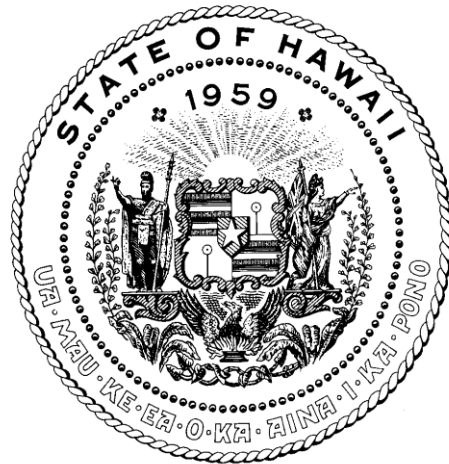


# Annual Compliance Resolution Fund Report



**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII  
SUBMITTED DECEMBER 2022**

**TABLE OF CONTENTS**

**INTRODUCTION ..... 1**

**OFFICE OF THE DIRECTOR..... 2**

    OVERVIEW AND COMPOSITION ..... 2

    GOALS AND OBJECTIVES ..... 2

    ACCOMPLISHMENTS OF THE DIRECTOR'S OFFICE AND INFORMATION SYSTEMS  
    AND COMMUNICATIONS OFFICE IN FY 2021 ..... 3

    CRF FINANCIAL SUMMARY FOR FY 2021 ..... 6

**BUSINESS REGISTRATION DIVISION (BREG) ..... 7**

    OVERVIEW AND COMPOSITION ..... 7

    GOALS AND OBJECTIVES ..... 8

    ACCOMPLISHMENTS IN FY 2021 ..... 10

    CRF FINANCIAL SUMMARY FOR FY 2021 ..... 10

**CABLE TELEVISION DIVISION (CATV) ..... 11**

    OVERVIEW AND COMPOSITION ..... 11

    GOALS AND OBJECTIVES ..... 13

    ACCOMPLISHMENTS IN FY 2021 ..... 14

    CRF FINANCIAL SUMMARY FOR FY 2021 ..... **Error! Bookmark not defined.**

**DIVISION OF CONSUMER ADVOCACY (DCA) ..... 18**

    OVERVIEW AND COMPOSITION ..... 18

    GOALS AND OBJECTIVES ..... 19

        Chart 1: Dockets Reviewed by Area and Overall Consumer Savings, FY 2020 ..... 20

        Chart 2: Hawaii’s RPS Goals ..... 21

        Chart 3: DCA’s Multi-pronged Approach to Community Outreach and Education ..... 23

    ACCOMPLISHMENTS IN FY 2020 ..... 23

    CRF FINANCIAL SUMMARY FOR FY 2020 ..... 26

**DIVISION OF FINANCIAL INSTITUTIONS (DFI) ..... 27**

    OVERVIEW AND COMPOSITION ..... 27

    GOALS AND OBJECTIVES ..... 29

    ACCOMPLISHMENTS IN FY 2021 ..... 30

    CRF FINANCIAL SUMMARY FOR FY 2021 ..... 36

**INSURANCE DIVISION (INS)..... 37**

OVERVIEW AND COMPOSITION .....	37
GOALS AND OBJECTIVES .....	40
ACCOMPLISHMENTS IN FY 2021 .....	41
CRF FINANCIAL SUMMARY FOR FY 2021 .....	41
<b>OFFICE OF ADMINISTRATIVE HEARINGS (OAH) .....</b>	<b>42</b>
OVERVIEW AND COMPOSITION .....	42
GOALS AND OBJECTIVES .....	43
ACCOMPLISHMENTS IN FY 2021 .....	44
<b>OFFICE OF CONSUMER PROTECTION (OCP) .....</b>	<b>46</b>
OVERVIEW AND COMPOSITION .....	46
GOALS AND OBJECTIVES .....	48
ACCOMPLISHMENTS IN FY 2021 .....	49
CRF FINANCIAL SUMMARY FOR FY 2021 .....	49
TABLES.....	50
Table 1: Laws Enforced by OCP.....	50
Table 2: OCP’s Information Requests.....	51
Table 3: Numerical Breakdown of Dispositions of all OCP Cases.....	51
Table 4: OCP’s Top Ten Complaints .....	52
Table 5: OCP’s Neighbor Island Assistance in FY 2021 .....	52
<b>PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL) .....</b>	<b>53</b>
OVERVIEW AND COMPOSITION .....	53
GOALS AND OBJECTIVES .....	55
ACCOMPLISHMENTS IN FY 2021 .....	56
CRF FINANCIAL SUMMARY FOR FY 2021 .....	58
TABLES.....	58
Table 1: PVL Statistical Overview .....	58
Table 2: Total Number of Current PVL Licensees.....	58
Table 3: Total Number (Percentage) of Licenses Renewed Online .....	61
Table 4: Total Number of Email Inquiries .....	64
<b>REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO) .....</b>	<b>67</b>
OVERVIEW AND COMPOSITION .....	67
GOALS AND OBJECTIVES .....	73

ACCOMPLISHMENTS IN FY 2020 ..... 73

CRF FINANCIAL SUMMARY FOR FY 2020 ..... 76

CONCLUSION ..... 76

TABLES ..... 76

    Table 1: Top 5 Complaints History Inquiries Processed by LBIS ..... 76

    Table 2: Top 5 Industries for Information Requests Processed by RICO ..... 77

    Table 3: Top 5 Public Internet Inquiry Areas Related to RICO ..... 77

    Table 4: Top 5 Industry Complaints Processed by RICO ..... 77

    Table 5: Top 5 Industries with RICO Prosecutions – Licensees ..... 77

    Table 6: Top 5 Industries with RICO Prosecutions – Unlicensed Persons ..... 78

## 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, 2021, and closing June 30, 2022, 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.<sup>1</sup> 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.

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

## OFFICE OF THE DIRECTOR

### OVERVIEW AND COMPOSITION

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

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### GOALS AND OBJECTIVES

The Department's goals and objectives are detailed in the report sections of each division<sup>2</sup> and summarized below:

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

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<sup>2</sup> 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 2022 Public Utilities Commission Annual Report for information on PUC operations.

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## **ACCOMPLISHMENTS OF THE DIRECTOR'S OFFICE AND INFORMATION SYSTEMS AND COMMUNICATIONS OFFICE IN FY 2022**

### **Consumer Education Program**

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

In March 2022, the CEP sponsored a public virtual event to celebrate the 18<sup>th</sup> Consumer Protection Week Fair. This week-long event featured consumer appropriate topics presented via Microsoft Teams by five organizations: Identity Theft Resource Center, State Health Insurance Assistance Program, Social Security Administration, Office of Consumer Protection and the U.S. Postal Inspection Service. Representatives from the organizations delivered presentations and addressed questions about identity theft, Medicare fraud, social security, COVID-19 scams and mail scams.

During the pandemic, the CEP made its information available to consumers electronically via the DCCA's website and other social media. As an example, "Consumer Wise Wednesdays" is a weekly post on Facebook and Twitter that provides tips on a gamut of consumer issues, such as identity theft, condominium owners' rights and responsibilities, and hurricane preparedness. In support of the electronic initiatives, DCCA implemented paid digital outreach efforts through various multimedia vehicles which amounted over 250,000 impressions across social media platforms.

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

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

**Hawaii Post-Secondary Education Authorization Program**

In FY 2022, HPEAP did not issue any new school authorizations, but began conversations with several schools expected to seek authorization in FY2023. Two of its authorized schools, Central Michigan University and the University of Oklahoma, closed their Hawaii location in FY2022. HPEAP continues to issue transcripts for former students of Argosy University – Hawaii, which closed in 2019, Heald College Honolulu, which closed in April 2015, and World Medicine Institute, which closed in April 2018.

HPEAP is the designated state portal entity for the State Authorization Reciprocity Agreement (SARA). SARA is an agreement among member states that establishes comparable national standards for interstate offering of post-secondary education distance courses. In FY 2022, HPEAP added Pacific Rim Christian University and the University of Hawaii at Hilo to its list of SARA institutions.

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

**Office of the Director’s Legislative Coordination**

In FY 2022, the Director’s Office, including multiple DCCA administrative services and support offices, oversaw the Department’s legislative activities concerning budgetary, fiscal, personnel, and administrative matters. The Director’s Office assisted with the legislative operations of each division and liaised with other state departments, agencies, branches of government, and community and business groups on legislative matters.

During the Regular Session of 2022, the Department submitted 478<sup>3</sup> testimonies and comments and recommendations pertaining to consumer and commerce matters. In addition, the Department supported various nominees for the boards and commissions attached to the DCCA. Several of the Department’s legislative proposals, which were introduced as part of the Governor’s administration package, received favorable consideration by the Legislature and were enacted.

Following the adjournment of session, the Department’s legislative coordinator/administrative assistant continued to support the DCCA in implementing legislative directives and coordinating departmentwide activities for the 2023 legislative session.

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<sup>3</sup> This total does not include testimonies submitted by the PUC.



### **Information Systems and Communications Office**

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

During FY 2022, ISCO improved security by broadly implementing multi-factor authentication (MFA) requirements and single-sign-on capabilities across enterprise systems including Salesforce, VPN and others as well as improving the Department's proxy system. These modern security improvements enhance protection in authenticating users, reducing password-related vulnerabilities, and enhancing safety against dangerous and inappropriate Internet content.

ISCO also continued to enhance DCCA's Office of Administrative Hearings' (OAH) case tracking application, custom-developed by ISCO. The developers added support for Medical Inquiry and Conciliation Panel (MICP) cases, as requested by OAH administrators.

For the Business Registration division's modernization project, ISCO supported the procurement for the project-vendors for system integration, project management and Independent Verification and Validation (IV&V). Since this procurement, the project commenced in early fiscal 2023 and is expected to be delivered into production within 18 months.

ISCO has taken a lead role in providing support to DCCA's Insurance Division as it prepares to transition from a decades-old legacy custom application to a modern, nationally-adopted cloud-based application. Expected go-live date for the new system is in December 2022.

ISCO developed and deployed a legislative tracking system (LeTS), a new custom Salesforce application designed to assist DCCA Legislative Coordinators in tracking active measures from the Hawaii State Legislature website. This application filters and tracks items of interest, including dates and responses from the Department.

ISCO began establishment of a hybrid Data Center model with Azure. Benefits from this model include ease of right-sizing resources, improved system availability and disaster recovery, and improved cost management.

To improve network redundancy ISCO added a firewall at the University of Hawaii with failover capability, and improved reliability by replacing the DCCA network's aging CISCO Core Switch. New fiber was installed and conversion to Voice Over Internet Protocol (VOIP) system first phase was completed. Further, ISCO Installed an upgraded, higher-capacity backup and recovery system.

ISCO continued to support multiple state technical committees, representing DCCA for the Access Hawaii Committee; Employee Emergency Communications (Alert Media); Enhancing the Value of State Data working group; Statewide IT Portfolio Governance working group; Information Privacy & Security Council (IPSC); and the ETS IT Coordination Team. Further, ISCO is now (FY23) representing the Department for the IT Consolidation Working Group.

