the PVL still accepts and processes renewals mailed by licenses, a majority of renewals are now submitted online.

Contact information:

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

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

Phone: (808) 586-3000

Website: cca.hawaii.gov/pvl

Email: pvl@dcca.hawaii.gov

The **Licensing Branch (phone: 808-586-3000)** is comprised of the Applications Section and the Records Section. The Applications Section reviews and processes applications for licensure, issues licenses, and maintains records of licensing applications. The Applications Section, on behalf of the boards, commissions, and programs, conducts highly intensive reviews of all initial licensing applications, determines the status of those applications, and, in some instances, makes the final determination to either issue or defer issuance of licenses. The Applications Section also performs customer service duties by answering the PVL's main public call-in line, which answered approximately 147,477 calls in FY 2019, or approximately 12,289 calls per month. To address the high call volume, a call center pilot program was established in April 2019. The Records Section is responsible for renewing, restoring, and reactivating licenses and maintaining records of all licensees. The Records Section is also involved with performing customer service duties by assisting the public with licensing information at the main PVL walk-in counter, as well as responding to phone inquiries. Both sections of the Licensing Branch use the PVL's computerized licensing database to obtain immediate information about applicants and licensees. Inquirers may request information on whether a person or entity is licensed, the original date of licensure, the status of licensure, the expiration date of the license, Hawaii disciplinary sanctions imposed on the licensee, and, if applicable, whether mandatory insurance (e.g., workers compensation, liability insurance) is current and in effect.

The **Administration Branch (phone: 808-586-2690)** has a staff attorney, supervising executive officer, executive officers, program specialists, and secretaries. The branch handles board affairs such as coordinating, preparing, facilitating, and recording board meetings; ensuring board compliance with applicable laws that guide and direct its conduct; and implementing board decisions on applications, policies and procedures, and disciplinary actions. The branch also responds to requests for interpreting licensing laws and rules, oversees licensing and examination activities, and guides and assists with regulatory compliance issues. The same activities are done for the 27 programs (absent the necessity of board meetings) on behalf of the DCCA Director. The Administration Branch also performs substantial coordination and facilitation activities with other state, county, and federal agencies involved with licensing and regulatory issues.

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

The **Real Estate Branch (phone: 808-586-2643)** performs the same functions as the Administration Branch but specifically for real estate licensing and regulation and condominium property regimes. With a large volume of applicants, licensees, and registrations, the Real Estate Branch, which has a supervising executive officer, an executive officer, real estate specialists, condominium specialists, secretaries, and office assistants, administers the Real Estate Recovery Fund, Real Estate Education Trust Fund, and Condominium Education Trust Fund. The branch also administers education and research programs in the fields of real estate and condominiums. Information on programs, financial reports, and the annual report of the Real Estate Commission is available at www.hawaii.gov/hirec.

All four branches within the PVL work collectively toward efficient and expedient processing of applications, licenses, and renewals to ensure the public has choices among competent and licensed practitioners. In FY 2019, 90.53% or 54,364 licensees renewed their licenses online, as compared to 87.92% or 54,720 licensees who renewed online in FY 2017. The PVL encourages licensees to use its online renewal system, which helps them save valuable time and effort. The continued success of this system is attributed to the user-friendliness and efficiency of the PVL's online processing, which reduces the processing of renewals from 14 to 21 business days to three to five business days.

For a statistical summary of key PVL activities, see:

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

GOALS AND OBJECTIVES

- Allow consumers to submit initial applications for licensure and to make address changes online. The address change program is still in its testing phase and will be released soon.
- Replace the PVL's antiquated Application/Licensee Integrated Automated System database with a new system that will: process license applications, license renewals, and change transactions; monitor the status of applications; and issue licenses, wall certificates, pocket identification, and other required documentation.

Licensing Branch

- Focus on improving customer service by changing how staff process their work and through increased use of technology.
- Continue to have the PVL Working Group meet monthly to discuss ways to streamline processes.
- Store documents electronically until they are ready for processing, as this will decrease the amount of time staff spend to manually file paper and will allow greater staff access to the documents.
- Implement other means of reducing paper transactions, such as processing high-volume transactions online.

Examination Branch

- Improve the transmission and maintenance of exam-related documents to the Licensing Branch.
- Where new opportunities to increase efficiencies in the exam area are identified, such as the increased use of direct registrations for examinations, identify appropriate ways to improve the exam portion of the licensing process to benefit both the applicant population and the PVL's own operations.

Real Estate Branch²⁰

- Further enhance online public access to condominium projects and Association of Unit Owners registrations and further develop its communication efforts with unit owners, developers, boards, associations, and the public.
- Streamline internal processes for greater efficiency by reviewing and reassessing existing online systems and reevaluating existing forms, logs, and filing systems.

ACCOMPLISHMENTS IN FY 2019

The PVL was nominated for and selected as a winner of the Center for Digital Government's third annual Government Experience Awards. The awards recognize the achievements and best practices of state, cities, and counties that gave gone to the web and beyond to radically improve the experience of government and push the boundaries of how citizen services are delivered.