**CRF FINANCIAL SUMMARY FOR FY 2022**

The following is the Department's CRF financial summary for FY 2022:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$38,553,866	\$15,069,519	\$53,623,384	\$60,897,876

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

The following is the Director's Office's (includes the Administrative Services Office, CEP, HPEAP, ISCO, Office of Administrative Hearings, and Personnel) CRF financial summary for FY 2022:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,423,736	\$4,154,824	\$9,578,560	\$1,480,060

## BUSINESS REGISTRATION DIVISION

### OVERVIEW AND COMPOSITION

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

### **Contact information:**

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Phone:	(808) 586-2744
Website (Business Registration):	<a href="http://cca.hawaii.gov/breg">cca.hawaii.gov/breg</a>
Website (Securities):	<a href="http://cca.hawaii.gov/sec">cca.hawaii.gov/sec</a>
Email:	<a href="mailto:breg@dcca.hawaii.gov">breg@dcca.hawaii.gov</a>
Business Action Center – Oahu:	Relocated to BREG’s main office in October 2019.
Business Action Center – Maui:	Wells Professional Center 2145 Wells Street, Suite 106 Wailuku, HI 96793 Phone: (808) 243-8679

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

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

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

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

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

## **GOALS AND OBJECTIVES**

- **Documents Registration Branch:** Maintain an accurate and efficient state business registry.
  - Review and implement policies and procedures to efficiently process document filings and information requests in a timely manner.
  - Develop and improve its online services to better assist the public and to provide faster and more efficient service.
  - Enhance information systems to improve retrieval, processing, recording, and maintenance of public filing information while protecting the integrity of the data system.

- **Business Action Center:** Be a responsive and helpful center for business registration and licensing for all businesses in Hawaii.
  - Provide practical information and efficient customer service to the public.
  - Develop and maintain relationships with the business community and seek ways to reach communities in need of business registration assistance.
  
- **Securities Enforcement Branch:** Be an effective state securities regulatory agency that is responsive, appropriately aggressive, and efficient.
  - Investigate and prosecute state securities law violations under the Hawaii Uniform Securities Act and Hawaii Franchise Investment Law.
  - Investigate and prosecute consumer complaints timely.
  - Reduce case backlog.
  - Inform consumers of enforcement matters and investment scams through participation in the Investor Education Program.
  - Attend and develop training to keep staff current on emerging investigative techniques, legal analyses, and securities issues.
  
- **Securities Compliance Branch:** Be a state securities regulatory agency that is responsive, effective, and efficient.
  - Accurately and timely review and approve securities and franchise applications and/or filings.
  - Maintain a regular field examination cycle for registered broker-dealers and state registered investment advisers.
  - Develop and implement internal procedures to process applications efficiently.
  - Keep current with regulatory changes and updates by providing ongoing training for professional staff.
  
- **Investor Education Program:** Develop meaningful investor education programs, materials, and active outreach programs that respond to the public's needs and address the financial problems that investors face. Develop and expand:
  - Partnerships with federal, state, and county agencies, nonprofit organizations, and private companies to provide outreach to various audiences throughout Hawaii.
  - Outreach through fraud prevention presentations and investor education materials at various community events.
  - The use of multimedia technology and social media 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 2022****Genesys Call Center**

BREG’s Genesys Call Center went live on September 28, 2021. Genesys is a virtual call center for the Business Registration Branches (DOCI, DOCP and BAC) that allows for calls to be routed off-site (if needed). With Genesys, more calls can be answered at once, allowing BREG to be more responsive and to collect more data on calls (i.e., length of average call, number of missed calls, number of calls waiting, etc.).

**Hawaii Business Express (HBE) Resubmissions through My Dashboard**

HBE was updated to allow documents and annual reports filed online (through HBE) to be resubmitted online. On HBE, filers can access their “My Filings” tab via their Dashboard to view the status of their filing. If a document is rejected, filers can now correct and resubmit the document online. Previously, resubmittals were handled outside of HBE, with filers having to mail, email, fax, or hand deliver resubmitted documents to BREG and would have to be scanned into the system. The acceptance of resubmittals online increases the processing efficiency for both filers and BREG staff. HBE document resubmissions through My Dashboard went live on 12/07/21 and HBE Annual Report Submissions through My Dashboard went live on January 10, 2022. BREG continues to work on enhancements to improve its systems and services for the public.

**Investor Education Outreach “On the Go!”**

Due to lingering health and safety concerns from the pandemic, the Investor Education Program (IEP) continues to adjust its outreach efforts. April is designated as Financial Literacy Month in Hawaii and the IEP typically hosts its annual financial literacy fair in downtown, Honolulu. In lieu of this one-day event, the IEP created a month-long virtual campaign, each week highlighting information for different target groups (keiki, working adults, and kupuna). The campaign is promoted via news release, and on the IEP’s website and social media platforms, providing links to downloadable materials, activities, and presentations. The initial success of April 2021’s “Project Financial Literacy: Investor Education for All” led to the development of another month-long virtual campaign in October 2021 titled, “Catch the Waves of Investor Protection.” This year, the IEP launched “Financial Literacy On the Go!” in April and plans to launch its “Investor Protection On the Go!” campaign in October. The virtual campaigns are a sustainable part of IEP outreach efforts and can continue with or without the resumption of traditional in-person events. And while the IEP will continue to offer hard copies of its materials, it is working to make more of its content available digitally – online and via social media.

**CRF FINANCIAL SUMMARY FOR FY 2022**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,459,368	\$3,145,423	\$8,604,790	\$14,255,237

## CABLE TELEVISION DIVISION

### OVERVIEW AND COMPOSITION

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

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

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

To the extent permitted by federal law, the CATV is also responsible for overseeing 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 Partners<sup>4</sup> 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 their gross revenues for PEG services. The DCCA, through the CATV, has contracted oversight of access channels to nonprofit entities located in each of Hawaii's four major counties. The CATV supports the DCCA director in designating these PEG access organizations. Designation is based upon written application or proposal and after public hearing, taking into consideration the: (1) public need for the proposed service; (2) legal, technical, financial, and operational ability of the applicant to provide the proposed service in an efficient and effective manner that is fair to the public in the service area; (3) comments arising from public hearing and from the CAC; and (4) other matters deemed appropriate under the circumstances.

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

In 2010, the Legislature passed Act 199, SLH 2010, charging the DCCA/CATV with broadband-related duties that include supporting public and private efforts to facilitate deployment of and access to competitively priced broadband and internet access services; facilitating broadband application development to bolster usage and demand for broadband; and facilitating the implementation of recommendations of the Hawaii Broadband Task Force. Pursuant to Act 199, the DCCA/CATV convened the Broadband Assistance Advisory Council (BAAC) to direct and support activities that could facilitate increased broadband adoption and 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 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 carriers, and

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<sup>4</sup> 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.



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

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**GOALS AND OBJECTIVES**

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

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

## **ACCOMPLISHMENTS IN FY 2022**

### **FCC Rulemaking and Appeals**

The CATV monitors developments in Congress and at the FCC relating to cable television, telecommunications, and broadband. In FY 2022, the CATV continued to take an active role in FCC proceedings and appeals that directly impact cable television subscribers in Hawaii, in particular:

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

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

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

On November 5, 2021, a petition for certiorari was filed with the United States Supreme Court, which was denied on February 22, 2022.

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

Currently, while implementation appears to be on hold, possible impacts of the FCC's ruling as amended by the Sixth Circuit Court will be a continuing challenge to the CATV in FY 23 due to the uncertainty. Further petitions to the FCC for reversal or clarification of the ruling, as amended, are strongly being considered.

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

On November 13, 2020, Decision and Order (D&O) No. 377 was issued conditionally approving the transfer of control of HTSC's Oahu cable franchise at the parent company level from Cincinnati Bell Inc. (Cincinnati Bell) to Red Fiber Parent LLC (Red Fiber). Terms of the CATV's approval includes, inter alia, securing a commitment by Red Fiber/HTSC to invest \$20,000,000 to improve and build out HTSC's networks and infrastructure throughout the State; and build out, at a minimum, 15,000 new or upgraded line extensions of HTSC's network to homes and small businesses within six (6) years of the close of the transaction. Completion of the merger of Cincinnati Bell and Red Fiber occurred on September 7, 2021. The CATV will continue to monitor the fulfillment of the conditions of approval as set forth in the D&O.

### **Broadband Projects/Activities**

In FY 2022, the DCCA/CATV conducted broadband-related activities that included:

- Supporting Hawaii's participation in the FCC's Measuring Broadband America program, which can expand the amount of data gathered about subscriber broadband service performance across the State.
- Gathering data on unserved and underserved areas and broadband performance across the State to enhance policymakers' understanding of the State's broadband landscape and to better inform their policies and strategies to advance the State's broadband goals. The DCCA/CATV continued to manage its No Internet Service application that gathers and maps consumer-provided data on locations where no internet service is available (launched in December 2018 and available at: <https://cca.hawaii.gov/broadband/no-internet-service-map/>). Specifically, the DCCA/CATV continually updates the publicly available data on the availability of fixed and mobile service, the built and funded locations under federal programs, and the Center for Disease Control's Social Vulnerability Index. In FY 2022, the DCCA/CATV also continued to manage its "Internet Speed Map" tool, which allow residents to report their home wireline internet speeds to create a crowd-sourced map (launched in June 2020 and available at: <http://cca.hawaii.gov/broadband/speedmap/>). This tool supplements the data provided through the DCCA's issued 2018 and 2019 reports

on fixed wireline speeds in the State using data obtained from Ookla, proprietor of Speedtest.net, available at: <http://cca.hawaii.gov/broadband/report-on-fixed-wireline-broadband-speeds-in-hawaii-july-2019/>. In FY 2022, the DCCA/CATV added updated Speedtest data provided by Ookla for public use.

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

### **Continued Reduction of Cable Administration Fees**

Pursuant to federal law, LFAs such as the DCCA/CATV can require cable operators to pay franchise fees in an amount equal to 5% of their annual gross revenues of their respective cable systems. Previously, the 5% franchise fee was allocated as follows: 3% to the PEG organizations; 1% to the Hawaii Public Television Foundation, dba PBS Hawaii; and 1% in annual fees to the DCCA/CATV to administer its responsibilities under HRS chapter 440G. As permitted by federal law, these fees are passed onto cable television subscribers and included in their monthly bills. Through discussions and analysis of available funds, the DCCA/CATV determined that over time, it accumulated more funds than currently required to cover the cost of administering HRS chapter 440G. Therefore, on May 9, 2019, the DCCA/CATV issued Decision and Order No. 375, which reduced the annual fee from 1% to zero as of July 1, 2019. This reduction in annual fees continued in FY 2022 and resulted in the lowering of monthly cable television bills for cable television subscribers throughout the State.

**CRF FINANCIAL SUMMARY FOR FY 2022**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$815,409	\$714,371	\$1,529,780	\$36,007

Similar to all the other divisions of the Department, the CATV is special-funded. However, unlike many other divisions, the CATV's only source of revenue (aside from application fees, which are very rarely collected) is the annual fees collected from the State's two cable operators. These annual fees are paid to the CATV during the beginning of the third quarter of each fiscal year, usually at the end of January, and amounts are calculated based on each cable operator's gross revenues for the prior calendar year. Revenue for the CATV is thus dependent on the market for cable services in the State, which varies from year-to-year and which is projected to decline as the market for streaming services over the internet continues to grow. Due to these factors, the CATV plans to maintain a target reserve of approximately 24 months to ensure continuity of the division's operations as the market for cable television service changes. In line with this target amount, Decision and Order No. 375 was issued on May 9, 2019, to reduce the annual fees collected from 1% to zero, beginning on July 1, 2019, to better align the CATV's cash balance with its reserve target. This reduction in annual fees continued through FY 2022, and therefore the CATV continued in FY 2022 to operate on its reserves. CATV will reinstate the collection of annual fees when needed to maintain its target reserve amount.

## DIVISION OF CONSUMER ADVOCACY

### OVERVIEW AND COMPOSITION

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

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Email:	<a href="mailto:dca@dcca.hawaii.gov">dca@dcca.hawaii.gov</a>

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 DCA's library.