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

²⁰ For a comprehensive report on the Real Estate Branch's and the Real Estate Commission's goals and objectives, please visit <http://cca.hawaii.gov/reb/reports/> to view the 2019 Annual Report of the Real Estate Commission..

The PVL offered the following new online services: (1) applicants can check the status of their applications online at pvl.ehawaii.gov/pvlsearch; and (2) licensees can change their addresses 24 hours a day, 365 days a year via MyPVL. With these services, the division can provide better customer service and reduce phone inquiries and staff delays. In addition, effective April 18, 2019, the PVL allowed licensees to print license pocket identification cards and wall certificates online at no cost. The updated pocket ID card provides additional consumer protection through a QR code design imprint that consumers can scan to verify a licensee's current status. This real-time delivery has eliminated the manual printing and mailing of approximately 100,000 pocket ID cards annually.

The **Licensing Branch** received approximately 19,351 new applications and issued 15,524 licenses in FY 2019. In addition, the branch processed approximately 266,213 license-related changes, such as address changes, name changes, and broker changes. In FY 2019, the branch sought to address the problematic issue of incoming telephone calls on its (808) 586-3000 telephone number. The branch answered 147,477 calls in FY 2019, or approximately 12,289 calls per month. To address complaints from members of the public (applicants and licensees), the branch established a call center as a pilot program. The pilot program consists of four call center employees who are responsible for receiving all incoming calls to the branch's main line. Since the establishment of this pilot program, staff members in this branch have become more efficient and timelier in processing initial applications and records requests.

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

As in previous years, the Examination Branch continued making necessary adjustments to incorporate new database and program requirement changes implemented in FY 2019 by national organizations and testing agencies.

The **Real Estate Branch** continued improving the offering and delivery of real estate pre-licensing and CE courses. The branch continued HAR chapter 99 rulemaking for real estate brokers and salespersons and HAR chapter 119 rulemaking for condominiums. The branch also continued to implement proposals to repeal the voluminous HAR chapter 99 and to replace it with three separate, shorter chapters (HAR chapters 99.1, 99.2, and 99.3) and HAR chapter 119, to facilitate future rulemaking. For the condominium program, the Real Estate Branch solicited and collected suggestions from stakeholders in the condominium community and developed a working document that will undergo the formal rulemaking process to implement HRS chapter 514B. Additionally, the branch continued its outreach to stakeholders who may be affected by the repeal of HRS chapter 514A.

For a comprehensive report on matters addressed by the Real Estate Branch and the Real Estate Commission in FY 2019, please visit <http://cca.hawaii.gov/reb/reports/> to view the 2019 Annual Report of the Real Estate Commission.

CRF FINANCIAL SUMMARY FOR FY 2019

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,920,083	\$1,211,104	\$6,131,187	\$7,672,015

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

S-305, PVL's CRF

For FY 2020, the PVL anticipates a cash reserve amount of \$8,974,727 and a reserve of 12.1 months. The division's target is nine to 10 months; however, the anticipated 12-month reserve is due to a triennial renewal and personnel vacancies. The slight deviation from the nine-month reserve accounts for the fluctuation of revenues the PVL experiences between even- and odd-numbered year renewals and triennial renewals.

CONCLUSION

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

The PVL staff and the division's regulatory licensing boards, commissions, and programs continue to maintain high performance standards, uphold consumer protection, work well as a team, and respond to increased demands.

Table 1: PVL Statistical Overview

	FY 2018	FY 2019
Applications received	19,302	19,351
Applicants licensed	14,408	15,524
Licenses renewed	70,139	66,014
Permits issued	1,064	1,809
Changes processed	223,724	266,213
Calls received by Licensing Branch	199,676	147,477
Current licensees	158,520	163,484
Total licensee population (all statuses, i.e., current, forfeited, delinquent)	443,237	459,965

Table 2: Total Number of Current PVL Licensees

Boards and Commissions (shown by asterisks) and Programs	FY 2018	FY 2019
Accountants*	3,921	3,699
Activity desks	902	958
Acupuncturists*	742	776
Appraisal management companies - license effective 1/1/2018	50	72
Athletic trainers	195	225
Barbering and cosmetology*		
Barbers	1,432	1,533
Barber shops	209	250
Beauty operators*	8,787	9,505
Beauty instructors	117	129
Beauty schools	10	12
Beauty shops	1,294	1,554
Behavior analysts	206	278
Boxing (all categories)*	22	8
Cemeteries and pre-need funeral authorities	23	23
Chiropractors*	614	640
Collection agencies	629	659
Contractors*	13,271	12,854
Dentists*	1,516	1,581
Community service dentists	22	27
Dental hygienists	1,100	1,197
Community service dental hygienists	3	2
Dispensing opticians	202	197
Electricians (all categories)*	3,611	3,773