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

## **GOALS AND OBJECTIVES**

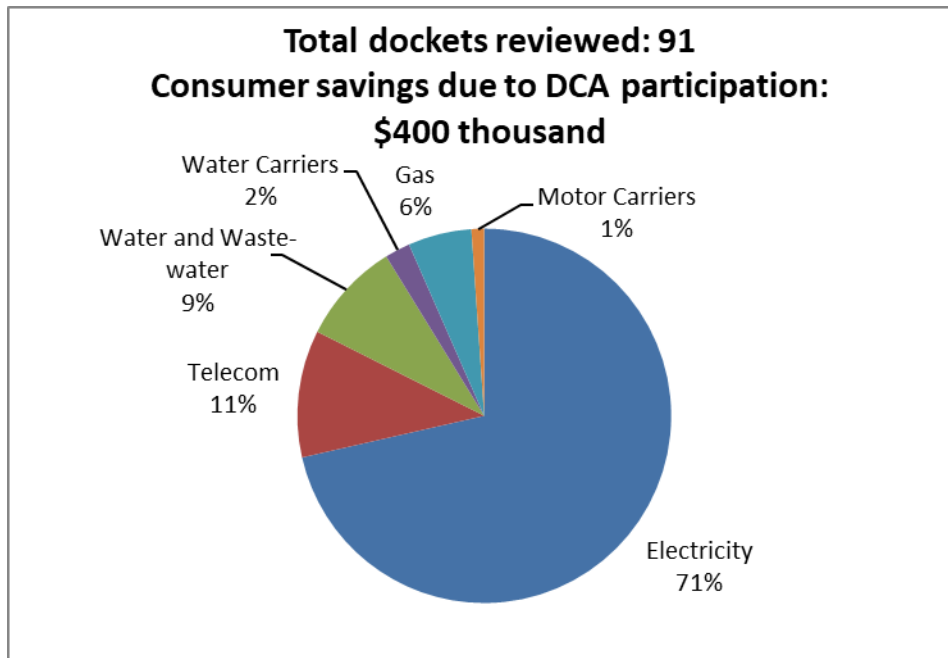
### **Consumer Advocacy**

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

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

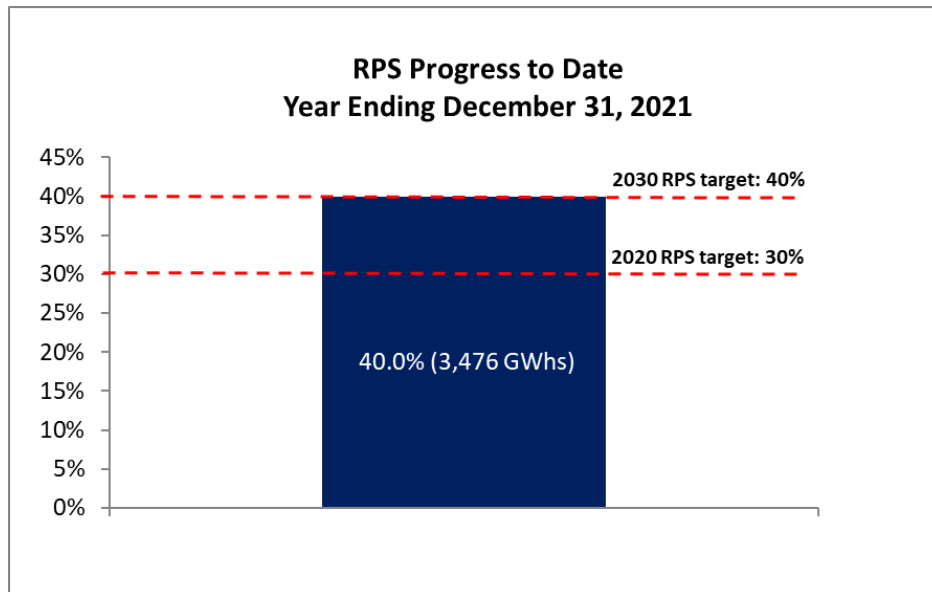
- Review of applications to ensure compliance with regulations.
- Participation at PUC public hearings.
- Procurement of consultant services to manage workload and for complex cases.
- Completion of discovery.
- Analysis of applications and supporting documents to determine the accuracy and reasonableness 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 2022****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 DCA will continue to promote and facilitate Hawaii's transition from using imported fossil fuels to clean renewable energy, as well as advance federal and state broadband initiatives. Chart 2 reflects Hawaii's progress on its Renewable Portfolio Standard (RPS) goals. As of December 31, 2021, Hawaii's percentage of renewable generation increased to 40.0% of sales, which meets the 2030 RPS goal of 40%.



**Chart 2: Hawaii's RPS Goals**

Regarding energy efficiency, there is ongoing work to evaluate the State's energy efficiency potential as well as its Energy Efficiency Portfolio Standard (EEPS) 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 that DCA 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 Federal Communications Commission (FCC), Federal Energy Regulatory Commission, 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 2022, the DCA monitored and/or testified on 202 bills and resolutions and submitted written testimony on 88 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.

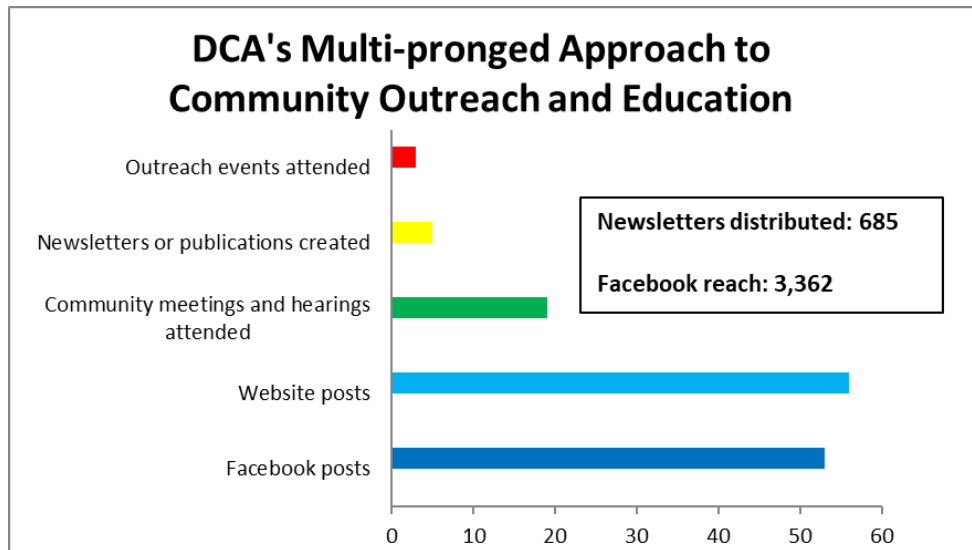
The DCA can accomplish its goal of positively affecting the habits of consumers statewide through its website and public outreach activities. The DCA established the following action plan to accomplish its goals and objectives:

- 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.
- As a result of the ongoing pandemic affecting community events, the DCA is looking for virtual events that might be able to provide outreach opportunities.

To measure its performance and progress on education and outreach activities, the DCA tracks the number of people reached through education and outreach events, newsletters and other publications distributed, and consumers assisted with complaints and other issues. Chart 3 illustrates various ways the DCA engaged in community outreach and education in FY 2022.<sup>5</sup>

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

**Chart 3: DCA's Multi-pronged Approach to Community Outreach and Education****ACCOMPLISHMENTS IN FY 2022****Advocacy Before the Public Utilities Commission**

The DCA's primary activities consist of its advocacy before the Commission. The following are some of DCA's key accomplishments in FY 2022.

**Energy Dockets****(1) Resource Planning**

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

**(2) Renewable Energy Procurement**

In Docket No. 2017-0352, the Commission provided the forum through which the HECO Companies could issue requests for proposals to acquire new renewable energy projects. The DCA was an active party in this proceeding and the resulting applications seeking approval of purchased power agreements with independent power producers. The DCA sought to ensure that the procurement of new resources would benefit all consumers and be at reasonable costs. To date, there have been two phases where Phase 1 generated eight projects with a potential capacity of over 274 megawatts and Phase 2 resulted in twelve projects with a potential capacity of almost 400 megawatts of generation. Due to various factors, there have been delaying impacts on the scheduled timelines for already approved projects and DCA works with other stakeholders on trying to ensure that the approved projects are completed as soon as possible.

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

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

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

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

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

**(4) Performance-Based Ratemaking (PBR)**

Act 5, SLH 2018, required the Commission to establish performance incentives and penalty mechanisms to tie revenues to performance instead of investments. Thus, as part of the Commission opened Docket No. 2018-0088 and adopted a PBR framework in December

2020, but modifications and amendments continue to be proposed and reviewed. 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.

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

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

#### Dockets Involving Other Industries

The DCA participated in various dockets involving regulated water, wastewater, telecommunications, utility gas, and transportation companies. These dockets included ongoing rate proceedings for water/wastewater utility companies, and eligible telecommunications carrier certification for various telecommunications companies. In addition, starting in 2019, interisland shipper Young Brothers applied for a general rate increase, which the DCA opposed because YB was seeking recovery of unnecessary and excessive expenses and investments. During the case, the impacts of the ongoing pandemic affected Young Brothers' operations, and its parent company cut off further financing, which resulted in an emergency increase. This resulted in the legislature asking for the creation of a water carrier working group to address measures that might be necessary to ensure the viability of interisland water carrier. The DCA has continued to work on addressing the many systemic issues within both the ongoing PUC dockets related to YB as well as in the water carrier working group. Due to issues with Sandwich Isles Communications (SIC), Department of Hawaiian Homeland (DHHL) beneficiaries were facing the possibility of their telecommunications services being terminated in FY 22. DCA actively engaged with PUC, DHHL, FCC, and various parties to forestall termination of services, which could have affected the health and safety of DHHL beneficiaries and DCA continues to work on this matter as well as participate in the PUC proceeding reviewing whether SIC should remain a certificated provider of telecommunications services.

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

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

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

procedures and services available to help avoid damaging underground utility facilities and associated injuries.

- **Hawaii Energy Policy Forum:** The Hawaii Energy Policy Forum is an organization that brings together various entities from government, education, industry, and other interested stakeholders to discuss energy-related issues and how to best pursue changes that are consistent with the State’s goals and objectives.
- **Hawaii Clean Energy Initiative:** Initiated by a memorandum of agreement between the U.S. Department of Energy and the State of Hawaii, the Hawaii Clean Energy Initiative is a key driving factor in Hawaii’s clean energy transition efforts.
- **Water Carrier Working Group:** As mentioned above, DCA has been participating in the Water Carrier Working Group that was created as a result of Senate Resolution 125, S.D. 1, SLH 2020, which was tasked with recommending mid- and long-term solutions to ensure continuous water carrier service throughout the State. A report with recommendations was filed with the Legislature before the 2022 session.

### **Education and Outreach**

In FY 2022, the DCA continued its education and outreach activities to better educate consumers and extend its reach to communities throughout the State but these efforts were hampered by the ongoing pandemic. However, as mentioned above, the DCA sought to inform customers of possible bill assistance aid programs to help consumers who may have been struggling to pay utility bills.

The DCA continued to use its website to provide relevant information and informative news, and to use Facebook to reach consumers more quickly through social media. In FY 2022, DCA updated the Consumer Center section of its website to make the collection of information on topics related to utility services more user friendly, adding an Information Dashboard, and expanding on topics such as utility bill components and emergency preparedness. In addition, the DCA’s Facebook posts included notifying customers of new programs, late fee policies and resources available during the COVID-19 pandemic. Through Facebook, the DCA also provided education material by posting energy and water-saving tips and notifying consumers of pertinent, utility-related online newspaper articles, blog posts, and radio and television programs, as well as sharing links to our Consumer Spotlight newsletter. The Facebook page continues to be used to announce upcoming utility-related public hearings, consumer fairs, utility and green energy conferences, and media events.