Professional and Vocational Licensing Division (PVL)

Plumbers (all categories)*	1,322	1,218
Electrologists	16	16
Elevator mechanics*	226	219
Employment agencies	76	64
Engineers, architects, surveyors, and landscape architects:*		
Engineers	7,421	7,338
Architects	2,635	2,551
Surveyors	215	204
Landscape architects	155	153
Hearing aid dealers and fitters	121	127
Marriage and family therapists	492	539
Massage therapists*	8,603	8,222
Massage establishments	977	913
Medical and osteopathy*		
Physicians	8,983	9,950
Podiatrists	85	89
Osteopaths	971	972
Physician assistants	414	504
Emergency medical technicians	787	886
Mobile intensive care technicians	543	587
Mental health counselors	418	526
Mixed martial arts	134	292
Motor vehicle dealers*	277	284
Motor vehicle dealer branches	40	42
Motor vehicle distributors	36	35
Motor vehicle manufacturers	49	49
Motor vehicle salespersons	1,686	1,689
Motor vehicle others (auction, broker, consultant)	11	12
Motor vehicle repair dealers*	675	733
Motor vehicle mechanics	1,454	1,593
Naturopaths*	125	144
Nursing*		
Registered nurses (RN)	26,466	30,778
Licensed practical nurses (LPN)	2,548	2,972
Advanced practice registered nurses (APRN)	1,575	1,807
Nurse aides	7,855	7,927
Nursing home administrators	179	169
Occupational therapists	745	678
Occupational therapist assistants	163	151
Optometrists*	419	448
Pest control operators*	185	196
Pest control field representatives	236	213

Professional and Vocational Licensing Division (PVL)

Pharmacists*	2,763	2,908
Pharmacies	278	278
Wholesale prescription drug distributors	55	56
Miscellaneous permits	672	736
Physical therapists	1,826	1,760
Physical therapist assistants	370	374
Port pilots	9	9
Deputy port pilots	1	2
Private detective agencies*	38	38
Private detectives	112	105
Guard agencies	84	80
Guards	104	105
Guard employees	14,694	12,911
Psychologists*	1,259	1,248
Real estate appraisers	534	604
Real estate brokers*	6,650	6,450
Real estate salespersons	13,035	12,230
Real estate branch offices	108	103
Condominium hotel operators	31	29
Respiratory therapists	627	731
Social workers	2,260	2,502
Speech pathologists*	624	718
Audiologists	85	100
Travel agents	1,068	1,145
Uniform athlete agents	7	5
Veterinarians*	617	620
Veterinary Technicians		65
TOTAL	166,107	171,154

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

License Types	FY 2016	FY 2017	FY 2018	FY 2019
Accountants	2,479 (98.3%)		2,533 (98.4%)	
Accountancy firm permits to practice	319 (86.9%)		588 (94.8%)	
Activity desks	235 (90%)		282 (96.6%)	
Acupuncturists		647 (94.59%)		642 (94.13%)
Architects	2,178 (96.8%)		2,237 (97.3%)	

Professional and Vocational Licensing Division (PVL)

Audiologists	74 (100%)		78 (100%)	
Barbers	939 (76.1%)		1,016 (77.3%)	
Barber shops	124 (84.4%)		143 (78.6%)	
Behavior analysts			7,129 (91.1%)	
Beauty operators	6,568 (86.4%)		92 (89.3%)	
Beauty instructors	86 (89.6%)		983 (89.4%)	
Beauty shops	929 (85.5%)		164 (98.2%)	
Chiropractors	518 (94.5%)		542 (96.3%)	
Contractors		6,797 (61.36%)		7,290 (72.01%)
Community service dentists	21 (95.5%)		19 (100%)	
Dental hygienists	952 (94.6%)		994 (95.9%)	
Dentists	1,342 (94.8%)		1,381 (96.2%)	
Dispensing opticians	163 (92.61%)		157 (94.01%)	
Electrologists		12 (85.71%)		14 (100%)
Electricians		3,002 (90.37%)		
Elevator mechanics	202 (95.73%)		194 (94.63%)	
Emergency medical technicians (basic)	387 (55.8%)		523 (73.04%)	
Emergency medical technicians (paramedic)	367 (77.4%)		418 (84.3%)	
Guards	74 (92.5%)		71 (85.54%)	
Guard agencies	54 (87.1%)		48 (76.19%)	
Guard employees	7,585 (89.55%)		8,284 (92%)	

Professional and Vocational Licensing Division (PVL)

Hearing aid dealers and fitters	103 (95.4%)		106 (95.5%)	
Landscape architects	140 (97.9%)		135 (97.83%)	
Land surveyors	200 (96.62%)		190 (98.45%)	
Marriage and family therapists		384 (94.58%)		
Massage establishments	604 (92.92%)		649 (90.14%)	
Massage therapists	6,449 (93.4%)		6,637 (91.42%)	
Mental health counselors		328 (93.71%)		
Motor vehicle auctions	4 (100%)		4 (100%)	
Motor vehicle brokers	1 (100%)		0	
Motor vehicle branches	32 (96.97%)		34 (97.14%)	
Motor vehicle consumer consultants	4 (100%)		4 (100%)	
Motor vehicle dealers	213 (90.25%)		224 (87.16%)	
Motor vehicle salespersons	1,274 (94.3%)		1,294 (95.36%)	
Motor vehicle distributors	27 (100%)		31 (100%)	
Motor vehicle manufacturers	35 (100%)		40 (97.56%)	
Motor vehicle repair dealers		486 (82.37%)		506 (88.46%)
Motor vehicle repair registered mechanics		267 (82.41%)		214 (84.25%)
Nurses, advanced practice registered (APRN)		1,231 (92.14%)		1,419 (91.67%)
Nurses, licensed practical (LPN)		1,917 (90.77%)		1,650 (89.63%)
Nurses, registered (RN)		21,119 (94.46%)		21,760 (94.08%)
Nursing home administrators	149 (94.9%)		143 (95.33%)	

Professional and Vocational Licensing Division (PVL)

Occupational therapists		497 (95.39%)		
Optometrists	378 (97.9%)		381 (97.4%)	
Osteopaths	612 (84.41%)		659 (85.92%)	
Pest control field representatives	140 (87.5%)		155 (92.81%)	
Pest control operators (inactive status only)	6 (60%)		3 (37.5%)	
Pharmacists	2,447 (96.2%)		2,596 (96.4%)	
Pharmacies	241 (87.3%)		251 (92.3%)	
Pharmacy – miscellaneous permits	493 (82.7%)		501 (83.1%)	
Pharmacy – wholesale prescription drug distributors	37 (71.2%)		41 (82%)	
Physical therapists		1,393 (98.38%)		1,515 (96.01%)
Physical therapist assistants		210 (78.65%)		299 (93.73%)
Physicians	7,255 (90.6%)		6,829 (83.1%)	
Plumbers			1,097 (90.24%)	
Podiatrists	69 (89.6%)		63 (79.7%)	
Private detectives	92 (92.93%)		85 (88.54%)	
Private detective agencies	32 (96.97%)		30 (88.24%)	
Professional engineers	6,264 (97.83%)		6,522 (97.85%)	
Psychologists	1,036 (94.78%)		1,093 (94.63%)	
Real estate branch offices		88 (94.62%)		84 (92.31%)
Real estate brokers		5,698 (93.44%)		5,800 (94.93%)
Real estate salespersons		10,144 (94.38%)		10,619 (95.88%)

Professional and Vocational Licensing Division (PVL)

Respiratory therapists		500 (95.42%)		
Social workers	743 (90.06%)			18.79 (90.70%)
Speech pathologists	548 (97.7%)		553 (97.5%)	
Travel agencies	721 (91.7%)		692 (91.7%)	
Uniform athlete agents	5 (83.33%)		3 (100%)	
Veterinarians	464 (94.89%)		534 (96.39%)	
TOTAL	57,434 (91.4%)	54,720 (87.92%)	59,348 (91.56%)	54,364 (90.53%)

Table 4: Total Number of Email Inquiries

Boards and Programs	FY 2016	FY 2017	FY 2018	FY 2019
Accountancy	1,319	1,036	1,656	1,482
Activity desk	41	158	125	106
Acupuncture	135	305	194	321
Appraisal management company – license effective 1/1/2018			402	124
Athletic trainer	100	114	92	200
Barbering and cosmetology	1,386	1,797	2,011	1,658
Boxing	50	67	83	90
Behavior analyst	8	82	85	135
Cemetery and pre-need funeral authority	62	78	55	101
Chiropractor	290	375	427	380
Collection agency	519	803	529	650
Contractor	1,832	4,257	3,226	3,860
Dentist and dental hygienist	51	37	454	670
Dispensing optician	61	66	59	94
Electrician and plumber	631	471	655	778
Electrologist	3	6	5	9
Elevator mechanic	55	55	81	167
Employment agency	9	48	60	33
Engineer, architect, surveyor, and landscape architect	407	904	1,152	1,715
Exam Branch	438	447	1,166	1,695
Hearing aid dealer and fitter	93	50	110	137
Marriage and family therapist	232	355	366	389

Annual Compliance Resolution Fund Report

Professional and Vocational Licensing Division (PVL)