### **CRF FINANCIAL SUMMARY FOR FY 2022**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$2,210,405	\$657,325	\$2,867,731	\$2,346,655

## DIVISION OF FINANCIAL INSTITUTIONS

### OVERVIEW AND COMPOSITION

The Division of Financial Institutions (DFI) provides regulatory oversight for the State's financial service providers, which include both bank and nonbank companies. The DFI provides supervision, regulation, and examination of all Hawaii state-chartered and state-licensed financial institutions, including banks, foreign banking agencies and representative offices, savings banks, trust companies, financial services loan companies (both depository and nondepository), money transmitters, mortgage loan originators and companies, mortgage servicers, escrow depositories, and credit unions. In 2021, the legislature created two new nondepository regulatory schemes for DFI to implement, small dollar installment loans and non-depository trust licenses.

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

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

The major functions of the DFI are to:

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

The DFI is recognized by two accreditation organizations for appropriately licensing, supervising, and examining chartered and licensed companies, providing consumer protection to individuals, and providing the highest standards of training for its staff. The DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and reaccredited in 1995, 2000, 2005, 2012<sup>6</sup>, and 2018. The CSBS accreditation program sets high standards for state banking regulators nationwide. During the pandemic, some states were unable to maintain the accreditation standard. Hawaii is one of the forty-four out of 52 states<sup>7</sup> that met CSBS bank accreditation requirements.

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<sup>6</sup> Hawaii did not seek reaccreditation in 2010. A new commissioner was appointed in 2011.

<sup>7</sup> Includes the District of Columbia and Puerto Rico.<sup>8</sup> The AARMR is a trade organization for mortgage regulators.

In 2Q FY 2015, the DFI was the eighteenth state in the nation to be accredited by the CSBS/AARMR American Association of Residential Mortgage Regulators (AARMR)<sup>8</sup> for mortgage supervision. The CSBS/AARMR accreditation program sets high standards for state mortgage regulators nationwide. Currently, 30 of 66 mortgage regulatory agencies meet CSBS/AARMR accreditation standards. The accreditation program includes mortgage loan originators, mortgage loan originator companies, and mortgage servicer programs.

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The **Administrative Section** coordinates and facilitates activities within the DFI, with other divisions, and with other state and federal agencies regarding regulatory and supervisory oversight issues. This section also coordinates interactions with the legislature, proposed legislation, investigates complaints regarding possible state and federal law violations, and conducts the UIPA/FOIA requests. This section conducts studies related to emerging financial products and services.

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

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<sup>8</sup> The AARMR is a trade organization for mortgage regulators.



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

### **GOALS AND OBJECTIVES**

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

- The DFI has been successful in recruiting new employees and providing training through virtual sessions and on-the-job training.
- The DFI leverages its resources with other state and federal agencies to provide oversight over state-chartered and licensed companies. This networked supervision involves communication skills to efficiently discuss and take appropriate action on licensees.
- Have effective and efficient operations and programs.
  - The DFI implemented a database system in 2015 and continues to work with the vendor to implement a workflow process.
  - The DFI continues to use the Nationwide Multistate Licensing System & Registry (NMLS) for licensing, supervision, and examination of its nondepository licensees.
- Achieve the DFI’s strategic objectives, which center on the orientation, training, and effective deployment of the division’s examiners and providing best practices to licensees in a professional manner.
  - Federal training programs administered by the FDIC and the Federal Reserve System are regularly used for this purpose, as are web-based programs provided by the CSBS, AARMR, MTRA<sup>9</sup>, NACCA<sup>10</sup>, and Risk Management Association.
  - The DFI seeks to recruit new staff who, through on-the-job training, will be able to adjust to the rapidly changing landscape of the financial services industry. New financial service products continue to be created, modified, and initiated by licensees that the DFI regulates and supervises.
  - DFI examiners aim to stay up to date with the latest iteration of financial products, services, and delivery methods, which have greatly expanded through technology and impact of cybersecurity.

## **ACCOMPLISHMENTS IN FY 2022**

The COVID-19 pandemic accelerated the use of financial technology tools for the financial services industries and consumers. The financial services industries created mobile phone and internet tools for their customers to interact with the companies as consumers were unable to easily access direct face-to-face services. The expectation by consumers was elevated during the pandemic, causing banks and our nondepository licensees to find solutions to deliver products and services in an effortless and seamless way. Consumers wanted instant responses and instant transactions for their financial activity. Consumers did not want to be “bogged down” with the security layers required by federal and state laws. Consequently, there was a constant push and pull by consumers and our financial industry to service consumers. This translated into using more financial technology (“fintech”) by all financial institutions. Fintech companies exploded into the financial products and services arena, creating experiential and experimental pathways to

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<sup>9</sup> Money Transmitter Regulators Association is a national non-profit organization dedicated to the efficient and effective regulation of money transmission industry in the United States of America.

<sup>10</sup> National Association of Consumer Credit Administrators was formed to improve the supervision of consumer finance companies and to facilitate the administration of laws governing these companies.

traditional banking, mortgage, and money transmission activities (non-depository financial institutions). The DFI pivoted and started supervision and examining non-depository financial institutions for cybersecurity. This shift expanded the scope of the supervision and examination for the DFI, allowing DFI to review the cybersecurity protocols, policies, and procedures of the non-depository financial institutions.

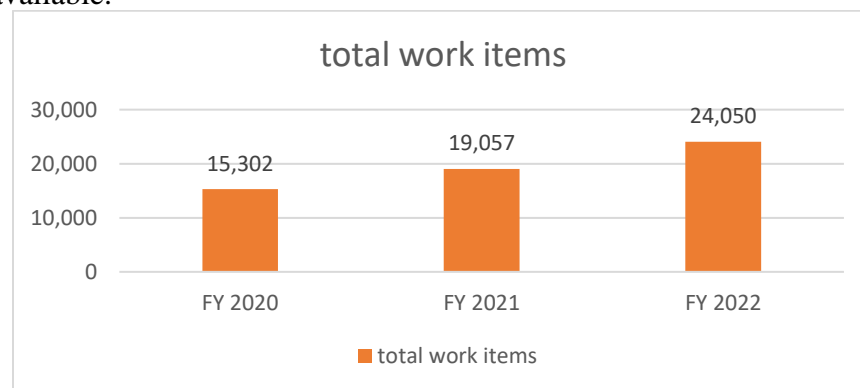
### Consumer Protection

Through DFI's ongoing supervision by the licensing branch and the independent examination of licensees for compliance with laws, rules, and regulations, DFI examiners identified instances where consumers were harmed, resulting in DFI ordering licensees to return approximately \$91,000 to 534 consumers in FY22. The DFI contacted the affected consumers to validate that the restitution checks were legitimate because consumers were not expecting the restitution and many thought that the licensee checks were a scam.

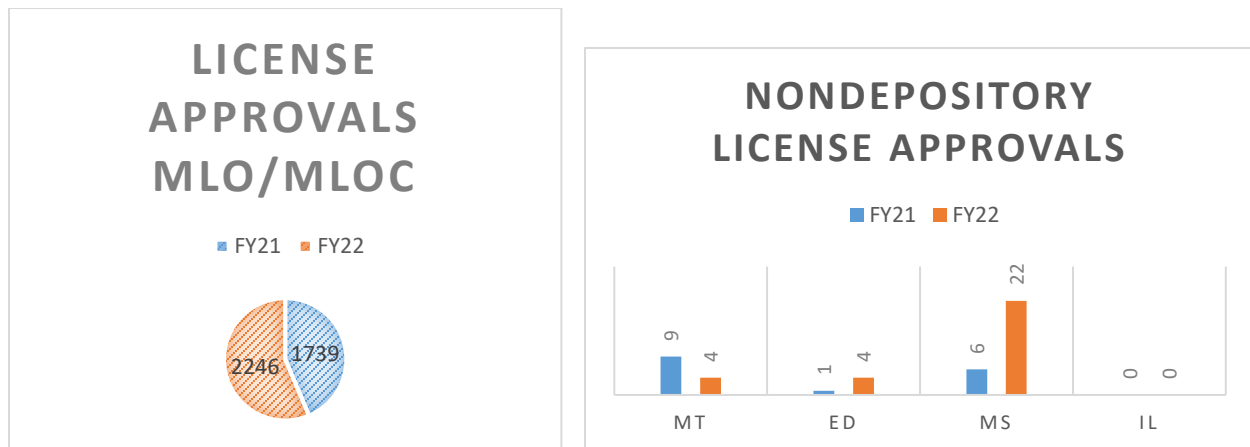
DFI assessed more than \$444,000 in administrative fines for violations of Hawaii's laws, rules, and regulations by its licensees. However, DFI collected only a portion of the fines, staying the collection of the fines for clerical or medical reasons and an assurance that the licensee will address operational processes to not violate the laws again. DFI did collect \$307,000 in administrative fines from violations from licensees.

The DFI examination team has expanded its participation in multi-state examinations for money transmitters, mortgage loan originator companies, and mortgage servicer companies. In FY22, the DFI participated in the first "One Company One Exam" on the largest mortgage loan originator company in the nation with 36 other states. Over 100 examiners participated in this multi-state exam and many lessons were learned from this massive undertaking between the states and the company. Hawaii will continue to participate in the multi-state examinations with states in FY23.

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



The most impactful activity for the DFI was the unprecedented number of applications by the mortgage industry. The low interest rates, high demand by consumers to move to quieter surroundings, loss of income due to the pandemic, drove an increase in the number of applicants desiring to originate mortgages. Around the country, as employees were either laid off or unable to work from home because of the pandemic, the mortgage industry appeared attractive. Mortgage loan originators were able to work from home and deliver loan documents electronically to consumers and communicate through video conference calls or telephone calls. The DFI licensing staff, like staffs across the nation saw an explosion of applications throughout the year partially fueled by the low mortgage interest rates and low housing inventory. Processing times dramatically increased from an average of 10 days to 180 days.



Although the mortgage origination market was booming in FY2022, economic factors continue to show that housing prices were largely unaffordable.<sup>11</sup>

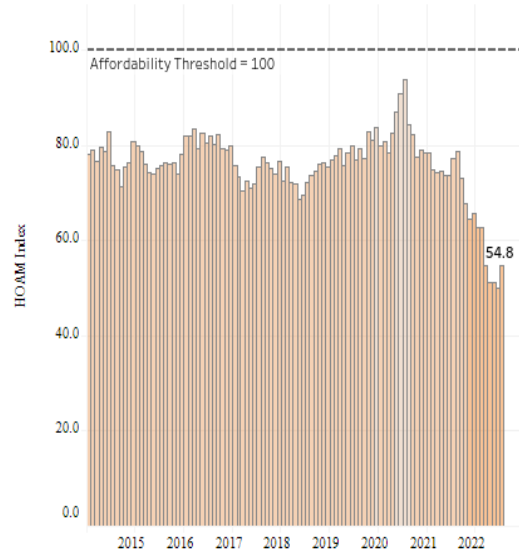
<sup>11</sup> No statistics were available for Maui from the Atlanta Federal Reserve study conducted by their Center for Housing and Policy section.