Massage therapy	1,267	1,777	1,400	1,085
Medical and osteopathy	4,184	5,988	6,957	9,131
Mental health counselor	398	646	447	781
Mixed martial arts	637	419	209	280
Motor vehicle industry	809	653	432	210
Motor vehicle repair	86	102	213	134
Naturopathy	134	141	381	490
Nurse aide	40	55	149	525
Nursing	3,558	7,074	6,837	8,567
Nursing home administrator	19	49	73	151
Occupational therapist	209	425	208	166
Optometry	341	327	277	544
Pest control	595	494	368	404
Pharmacy and pharmacist	1,766	2,238	2,247	2,430
Physical therapy	1,306	1,961	1,022	1,174
Port Pilot				13
Private detective and guard	1,315	1,038	1,099	863
Psychology	904	1,188	824	1,276
Professional and Vocational Licensing (PVL)	12,475	25,423	22,226	9,373
Real estate	4,261	4,847	5,810	8,141
Real estate appraiser	518	362	666	412
Respiratory therapist	89	182	155	284
Social worker	915	1,009	860	1,187
Speech pathology and audiology	296	336	262	320
Subdivision	27	105	61	49
Time share	182	430	453	457
Travel agency	128	150	150	106
Uniform athlete agent	1	0	6	18
Veterinary	285	455	372	463
Veterinary technician – license effective 7/1/2018			51	110
TOTAL	44,467	69,385	67,208	63,936

REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)

OVERVIEW AND COMPOSITION

As the enforcement arm of the DCCA, the Regulated Industries Complaints Office (RICO) investigates and prosecutes licensing law violations by Hawaii licensees and unlicensed persons engaging in professions and vocations²¹ that require a license. In addition, RICO assists the general public and licensees with understanding the importance of consumer protection and licensure compliance through its broad and diverse education campaign that interfaces with the community, is available online, and begins in-house for many consumers and licensees who interact with RICO staff. Finally, RICO administers the State Certified Arbitration Program for “lemon” motor vehicle claims, which consumers of newer cars can bring against vehicle manufacturers for serious suspected defects.

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

Contact information:

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

Main office address:	State Office Tower Leiopapa a Kamehameha Building 235 S. Beretania Street, 9 th Floor Honolulu, Hawaii 96813 Phone: (808) 587-4272
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Kauai office address:	3060 Eiwa Street Room 204 Lihue, Hawaii 96766 Phone: (808) 241-3300
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²¹ Currently, 52 different industries require a professional or vocational license from the PVL, as these industries affect the health, safety, and welfare of Hawaii’s citizens.

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

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

RICO consists of three different sections that are key to RICO's complaints processing function: intake, investigations, and prosecution.

Intake

RICO's Intake Section is also known as the Consumer Resource Center (CRC). The CRC serves as the face of RICO because it is often the first contact a consumer will have with the division. The CRC handles the intake functions for RICO and the OCP. CRC staff includes intake investigators and clerical support.

Consumers calling the CRC can speak directly with an intake investigator. Because RICO is a "complaints office," many of the calls the CRC receives are for matters outside RICO's jurisdiction. In these cases, the intake investigators will refer callers to a more appropriate agency for non-RICO concerns. For consumers seeking more information about RICO matters or wishing to file a RICO complaint, intake investigators will answer questions, provide information, and walk the consumer through the complaints process. Most formal RICO complaints begin in the CRC. In FY 2019, the CRC distributed 1,206 RICO complaint forms from the Oahu office alone. For consumers wishing to file a complaint with the OCP, intake investigators will walk the consumer through the OCP complaint process or refer them to an OCP investigator for more information.

As part of the intake process, the CRC can assist consumers with resolving their problems before they file a complaint by providing them with a templated self-help letter to communicate their concerns to licensees or unlicensed persons. Frequently, following a complaint inquiry, an intake investigator will solicit an explanation or a response from a licensee, and this response will often be sufficient to end the dispute without the need for any formal complaint or investigation. During FY 2019, the CRC helped resolve approximately 5,261 complaint inquiries before any formal RICO complaint was filed. The CRC also helped resolve an estimated additional 989 OCP complaint inquiries without the need for a formal OCP complaint. The CRC's initial work with consumers has resulted in a significant "clearing house" effect for informal complaints and inquiries that seem to have resulted from a simple misunderstanding or inadvertent neglect. In cases where the CRC receives a written complaint, an intake investigator may allow the parties more time to work together to resolve their dispute, if they are so inclined. If the parties opt for additional time, the matter will end in the CRC without the need for a more formal investigation or review.

When a RICO complaint form has been signed and received by the CRC, the intake investigators will conduct preliminary investigations or reviews and screen the complaints for possible further investigation by the Field Section. Complaints with issues that are outside RICO's jurisdiction may be referred to another agency. Complaints that are preliminarily investigated or screened may reach an end at the intake stage if they lack a sufficient basis for further investigation or if a person withdraws the complaint, refuses to cooperate, or is no longer locatable. The remaining complaints are referred to the Field or Legal Sections. For FY 2019, the CRC initiated and processed 2,764 RICO complaints against licensees and unlicensed persons, the majority of which were referred to the Field and/or Legal Sections.

Investigation

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

Field investigators conduct formal investigations of complaints against licensees or unlicensed persons who engage in industry work that requires a license. Formal investigations consist of communicating with the parties, obtaining and analyzing information and records, site visits, and interviews. If needed, a field investigator can consult with an Advisory Committee Member during the investigation. Advisory Committee Members are appointed by a licensing board, commission, or program as industry experts who help RICO evaluate the merits of a complaint.

The purpose of a formal investigation is to determine whether sufficient evidence of a possible licensing violation exists. If so, the complaint will be referred to the Legal Section for further review and consideration of enforcement action. Complaints may end in the Investigations Section for a variety of reasons, including: the absence of sufficient evidence to prove a possible licensing violation; when the investigation establishes that no violation had occurred; or when information in the form of an education contact or a warning serves as an appropriate disposition.

With investigative responsibility over 52 different industries regulated by a board, commission, or program, RICO investigators scrutinize a broad and diverse population of trades and professions and the hundreds of regulatory laws governing these industries. Despite the onerous charge, during FY 2019, the Field Investigation Section completed 1,230 licensed and unlicensed investigations statewide.

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

Similar to the CRC intake investigators, RICO's neighbor island investigators and clerical staff play an important role as the faces of RICO, the DCCA, and local government. Many neighbor island residents prefer to work with RICO on a variety of concerns, so the Hilo, Kailua-Kona, Lihue and Wailuku offices handle a high volume of telephone calls and walk-ins who have RICO and non-RICO questions. The neighbor island staff is instrumental in answering inquiries concerning RICO and in providing technical assistance for RICO hearings and meetings that occur onsite. They also assist callers and others who do not have RICO business, such as facilitating meetings in RICO spaces for other state agencies and providing information, referrals, license application materials, forms, and other materials as requested. In FY 2019, RICO's neighbor island staff assisted consumers, the public, and others with 2,198 non-RICO matters.

Prosecution

Formal enforcement action, or prosecutions, are handled by the Legal Section, which is comprised of attorneys and legal clerical support staff. The section receives complaints from both intake and field investigators, which are then reviewed to determine if sufficient grounds exist to pursue formal enforcement action. Formal enforcement action results in disciplinary action in the case of licensees, and legal action in the case of unlicensed persons.

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

Not all cases referred to the Legal Section for enforcement action against licensees result in a contested case proceeding. Most complaints against licensees are resolved through negotiated settlements before a Petition for Disciplinary Action is filed or, in some cases, after a Petition has been filed but before the contested case hearing occurs. When a settlement is reached between the RICO staff attorney and the licensee, a written settlement agreement is presented to the board, commission, or program, which can vote to accept or reject the settlement. If the settlement is accepted, the agreement becomes the board's, commission's, or program's final order and is binding upon the licensee. If the vote is to reject a settlement, RICO will revisit the case and determine appropriate action. Many factors can influence whether a complaint can or should be settled without a contested case hearing, including: the underlying conduct at issue; the type of violations alleged; the credibility and reliability of RICO's evidence; and the likelihood of obtaining at a hearing the same or greater sanction as that proposed in a settlement. In FY 2019, 181 cases against licensees were settled without a contested case hearing. All settlements constitute formal disciplinary action by the board, commission, or program and can consist of license revocations, suspensions, monetary fines, professional evaluations, professional education, monitoring, treatment, and in a few cases, restitution to consumers.

The citations that RICO investigators issue can be appealed by any recipient. If the citation is appealed, the RICO staff attorney can either negotiate a settlement with the recipient or defend the citation in a contested case proceeding. Of the number of citations issued by field investigators in FY 2019 and referred to the Legal Section for final review, 94% of them were paid eventually by the offending party or confirmed by the Legal Section with or without a contested case proceeding.

For more formal or complex complaints involving unlicensed activity, the RICO staff attorney can pursue enforcement action by filing a lawsuit with the Circuit Court for monetary fines and a permanent injunction prohibiting future unlicensed activity. This typically occurs through negotiated consent judgments and assurances of voluntary compliance. In FY 2019, RICO staff attorneys filed an additional 87 legal actions alleging unlicensed activity.

As some licensing statutes can subject unlicensed persons to criminal prosecution by local authorities, the Legal Section occasionally works closely with criminal law enforcement agencies when they pursue criminal remedies for unlicensed activity.

Education Campaign

A key component of RICO operations is its education campaign. RICO is committed to making available a broad and diverse amount of information that informs the public, consumers, and licensees about ways to avoid being victimized by scams and fraud, and the importance of licensure compliance in reinforcing good practices by licensees. RICO's education campaign takes place in the community, online, and by direct on-the-job communications from RICO staff.

On an annual basis, members of RICO's staff appear at widely attended community, licensee, and public events, such as home shows, senior fairs, and industry group gatherings and meetings. During FY 2019, RICO appeared at events that were attended by an estimated 68,350 members of the public, consumers, and licensees. The community-based component of RICO's education

campaign is sensitive to kupuna issues, too. For example, RICO has worked with law enforcement agencies on elder fraud enforcement initiatives by providing information specifically geared toward seniors. RICO also produces an “At the Door/On the Phone” door hanger with tips on how to handle unwanted solicitations. In FY 2019, the CRC alone distributed at least 29,926²² brochures at community events on Oahu and to walk-ins who visited the Oahu office.