Hilo, HI

January 2014 to July 2022

Federal Reserve Bank of Atlanta Metro Home Ownership Affordability Monitor (HOAM) Index

Index Less than 100 = Unaffordable

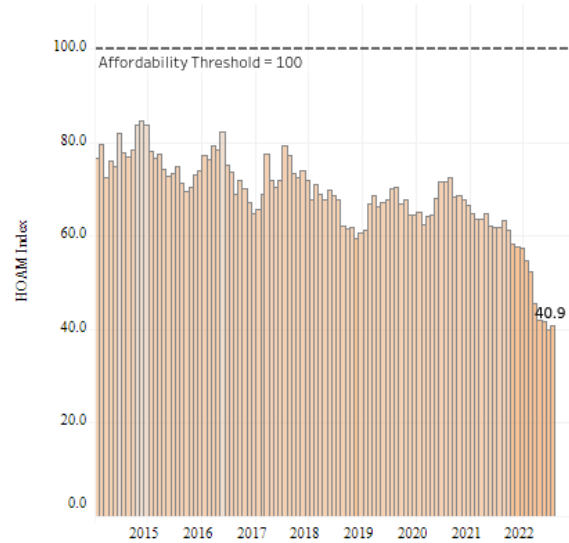


Kapaa, HI

January 2014 to July 2022

Federal Reserve Bank of Atlanta Metro Home Ownership Affordability Monitor (HOAM) Index

Index Less than 100 = Unaffordable

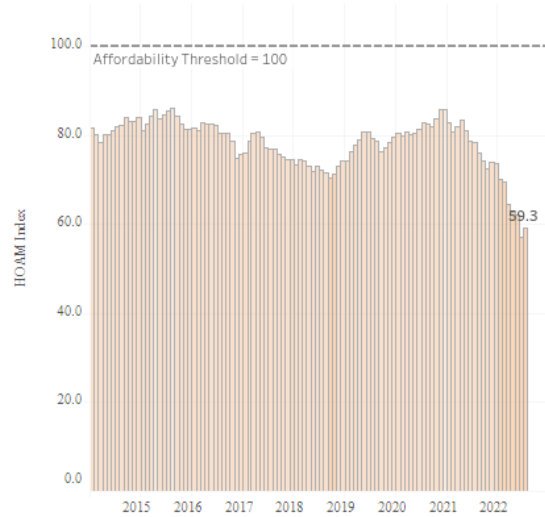


Urban Honolulu, HI

January 2014 to July 2022

Federal Reserve Bank of Atlanta Metro Home Ownership Affordability Monitor (HOAM) Index

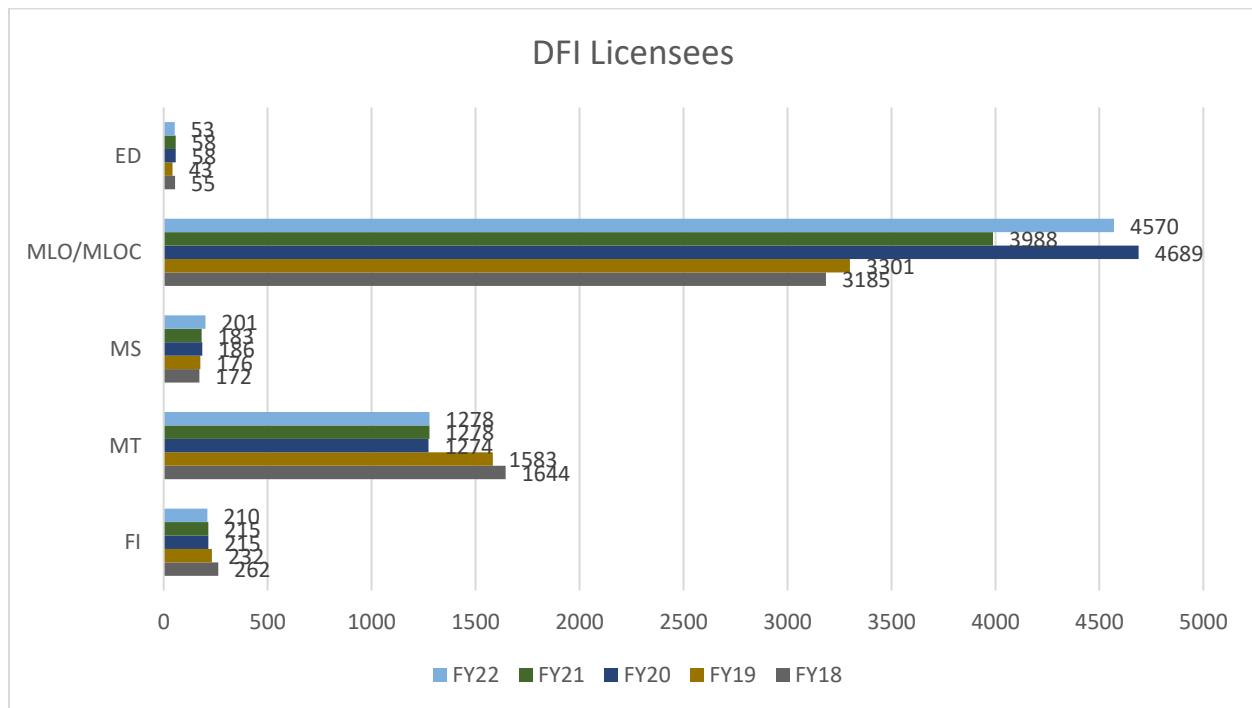
Index Less than 100 = Unaffordable



The DFI team licensing money transmitters saw an increase in the number of applications from 14 in FY20 to 22 in FY21. The applications became increasingly complex as money transmitters used creative fintech applications and platforms to either request an exemption from the law or have such complex business structures, to make it difficult to determine how the flow of money

occurred during the transactions. Additionally, many money transmitters became increasingly global, and had directors and key individuals (control persons of the company) outside the jurisdiction of the United States. DFI continues to discuss with other states about how discipline can be conducted for companies operating outside the jurisdiction of the United States.

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

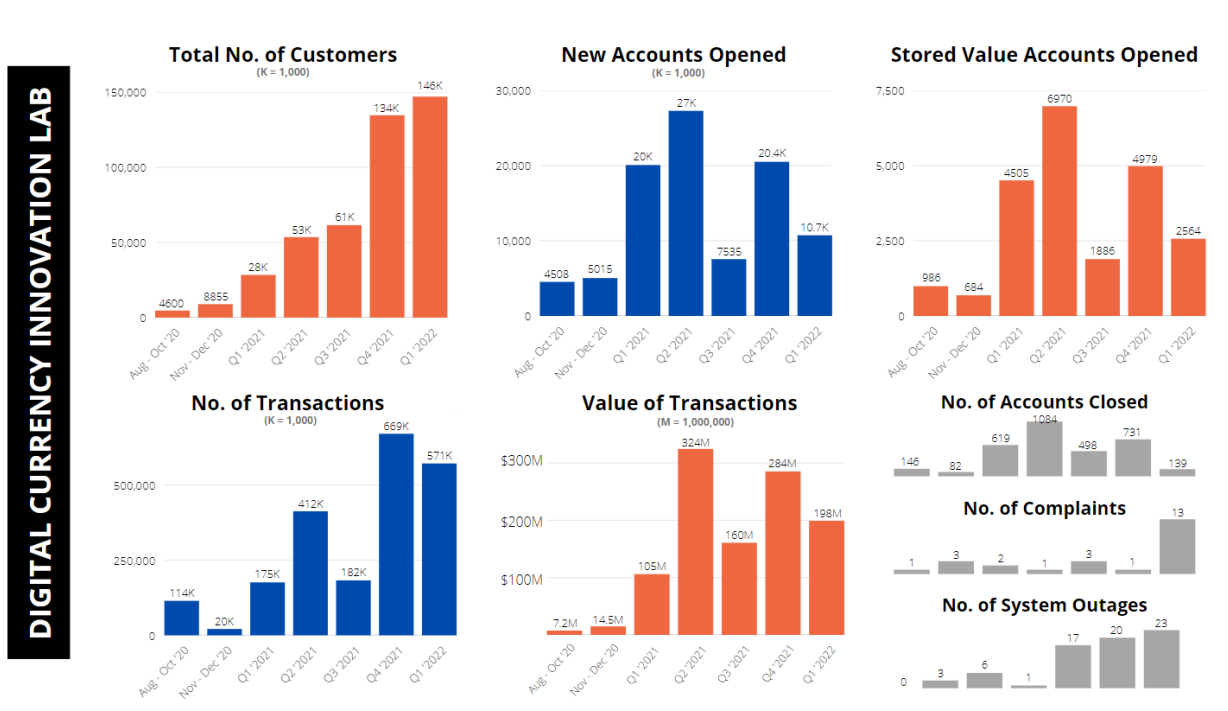


### Digital Currency Innovation Lab

The Digital Currency Innovation Lab (DCIL) was created to study whether the money transmitter law was the appropriate licensing scheme, and to determine whether digital currency companies should be licensed for consumer protection. The DCIL completed its 18 months of participation with fifteen companies. The DCIL started operations in August 2020 with twelve companies<sup>12</sup>. In June 2021, another four companies were allowed to participate in the DCIL. The DCIL as of 06.30.21, had over 53,000 consumers taking part with the participating companies.

<sup>12</sup> One company failed to comply with DCIL requirements, and its membership was terminated.

The DFI will submit its final report in late 2022 about what was learned during the research project, report on various findings and high points with respect to ongoing supervision of the DCIL participant companies. In FY21, DFI and HTDC created a regulatory scheme to license digital currency companies, as well as draft legislation to exempt digital currency from the money transmitter law. The 2022 legislature did not pass any legislation related to a licensing scheme or exemption for the digital currency industry. As a result, the DFI and HTDC has to determine whether to close the DCIL. Part of the equation of whether to close the DCIL or continue the DCIL, the digital currency marketplace was also in a low valuation, having dropped from a high of \$60,000 to \$20,000 in six months. DFI and HTDC heard from many consumers and participants about the possibility of experiencing high losses due to the low valuation. Consequently, DFI and HTDC decided to continue the DCIL for another two years and work on another recommendation about the future of supervising this industry.



**Continued Accreditation status for Banking and Mortgage**

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

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

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

**CRF FINANCIAL SUMMARY FOR FY 2022**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,246,216	\$688,599	\$4,934,815	\$7,709,386



## INSURANCE DIVISION

### OVERVIEW AND COMPOSITION

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

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

<u>Type of License</u>	<u>Licenses as of June 30, 2022</u>	<u>Licenses as of June 30, 2021</u>
Adjuster	3,796	3,845
Captive	254	248
Certificate of authority (insurer)	1,068	1,068
Foreign risk retention group (registered)	73	65
Fraternal benefit society	7	7
Health maintenance organization	5	4
Independent bill reviewer	25	27
Life settlement broker	34	26
Life settlement provider	22	23
Limited lines motor vehicle rental company producer	33	27
Limited lines portable	21	18
Limited lines producer	1,461	1,459
Limited lines self-service storage producer	13	11
Managing general agent	58	57
Mutual benefit society	5	5
Nonresident producer	85,806	76,599
Pharmacy benefit manager registration	41	40
Producer	8,437	8,361
Purchasing group (registered)	234	234
Reinsurance intermediary	45	45
Service contract provider registration	228	207
Surplus lines broker	2,505	2,248
Third party administrator	224	196
Vehicle protection product warrantor registration	57	49
<b>TOTAL:</b>	<b>104,452</b>	<b>94,869</b>

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

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Email: [insurance@dcca.hawaii.gov](mailto:insurance@dcca.hawaii.gov)

The **Captive Insurance Branch** handles all aspects of licensing, regulating, and developing the State's captive insurance industry. With 254 active licenses as of June 30, 2022, Hawaii's captive insurance domicile is ranked eighth worldwide and fifth in the U.S. for the largest captive domiciles. Pursuant to Act 1, SLH 2005, the Captive Insurance Administrative Fund defrays funds expended for the INS' captive insurance program. Accordingly, the CRF does not fund the cost of this program.

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

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

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

- Processes and collects more than \$195 million in premium and surplus lines taxes on behalf of the General Fund and workers' compensation levies on behalf of the Department of Labor and Industrial Relations.
- Processes and administers tax credits claimed against insurance premium taxes.
- Authorizes and monitors accredited, certified, and trustee reinsurers.
- Registers purchasing groups and foreign risk retention groups.
- Regulates self-insurers.
- Maintains security deposits.
- Monitors market share and competitive standards of mergers and acquisitions.

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

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

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

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

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

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

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

For a comprehensive report on the INS' activities, please visit [cca.hawaii.gov/ins/reports/](https://cca.hawaii.gov/ins/reports/) to view the 2022 Annual Report of the Insurance Commissioner of Hawaii.

## **GOALS AND OBJECTIVES**

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

- Improve Hawaii’s world ranking as a leading captive insurance domicile.
  - Hawaii has long been an attractive domicile for the captive insurance industry because of its rigorous standards and geographical location. The INS continued to review its marketing strategy and amend existing components to remain competitive with the maturing and dynamic captive market in the United States. Hawaii actively pursues opportunities in Asia and has maintained its standing as a captive insurer domicile world leader.
- Transition to a new INS database.
  - As the INS looks to the future, it is focused on implementing system solutions to replace its outdated legacy Hawaii Insurance Database System. INS evaluated various options and chose to license the NAIC’s State Based System that 30 additional state insurance departments already utilize. INS has been working on this project throughout FY 2022 and is expected to go live with the new system on November 15, 2022. The transition to this new system is expected to not only improve the INS’ efficiency, but also provide better online services and information to consumers and insurance licensees.

## **ACCOMPLISHMENTS IN FY 2022**

### **Savings to Hawaii Consumers**

Through a combination of the rate review process and the complaint investigation process, the INS helped consumers save a total of \$26 million in FY 2022. The INS reviewed and issued dispositions on 1,294 rate filings and handled 578 complaints. The Rate and Policy Analysis Branch recorded \$611,000 of long-term care premium savings and \$19.9 million of property and casualty premium savings. Review of health rate filings resulted in consumers savings of \$5.6 million.

### **Growth in Licensees**

The INS saw a 10% growth in licensees in FY 2022. The increase was primarily attributed to additional nonresident producer licenses. The INS processed these new licensees without adding any additional staff.

## **CRF FINANCIAL SUMMARY FOR FY 2022**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$7,362,288	\$2,330,662	\$9,692,950	\$13,421,549

The growth in licensee’s and the revenue associated with those licenses, the INS expects to have enough funds to cover budgeted expenditures, allowing the INS to forego an industry assessment in FY 2023.

## OFFICE OF ADMINISTRATIVE HEARINGS

### OVERVIEW AND COMPOSITION

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

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

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

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

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

For a comprehensive report on MICP and DCCP activities, please visit [cca.hawaii.gov/oah/reports/](https://cca.hawaii.gov/oah/reports/) to view the 2022 Annual Report on the Medical Inquiry and Conciliation Panel and Design Claim Conciliation Panel.

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**GOALS AND OBJECTIVES**

- Conduct contested case hearings and issue consistent and well-reasoned, recommended decisions in a fair and impartial manner and as expeditiously as possible.
  - The OAH implements processes and procedures to ensure all cases are timely processed, from the date of filing to the issuance of a final order. These processes and procedures include: entering additional data fields in the OAH’s database so that all pending cases can be tracked for timeliness throughout the entire hearings process; inventorying all OAH cases every February and August of each year; and disposing of cases where no party has taken any action.
  - Make available to the public an efficient means of submitting their hearing and related requests to the OAH electronically.
  - Provide greater accessibility to contested case hearings by offering several methods to conduct hearings, including in-person and remote options.
- 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 2022**

The OAH transitioned from complete closure to partial public office hours through FY 2022.<sup>13</sup> OAH staff have also transitioned through various hybrid teleworking schedules. Utilizing electronic filing has continued to be the preferred method of filing documents. Email correspondence with the parties and public has also ensured that the OAH can address inquiries and assist the parties in their proceedings. Contested case hearings continue to be conducted on a regular basis, utilizing remote as well as in-person platforms where appropriate.

The OAH is nearing completion of a digital scanning project of its archived documents. This project has allowed the OAH to remove its physical files from storage, eliminating storage fees. The next phase of the project will involve digital storage of closed files that are retained pursuant to the OAH's one-year retention policy. The OAH began accepting electronic filings and issuing orders and other documents electronically on a regular basis in 2020, which has facilitated coordination of the scanning projects. These projects satisfy the goal of moving toward "paperless" records and retention.

To advance the goal of making OAH decisions and Boards and Commission final orders accessible to the public, the OAH website is undergoing a long-term improvement project. This project aims to allow basic key word searches of decisions and orders, which will allow any user to locate previous decisions that may be relevant to their needs. The project will also reorganize the forms and instructions on the website to make the information easily accessible to the public.

The table below summarizes CRF-related activities the OAH conducted in FY 2022:

<b>Type of Proceeding Conducted</b>	<b>Number</b>
Pre-hearing conferences	70
Status conferences	43
Motions	11
Hearings	60

The table below summarizes the number of cases and relative percentage of CRF-related activities the OAH conducted in FY 2022.

<b>DCCA Divisions Referring Matters to the OAH</b>	<b>Cases Filed</b>	<b>%</b>
Insurance Division (denial of personal injury protection benefits and enforcement actions)	26	20%
Regulated Industries Complaints Office (petitions for discipline and appeals from citations for unlicensed activities)	36	27%
Business Registration Division	37	28%

<sup>13</sup> The OAH reopened to the public for regular office hours on September 19, 2022.



(trade name revocation proceedings, corporate name abatement proceedings, and violations of securities laws)		
Professional and Vocational Licensing (license denials)	12	9%
Hawaii Employees' Retirement System (retirement benefit denials)	9	7%
Procurement Administrative Reviews (protest denials)	11	9%
Other CRF-related hearings	0	0%

The OAH caseload is dependent on filings from the public and other divisions of the DCCA. In FY 2022, the OAH experienced a marked decrease in filings related to insurance matters, including but not limited to no-fault claim denials, which previously made up the majority of the caseload. In FY 2021, 160 cases were filed in insurance matters, making up 68% of the OAH caseload. By contrast, in FY 2022, only 26 insurance matters were filed with the OAH, totaling 20% of the OAH caseload. It is assumed that the decrease in no-fault denial cases may be related to the significant decrease of motor vehicle traffic in 2020-2021, due to the pandemic.

On the other hand, the OAH saw an increase in business-related cases involving disputes over trade names, corporate names and the like. In FY 2021, the OAH saw 7 filings related to business name disputes. In FY 2022, 37 business name disputes were filed.

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

## OFFICE OF CONSUMER PROTECTION

### OVERVIEW AND COMPOSITION

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

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

The OCP received more than 1,950 consumer complaints in FY 2022. 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 1,000 consumer complaints per year. Consumer complaints remained higher in FY 2022 than before the pandemic because of the continuing effects COVID-19 has had on the economy.

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

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

**Contact information:**

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

Maui office address: 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](https://cca.hawaii.gov/ocp)

Email: [ocp@dcca.hawaii.gov](mailto: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 2022, the center resolved approximately 1,218 OCP complaint inquiries without a formal complaint. In addition, a section of the center answers phone requests for prior complaint history. If circumstances permit, consumers can also visit the OCP's Honolulu office to view hard copies of case files. Prior to the release of any file, the OCP reviews its contents to ensure legally protected private information is not disclosed.

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

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

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

The OCP also provides the following services:

### **Consumer Education**

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

### **Neighbor Island Assistance Requests**

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

## **GOALS AND OBJECTIVES**

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

**ACCOMPLISHMENTS IN FY 2022**

Like virtually every other consumer protection enforcement authority, the pandemic severely impacted the OCP's ability to conduct in person outreach. In view of this, the OCP refocused its efforts to reach Hawaii consumers through the broad utilization of internet online resources. These included revamping its webpage to improve navigating topics relating to consumer education, security breach notices, consumer complaints history, the residential landlord-tenant code, and foreclosures.

The OCP also implemented numerous enhancements to its new online complaints portal that had been launched during the previous fiscal year. These efforts have allowed the office to process consumer complaints in a much more efficient and accurate manner.

In FY 2022, the OCP responded to 61,686 requests and inquiries from the public, including 7,646 requests for landlord/tenant information through its Residential Landlord-Tenant Information Center. See Table 2: OCP's Information Requests.

**Legislation**

The OCP testified and provided input on numerous measures related to consumer protection during the Regular Session of 2022, including bills relating to the Residential Landlord-Tenant Code, peer-to-peer motor vehicle sharing, mortgage rescue fraud, trademark enforcement, towing, privacy, and robocalls.

**Cases**

The OCP's cases in FY 2022 involved nearly every area of consumer protection. These cases involved alleged violations of Hawaii's consumer protection laws governing price gouging, mortgage rescue fraud, data breaches, gift certificates, door-to-door sales, wire transfers, refunds and exchanges, advertising, and unfair or deceptive trade practices, including complex multistate enforcement actions based on unfair or deceptive marketing practices by for-profit educational institution, financial institutions, and medical device manufacturers.

**CRF FINANCIAL SUMMARY FOR FY 2022**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$2,002,898	\$368,908	\$2,371,806	\$543,384

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

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

HRS section 127A-30	Rental or sale of essential commodities during a state of emergency; prohibition against price increases
HRS section 290-11	Vehicles left unattended on private and public property; sale or disposition of abandoned vehicles
HRS chapter 437D	Motor Vehicle Rental Industry Act
HRS chapter 446	Debt Adjusting
HRS chapter 446E	Unaccredited Degree Granting Institutions
HRS chapter 476	Credit Sales <sup>14</sup>
HRS chapter 477E	Fair Credit Extension
HRS section 480-2	Unfair competition, practices, declared unlawful <sup>15</sup>
HRS chapter 480D	Collection Practices <sup>16</sup>
HRS chapter 480E	Mortgage Rescue Fraud Prevention Act
HRS chapter 480F	Check Cashing
HRS chapter 481A	Uniform Deceptive Trade Practice Act
HRS chapter 481B	Unfair and Deceptive Practices, including: Unsolicited Goods; Commercial Mail Order Buying Clubs; 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 <sup>17</sup>

<sup>14</sup> 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.

<sup>15</sup> 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.

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

<sup>17</sup> 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**

<b>REQUEST AND INQUIRIES</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Requests for prior complaint history	4,559	5,277	8,435
Website inquiry general information	52,200	55,115	37,239
Website inquiry landlord/tenant information	37,149	31,186	14,033
Requests for landlord/tenant information	9,563	11,121	7,646
Complaint inquiries	13,600	9,982	8,457
Requests for records review	13	6	4
<b>TOTAL</b>	<b>117,084</b>	<b>112,687</b>	<b>75,810</b>

**Table 3: Numerical Breakdown of Dispositions of all OCP Cases**

<b>DISPOSITIONS</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Complaint withdrawn	3	6	3
Legal action and referrals to Legal Section	102	44	42
Advisory contact	5	9	10
Civil dispute/personal matter	37	71	107
Monetary threshold	0	0	0
Complainant uncooperative	8	24	35
Consumer complaint resolved	8	73	51
Respondent died or bankrupt	5	16	36
Business vs. business	13	8	13
No jurisdiction	3	19	30
Refer to investigation	305	135	189
Other	4	15	0
Warning letter	5	27	0
Insufficient evidence	31	232	197
Transferred to other government agency	114	147	188
No violation	31	49	37
Information only/inquiry	140	102	953
<b>TOTAL</b>	<b>746</b>	<b>776</b>	<b>1,891</b>

**Table 4: OCP's Top Ten Complaints**

<b>SUBJECT</b>	<b>FY 2020</b> (rank/total)	<b>FY 2021</b> (rank/total)	<b>FY 2022</b> (rank/total)
Internet crime complaints (National White Collar Crime Center)	#3.44	#1.395	#1.1,101
Utilities (electricity, telephone, cable)			#2.184
Computers/Software			#3.150
Identity Theft			#4.127
Travel/Vacation	#4.41	#3.144	#5.117
Investments/Financial			#6.102
Telecommunications/Electronic Devices			#7.96
Transportation (Sales/repair/rent/tow/parking)			#8.77
Real Estate (Landlord-Tenant, Foreclosures)			#9.61
Emergency (Price gouging/COVID-19)	#1.234	#2.174	#10.57

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

<b>DIVISION</b>	<b>HILO</b>	<b>MAUI</b>	<b>TOTAL</b>
Division of Financial Institutions	4	0	4
Business Registration	7	0	7
Cable Television	0	0	0
Insurance Division	4	0	4
Division of Consumer Advocacy	0	0	0
Professional and Vocational Licensing	5	0	5
Regulated Industries Complaints Office	8	0	8
Non-DCCA related	40	0	40
Other DCCA divisions	20	0	20
<b>TOTAL</b>	<b>88</b>	<b>0</b>	<b>88</b>



## PROFESSIONAL AND VOCATIONAL LICENSING DIVISION

### OVERVIEW AND COMPOSITION

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations of 52<sup>18</sup> different professions and vocations. PVL: provides support to licensing regulatory boards, commissions, and programs; handles applications and licenses; reviews and processes renewals; maintains license records; provides guidance to properly implement licensing laws and administrative rules; and responds to consumer inquiries on whether a person or an entity is properly licensed, to help them decide whether to use the services of that person or entity.