RICO’s education campaign includes user-friendly information that is available to the public on RICO’s website. The public can peruse and download much of the information on this website without a fee. In addition, a person or company can be “business checked” at <http://businesscheck.hawaii.gov/>, which is the Department’s 24/7 access page to licensing, complaints history, and business registration information. The Department’s business check service can also be accessed on RICO’s webpage. In FY 2019, users accessed the Department’s business check service from RICO’s webpage at least 169,478 times.

Importantly, RICO’s education campaign includes the day-to-day work of RICO’s dedicated staff. First, a substantial amount of education and outreach happens through RICO’s call center, or the Licensing and Business Information Section (LBIS). The LBIS is housed in the CRC, and its staff is available Monday through Friday, from 7:45 A.M. to 4:30 P.M. The LBIS can also be accessed toll-free by neighbor island residents. When 587-4272 (587-4CRC) is called, an LBIS employee can help the caller with obtaining and understanding business registration information. The LBIS can assist a caller with finding out if a business or individual has a professional or vocational license, or with obtaining and understanding RICO and OCP complaints history information. Despite the public’s more frequent use of the internet as the primary source for information, RICO’s call center is widely used by consumers, businesses, licensees, and even credentialing organizations. In fact, one customer who called the LBIS in FY 2019 said she was provided with “excellent, caring service,” as she was patiently guided and provided with information about businesses and complaints history. In FY 2019, the LBIS answered 7,957 telephone calls and conducted approximately 36,403 information searches, including prior complaints history information, for callers they assisted.

Second, RICO’s investigative and legal staff participate in RICO’s education campaign. On a daily basis, through complaints processing, they counsel parties about licensure requirements through warnings, education contacts, and brochures and by answering questions from complainants, licensees, or unlicensed persons while they are reviewing, investigating, or processing complaints.

State Certified Arbitration Program

For many consumers, obtaining a new vehicle will be one of the most costly and major purchases they make. Frustration can set in quickly when things go wrong with a new car that is still under warranty. RICO houses and operates the State Certified Arbitration Program (SCAP), which administers Hawaii’s “Lemon Law.” SCAP provides a low-cost arbitration forum for consumers to resolve car warranty complaints with manufacturers. Under certain conditions, a consumer may

²² This number does not include the brochures that the public reviewed or downloaded through RICO’s website or obtained through RICO’s neighbor island offices or community events held there.

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

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

In FY 2019, 17 claims were initiated. Three decisions were issued in favor of consumers, three decisions were issued in favor of manufacturers, and nine cases were settled after filing. The two remaining claims were pending resolution at the end of FY 2019. A total of \$319,418.00 in consumer refunds and bank loan payoffs were issued in FY 2019.

In recent years, SCAP cases have become more complex due to class action lawsuits and settlements, multiple national recalls, technological advances, and attorney involvement. SCAP cases also increasingly involve leased cars and neighbor island arbitrations. SCAP is committed to addressing new consumer issues and continues to provide consumer information at consumer fairs and other educational opportunities throughout the State.

One consumer commented, "Although I felt like giving up at times, with the aid and support of everyone[, SCAP] gave me the confidence to push through to the end." While each year only a small percentage of cars sold in the State are declared lemons, all new car buyers benefit from Hawaii's Lemon Law, which creates incentives for manufacturers to deliver cars that are free from defect and to address ongoing problems through efficient repair and voluntary recall.

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

GOALS AND OBJECTIVES

Since 2016, RICO has invested significant time and resources to upgrade and replace its historical complaints management system that has been in use since the early 1980s. The replacement system, IMPACT, will assist RICO in better achieving its goals of educating the public and enforcing the licensing laws through efficient complaints processing. After years of planning and consultation with the developer to build IMPACT from the ground-up for RICO, a prototype was

delivered to RICO during the second half of FY 2019. The prototype underwent a series of in-depth testing by the CRC, as well as the Field Investigation Units and Legal Sections statewide. RICO staff worked countless hours alongside the developer in testing, identifying, and correcting issues with the goal of assuring a smooth transition when IMPACT “goes live.” IMPACT should be up and running for RICO staff during FY 2020.

ACCOMPLISHMENTS IN FY 2019

Consumer Resource Center

RICO relies on information from the public and consumers to monitor conduct in the industry and to watch for unlicensed activity. Its two-page “Report of Ongoing Unlicensed Activity” allows consumers and industry members to primarily report suspected cases of ongoing unlicensed contracting activity to the CRC as it is happening, thereby allowing RICO investigators to gather real-time information throughout the State. In FY 2019, RICO continued to see good reporting responses by licensees using the short-form report. RICO hopes to expand the use of such reports beyond the contracting industry.