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

The PVL's **Licensing Search website** (<https://mypvl.dcca.hawaii.gov/public-license-search/>) helps consumers verify the licenses of businesses or individuals, including their license identification number; whether a license is active or inactive; current status of the license; original date of licensure; expiration date of licensure; current and former persons, businesses, or tradenames; information on "conditional license" codes and descriptions; and any formal disciplinary action taken against the licensee. The PVL Licensing Search website was viewed 4,110,531 times with 3,130,907 online searches in FY 2022.

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

The division's **MyPVL website** (<https://mypvl.dcca.hawaii.gov/>) allows licensees to access information and services from a single dashboard, including: managing or renewing<sup>19</sup> their existing licenses; making address changes; and printing pocket identification cards<sup>20</sup> and wall certificates online at no cost. Applicants for licensure can also submit their initial license applications and supporting documents; pay fees; monitor their application status; and receive correspondence. As of FY 2022, MyPVL has over 217,253 individual MyPVL user accounts with licenses.

### **Contact information:**

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<sup>18</sup> Twenty-five licensing regulatory boards, including two commissions, are administratively attached to the DCCA/PVL, as well as twenty-seven licensing programs whose board duties and functions are vested in the DCCA director.

<sup>19</sup> While the PVL still accepts and processes renewals mailed by licensees, a majority of renewals are now submitted online.

<sup>20</sup> The pocket ID card has a QR code that consumers can scan to verify a licensee's current status.

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](http://cca.hawaii.gov/pvl)

Email: [pvl@dcca.hawaii.gov](mailto: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 94,359 calls in FY 2022, or approximately 7,863 calls per month. To address the high call volume, the division was awarded Coronavirus State and Local Fiscal Recovery Funding to outsource a call center in addition to internal call center staff. The call center has provided both the Applications Section staff and the Administration Branch phone support during the COVID-19 pandemic by addressing routine inquiries, such as the status of an application or where to obtain and file applications. The Records Section is responsible for renewing, restoring, and reactivating licenses and maintaining records of all licensees. The Records Section is also involved with performing customer service duties by assisting the public with licensing information at the main PVL walk-in counter, as well as responding to phone inquiries. Both sections of the Licensing Branch use the PVL's computerized licensing database to obtain immediate information about applicants and licensees. Inquirers may request information on whether a person or entity is licensed, the original date of licensure, the status of licensure, the expiration date of the license, Hawaii disciplinary sanctions imposed on the licensee and, if applicable, whether mandatory insurance (e.g., workers compensation, liability insurance) is current and in effect.

The **Administration Branch (phone: 808-586-2690)** handles board and commission affairs such as coordinating, preparing, facilitating, and recording board, commission or advisory committee meetings; ensuring board and commission 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/commission meetings) on behalf of the DCCA director. The Administration Branch also performs substantial

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

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

The **Real Estate Branch (Phone 808-586-2643)** performs the same functions as the Administration Branch, but for real estate licensing and regulation, and condominium property regimes. With a large volume of applicants, licensees, and registrations, the Real Estate Branch administers the Real Estate Recovery Fund, Real Estate Education Trust Fund, and the Condominium Education Trust Fund. The Branch also administers education and research programs in the field of real estate and condominiums. Information on the programs, financial reports, and the Commission's annual report may be reviewed at the Branch's website: <https://cca.hawaii.gov/reb/>.

All four branches within the PVL work collectively toward processing applications, licenses, and renewals to ensure the public has choices among competent and licensed practitioners. In FY 2022, 91.26% or 55,664 licensees renewed their licenses online, as compared to 89.70% or 64,825 licensees who renewed online in FY 2021. The PVL encourages licensees to use its online renewal system, which helps them save valuable time and effort. The PVL's online renewal system reduces the processing of renewals from 14 to 21 business days to 3 to 5 business days.

For a statistical summary of key PVL activities, see:

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

## **GOALS AND OBJECTIVES**

- Focus on improving customer service by changing workflow processes and streamlining unnecessary procedures through increased use of technology.
- Store documents electronically until they are ready for processing, as this will decrease the amount of time staff spends manually filing paper and will allow greater access to relevant documents.
- Implement other means of reducing paper transactions, such as processing high-volume transactions online.

### **Examination Branch**

- Identify appropriate ways to improve the exam portion of the licensing process to benefit both the applicant population and the PVL's own operations.
- Transitioning in-house examinations from paper to computer based.
- Developing procedures for recording and storing computer-based testing scores electronically.

### **Real Estate Branch<sup>21</sup>**

The Real Estate Branch (REB) will continue to improve the offering and delivery of real estate pre-licensing and continuing education (CE) courses. Work continues on revisions to Hawaii Administrative Rules (HAR) chapter 99 for real estate brokers and salespersons, which will result in the replacement of the existing chapter with three smaller chapters for future ease of use, as well as other changes. The REB will continue educating its licensees on various real estate related topics through the Real Estate Commission's (REC) mandatory core course. For the condominium program, REB is currently working on soliciting and procuring for a new free comprehensive condominium educational course which would supplement the current ABC's Course. The new course is for registered associations not able to send members due to financial constraints. REB continues to enhance online public access to condominium projects, Association of Unit Owners registrations, and further develop its communication efforts with unit owners, developers, boards, associations, and the general public. The COVID-19 pandemic forced the REB to adjust to providing a vast majority of its programs online and virtually. For a comprehensive report on the REB's and REC'S FY 2023 goals and objectives, please refer to <https://cca.hawaii.gov/reb/>, publications to view its Annual Report for fiscal year ending June 30, 2022.

### **ACCOMPLISHMENTS IN FY 2022**

#### **Remote Board meetings and a new license processing system**

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

#### **Conversion of Licensing Documents to Electronic Format**

The PVL continued its scanning and imaging project of converting licensing documents into electronic format. Conversion protects historical documentation from damage or destruction and has allowed PVL staff to retrieve and review documents electronically, thereby eliminating the

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<sup>21</sup> For a comprehensive report on the goals and objectives of the Real Estate Branch and the Real Estate Commission, please visit <https://cca.hawaii.gov/reb/> to view the 2022 Annual Report of the Real Estate Commission.

delay that comes with physically retrieving files. The division also moved toward incorporating a documents management system to more easily manage scanned documents enabling its filing to appropriate licensing files.

### **Licensing Branch Accomplishments**

The Licensing Branch received approximately 26,427 new applications and issued 17,317 licenses in FY 2022. The branch answered 94,359 calls in FY 2022, or approximately 7,863 calls per month with the assistance of its internal and contracted call center. The Licensing Branch team continue to process all initial applications and hope to reduce the 45 to 60 business day processing times to pre-pandemic numbers of 15 to 20 business day processing times.

### **Examination Branch Accomplishments**

During FY 2022, the Exam Branch procured a replacement vendor responsible for administering examinations for multiple board and programs. The procurement not only replaces the existing vendor, but it also provides for computer-based testing for examination previously only available by paper/pencil. More importantly, exams previously offered in-state only, will now be available in locations across the country. Additionally, the Exam Branch will be working with the new vendor to streamline branch processes as they relate to the Ho‘ala system (for example, the electronic transmission of information for candidates eligible for examination and scores reporting).

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

Utilizing the functions of the Ho‘ala system, the Exam Branch streamlined the process of creating monthly exam lists, exam admittance slips, and candidate result letters. Additionally, the Examination Branch continues to integrate program requirements, testing agencies, and national organization changes into Ho‘ala.

### **Real Estate Branch Accomplishments**

In line with PVL’s objectives of improving and expanding the division’s online services, REB continued its implementation of online services, including condominium association registration and improving a continuing education system which provided real estate licensees the ability to view the number of CE hours required and earned for the current licensing period, their CE history, online renewal of their license, and the ability to search for future CE courses being offered by approved CE providers. Additionally, real estate principal brokers and brokers-in-charge may monitor and view the current CE hours, CE history, and license status of all licensees associated with the brokerage. The system is simple to use and updated daily; information may be found at <https://myce.dcca.hawaii.gov/> For a comprehensive report on the REB’s and REC’S FY2023 goals

and objectives, please refer to <https://cca.hawaii.gov/reb/>, Publications to view their Annual Report for fiscal year ending June 30, 2022.

**CRF FINANCIAL SUMMARY FOR FY 2022**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,316,161	\$2,241,760	\$7,557,921	\$10,622,465

**TABLES**

**Table 1: PVL Statistical Overview**

	<b>FY 2021</b>	<b>FY 2022</b>
Applications received	25,211	26,427
Applicants licensed	13,576	17,317
Licenses renewed	73,045	58,834
Permits issued	1,313	1,033
Calls received by Licensing Branch	139,240	94,359
Current licensees	154,862	164,050
<b>Total licensee population (all statuses, i.e., current, forfeited, delinquent)</b>	<b>490,120</b>	<b>508,711</b>

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

<b>Boards and Commissions (shown by asterisks) and Programs</b>	<b>FY 2021</b>	<b>FY 2022</b>
Accountants*	3,707	3,417
Activity desks	904	815
<b>Boards and Commissions (shown by asterisks) and Programs</b>	<b>FY 2021</b>	<b>FY 2022</b>
Acupuncturists*	704	761
Appraisal management companies - license effective 1/1/2018	79	77
Athletic trainers	260	209
Barbering and cosmetology*		
Barbers	1,598	1,515
Barber shops	259	244
Beauty operators*	10,052	9,380
Beauty instructors	119	126
Beauty schools	8	9
Beauty shops	1,584	1,464
Behavior analysts	510	531
Boxing (all categories)*	3	14
Cemeteries and pre-need funeral authorities	22	20
Chiropractors*	642	580

## Professional and Vocational Licensing Division (PVL)

Collection agencies	656	576
Contractors*	11,854	12,569
Dentists*	1,646	1,395
Community service dentists	25	13
Dental hygienists	1,210	1,117
Community service dental hygienists	1	
Dispensing opticians	190	191
Electricians (all categories)*	3,684	3,832
Plumbers (all categories)*	1,163	1,280
Electrologists	16	16
Elevator mechanics*	238	221
Employment agencies	69	73
Engineers, architects, surveyors, and landscape architects*		
Engineers	7,448	7,016
Architects	2,515	2,334
Surveyors	200	200
Landscape architects	147	144
Hearing aid dealers and fitters	117	104
Marriage and family therapists	610	679
Massage therapists*	8,021	7,268
Massage establishments	893	755
Medical and osteopathy*		
Physicians	10,466	10,340
Podiatrists	98	87
Osteopaths	1,102	1,149
Physician assistants	567	588
Emergency medical technicians	866	829
<b>Boards and Commissions (shown by asterisks) and Programs</b>	<b>FY 2021</b>	<b>FY 2022</b>
Emergency medical technicians -advanced	40	35
Mobile intensive care technicians	600	567
Mental health counselors	681	770
Midwives	21	28
Mixed martial arts	18	198
Motor vehicle dealers*	269	246
Motor vehicle dealer branches	37	30
Motor vehicle distributors	37	37
Motor vehicle manufacturers	50	50
Motor vehicle salespersons	1,434	1,318
Motor vehicle others (auction, broker, consultant)	9	11
Motor vehicle repair dealers*	406	488
Motor vehicle mechanics	1,298	1,212
Naturopaths*	161	159

Annual Compliance Resolution Fund Report

Professional and Vocational Licensing Division (PVL)

Nursing*		
Registered nurses (RN)	25,787	32,330
Licensed practical nurses (LPN)	1,766	2,056
Advanced practice registered nurses (APRN)	1,914	2,365
Nurse aides	7,918	8,345
Nursing home administrators	168	148
Occupational therapists	712	834
Occupational therapist assistants	176	201
Optometrists*	455	423
Pest control operators*	163	158
Pest control field representatives	224	191
Pharmacists*	2,961	2,829
Pharmacies	273	257
Wholesale prescription drug distributors	57	56
Miscellaneous permits	766	744
Physical therapists	1,870	2,161
Physical therapist assistants	411	460
Port pilots	10	11
Deputy port pilots	3	2
Private detective agencies*	35	31
Private detectives	94	87
Guard agencies	78	77
Guards	94	98
Guard employees	10,140	12,956
Psychologists*	1,334	1,361
Real estate appraisers	610	569
Real estate brokers*	6,551	6,792
Real estate salespersons	12,612	13,597
<b>Boards and Commissions (shown by asterisks) and Programs</b>	<b>FY 2021</b>	<b>FY 2022</b>
Real estate branch offices	125	132
Condominium hotel operators	21	28
Respiratory therapists	761	1,077
Social workers	2,567	2,393
Speech pathologists*	833	777
Audiologists	105	106
Travel agents	1,035	778
Uniform athlete agents	4	3
Veterinarians*	679	698
Veterinary Technicians	157	161
<b>TOTAL</b>	<b>162,780</b>	<b>172,409</b>



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

<b>License Types</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Accountants		2,548 (98.7%)		2,529 (99.33%)
Accountancy firm permits to practice		653 (96.3%)		644 (94.72%)
Activity desks		279 (94.3%)		195 (97.5%)
Acupuncturists	642 (94.13%)		642 (96.4%)	
Architects		2,259 (98.65%)		2,137 (97.76%)
Audiologists		90 (97.8%)		88 (100%)
Barbers		1,072 (77.5%)		1,173 (87.6%)
Barber shops		165 (77.1%)		193 (89.77%)
Beauty operators		7,318 (87.9%)		7,491 (93.26%)
Beauty instructors		90 (90.9%)		95 (87.96%)
Beauty shops		1,100 (87.3%)		1,127 (92.08%)
Behavior analysts		236 (91.8%)		402 (99.26%)
Chiropractors		542 (94.6%)		501 (94.89%)
Contractors	7,290 (72.01%)		8,153 (76.02%)	
Community service dentists		18 (94.7%)		9 (100%)
Dental hygienists		1,029 (96.3%)		1,026 (98.18%)
Dentists		1,373 (93.7%)		1,176 (94.61%)
Dispensing opticians		171 (96.07%)		160 (97.56%)
Electrologists	14 (100%)		15 (100%)	
Electricians		3,362 (96%)		

## Professional and Vocational Licensing Division (PVL)

<b>License Types</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Elevator mechanics		217 (96.44%)		193 (95.54%)
Emergency medical technicians (basic)		600 (79.7%)		569 (79.25%)
Emergency medical technicians (advanced)				16 (50%)
Emergency medical technicians (paramedic)		464 (87.7%)		429 (82.18%)
Guards		86 (89.58%)		74 (84.09%)
Guard agencies		62 (88.57%)		57 (87.69%)
Guard employees			8,542 (92.44%)	
Hearing aid dealers and fitters		96 (99%)		96 (100%)
Landscape architects		136 (100%)		133 (98.52%)
Land surveyors		192 (99.48%)		187 (98.87%)
Marriage and family therapists		454 (91%)		
Massage establishments		717 (93.48%)		619 (92.66%)
Massage therapists		7,002 (93.51%)		5,465 (94.09%)
Mental health counselors		531 (94.15%)		
Motor vehicle auctions		4 (100%)		5 (100%)
Motor vehicle branches		36 (100%)		31 (96.88%)
Motor vehicle consumer consultants		5 (100%)		5 (100%)
Motor vehicle dealers		255 (95.15%)		222 (90.98%)
Motor vehicle salespersons		1,196 (95.22%)		1,145 (94.32%)
Motor vehicle distributors		33 (97.06%)		30 (88.24%)
Motor vehicle manufacturers		43 (100%)		43 (93.48%)

## Professional and Vocational Licensing Division (PVL)

<b>License Types</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Motor vehicle repair dealers	506 (88.46%)		322 (90.45%)	
Motor vehicle repair registered mechanics	214 (84.25%)		165 (91.16%)	
Nurses, advanced practice registered (APRN)	1,419 (91.67%)		1,664 (95.41%)	
Nurses, licensed practical (LPN)	1,650 (89.63%)		1,562 (95.89%)	
Nurses, registered (RN)	21,760 (94.08%)		23,217 (97.94%)	
Nursing home administrators		152 (96.2%)		125 (95.42%)
Occupational therapists	550 (95.32%)		560 (96.72%)	
Occupational therapist assistants	123 (90.44%)		137 (96.48%)	
Optometrists		396 (96.6%)		391 (98.49%)
Osteopaths		741 (85.07%)		775 (85.92%)
Pest control field representatives		181 (98.91%)		153 (85%)
Pharmacists		2,643 (96.5%)		2,631 (97.81%)
Pharmacies		257 (94.5%)		262 (97.4%)
Pharmacy – miscellaneous permits		476 (79.3%)		554 (82.2%)
Pharmacy – wholesale prescription drug distributors		43 (79.6%)		42 (80.77%)
Physical therapists	1,515 (96.01%)		1,606 (97.81%)	
Physical therapist assistants	299 (93.73%)		346 (98.02%)	
Physicians		7,258 (82.7%)		6,248 (72.4%)
Plumbers			1,034 (93.2%)	
Podiatrists		70 (81.4%)		55 (19.43%)

## Professional and Vocational Licensing Division (PVL)

<b>License Types</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Private detectives		83 (89.25%)		65 (90.28%)
Private detective agencies		32 (88.89%)		24 (88.89%)
Professional engineers		6,734 (98.99%)		6,361 (98.87%)
Psychologists		1,177 (96.08%)		1,134 (96.35%)
Real estate branch offices	84 (92.31%)		113 (99.12%)	
Real estate brokers	5,800 (94.93%)		5,923 (96.78%)	
Real estate salespersons	10,619 (95.88%)		10,824 (96.71%)	
Respiratory therapists		574 (96.15%)		
Social workers	18.79 (90.70%)			2,117 (96.79)
Speech pathologists		568 (98.4%)		610 (99.03%)
Travel agencies		607 (82.6%)		469 (94.18%)
Uniform athlete agents		2 (100%)		2 (100%)
Veterinarians		588 (96.24%)		565 (97.08%)
<b>TOTAL</b>	<b>54,364 (90.53%)</b>	<b>57,022 (91.71%)</b>	<b>64,825 (89.7%)</b>	<b>55,664 (91.26%)</b>

Table 4: Total Number of Email Inquiries

<b>Boards and Programs</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Accountancy	1,482	1,881	2,794	2,447
Activity desk	106	138	330	193
Acupuncture	321	393	816	450
Appraisal management company – effective 1/1/2018	124	123	271	374
Athletic trainer	200	285	417	204
Barbering and cosmetology	1,658	2,308	5,546	4,863
Boxing	90	124	30	68
Behavior analyst	135	257	464	540

## Professional and Vocational Licensing Division (PVL)

<b>Boards and Programs</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Cemetery and pre-need funeral authority	101	50	16	110
Chiropractor	380	440	1,106	1,035
Collection agency	650	856	1,585	166
Contractor	3,860	4,319	13,388	9,429
Dentist and dental hygienist	670	2,005	2,981	4,358
Dispensing optician	94	74	62	178
Electrician and plumber	778	686	1,501	1,165
Electrologist	9	133	317	96
Elevator mechanic	167	192	228	190
Employment agency	33	149	421	120
Engineer, architect, surveyor, and landscape architect	1,715	2,169	2,872	2,143
Exam Branch	1,695	1,436	1,777	1,531
Hearing aid dealer and fitter	137	295	349	98
Marriage and family therapist	389	744	1,475	954
Massage therapy	1,085	1,826	2,775	3,093
Medical and osteopathy	9,131	8,905	11,050	16,175
Mental health counselor	781	1,184	2,242	2,352
Midwives – effective 7/1/2020		7	295	160
Mixed martial arts	280	144	11	137
Motor vehicle industry	210	301	466	30
Motor vehicle repair	134	89	253	413
Naturopathy	490	638	395	764
Nurse aide	525	620	1,608	677
Nursing	8,567	16,815	30,005	57,323
Nursing home administrator	151	462	1,123	341
Occupational therapist	166	222	782	303
Optometry	544	781	820	319
Pest control	404	387	932	657
Pharmacy and pharmacist	2,430	4,717	8,196	6,787
Physical therapy	1,174	1,613	3,172	2,366
Port Pilot	13	8	26	32
Private detective and guard	863	968	3,315	4,564
Psychology	1,276	1,557	2,761	2,560
Professional and Vocational Licensing (PVL)	9,373	5,419	11,567	12,105
Real estate	8,141	13,271	36,599	25,273
Real estate appraiser	412	871	737	1,588
Respiratory therapist	284	371	511	1,004
Social worker	1,187	1,065	2,155	2,310
Speech pathology and audiology	320	382	772	903

## Professional and Vocational Licensing Division (PVL)

<b>Boards and Programs</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Subdivision	49	106	192	144
Time share	457	466	577	517
Travel agency	106	198	168	170
Uniform athlete agent	18	132	149	29
Veterinary	463	647	2,082	1,735
Veterinary technician – license effective 7/1/2018	110	264	596	207
<b>TOTAL</b>	<b>63,936</b>	<b>83,561</b>	<b>165,078</b>	<b>175,750</b>

## REGULATED INDUSTRIES COMPLAINTS OFFICE

### OVERVIEW AND COMPOSITION

The Regulated Industries Complaints Office (RICO) investigates and prosecutes licensing law violations by Hawaii licensees, and, unlicensed persons engaging in work performed by professions and vocations that require a license.<sup>22</sup> The division, therefore, is the enforcement arm for the boards, commissions, and programs that are administratively attached to the DCCA through the PVL division. Related to enforcement, RICO strives to help the public be more aware and knowledgeable as consumers, and RICO's assists licensees with compliance, through an education campaign that consists of both online resources and interfacing with the community. In the area of consumer protection, RICO also administers the State Certified Arbitration Program (SCAP) for "lemon" motor vehicle claims, which claims may be brought directly against vehicle manufacturers for serious suspected defects that are covered by the new car's warranty.

RICO receives complaints of potential misconduct from a variety of sources, including individuals, businesses, professionals, consumers, competitors, government officials, law enforcement, out-of-state agencies, professional affiliations and associations, hospitals, employers and employees, and persons who choose to remain anonymous. The division receives tips or reports of unlicensed activity from industry members and the public. Complaints are filed by individuals mostly but RICO staff initiate complaints too when, for example, conduct or information that indicate a licensing violation may have occurred, becomes apparent during a site inspection.

#### **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 <sup>th</sup> 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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<sup>22</sup> Currently, 52 boards, commissions and programs have regulatory authority over industries that require a professional or vocational license from the PVL to engage in certain industry professions or trades. The industries regulated by the 52 boards affect the health, safety, and welfare of Hawaii's