CRC intake investigators conduct investigations as part of RICO’s Early Case Resolution Program, which is designed to expedite certain types of complaints to the Legal Section for quicker processing, such as complaints involving the failure to complete CE courses on time or suspected advertising violations by licensees. In FY 2019, the Early Case Resolution Program continued to reduce the number of complaints that underwent a full field investigation, while increasing the number of complaints available for quicker resolution by RICO’s Legal Section.

Field Investigation Unit

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

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

In FY 2019, the UTF and neighbor island investigators conducted a minimum of 370 site inspections or licensure compliance checks statewide. Of those checks, the UTF and neighbor island investigators issued 79 separate citations for unlicensed activity and failure to display offenses by massage therapy and beauty culture licensees. Where no citations resulted, the UTF and neighbor island investigators counseled businesses and persons about the importance of

licensure compliance, while expressing appreciation for the majority of businesses and persons who knew about and fully complied with the law.

Legal Section

RICO's legal staff filed over 350 civil and administrative actions in FY 2019, assessing \$831,450.97 in fines and civil penalties against licensees and unlicensed persons. The prosecutions resulted in the revocation of 35 licenses and suspension in an additional eight cases. See below table for complaints filed with RICO.

Table 1: Complaints Filed with RICO

	FY 2017	FY 2018	FY 2019
Accountants	27	7	13
Activity desks	2	7	6
Acupuncturists	9	5	3
Athletic trainers	1	0	0
Barbers and cosmetologists	259	176	162
Behavior analysts (effective 1/1/2016)	1	0	5
Boxing	0	0	0
Cemeteries and pre-need funeral authorities	7	3	9
Chiropractors	11	3	2
Collection agencies	13	24	28
Contractors	460	296	503
Dentists and dental hygienists	49	27	54
Dispensing opticians	3	0	2
Electricians and plumbers	41	13	15
Electrologists	0	0	0
Elevator mechanics	2	0	0
Employment agencies	4	0	1
Engineers, architects, surveyors, and landscape architects	29	22	33
Hearing aid dealers and fitters	0	3	2
Marriage and family therapists	1	3	7
Massage therapists	174	82	140
Medical (including osteopathy)	188	97	165
Mental health counselors	1	0	0

Regulated Industries Complaints Office (RICO)

Mortgage brokers and solicitors	1	1	1
Motor vehicle industry	72	62	83
Motor vehicle repair	48	0	74
Naturopaths	4	1	6
Nursing	83	35	42
Nursing home administrators	5	9	9
Occupational therapists	4	1	2
Optometrists	1	1	2
Pest control	13	17	26
Pharmacy	90	40	60
Physical therapists	10	0	10
Pilotage	0	0	1
Private detectives and guards	102	15	24
Psychologists	11	5	29
Real estate appraisers	7	1	4
Real estate (including condominiums)	512	252	448
Respiratory therapists	1	0	0
Social workers	21	3	6
Speech pathologists and audiologists	0	1	0
Subdivision	0	0	0
Time share	2	2	2
Travel agencies	27	6	12
Mixed martial arts	1	0	5
Uniform athlete agents	0	0	0
Veterinarians	9	5	16
Veterinary technicians (effective 7/1/2018)	-	0	0
TOTAL	2,306	1,224²³	2012

²³ In FY 2018, a total of 2,864 matters were processed. This includes complaints filed by consumers and other persons, reports of unlicensed activity, and complaints initiated by RICO.

CRF FINANCIAL SUMMARY FOR FY 2019

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,728,273	\$712,449	\$6,440,722	\$8,736,384

As a special-funded division, RICO depends on licensing fees and fines to fund its operations. The last fee increase occurred in 2016, after having remained constant for several decades. Each year the amount of fees collected can vary significantly because of the certain but unknown number of licensee retirements and resignations, and the certain but unknown number of initial license fees for new entrants to a profession or vocation. Though renewal fees are paid biennially, they are assessed at different times of a year depending on the profession. In addition, the amount of fines collected by RICO for licensing violations or unlicensed activity varies significantly depending upon the timing of various legal actions. A combination of all these factors, therefore, make it difficult to project with certainty the available fund balance in any given year as well as throughout a given year. The 13.9-month reserve will help to reasonably ensure continuity of RICO operations.

CONCLUSION

With responsibility for enforcing the licensing laws of 52 boards, commissions, and programs, RICO continues to receive many inquiries, complaints, and other requests for assistance. Occupational licensing has grown dramatically over the years, with licensed workers now comprising more than 25% of the working American population.²⁴ At the same time, the number of RICO employees has stayed roughly the same, causing the division to do more with less. Despite new areas of enforcement and an increasing number of licensees, prosecutions have increased by more than 35%. Through hard work, strategic initiatives, a broad education campaign, and a commitment to continual improvement, RICO endeavors to provide a fair and safe marketplace for the public, consumers, businesses, and professionals it serves.

²⁴ U.S. Department of Treasury Office of Economic Policy, Council of Economic Advisers and Department of Labor. Occupational Licensing: A Framework for Policymakers (Washington, D.C.: The White House, 2015), 7, https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf.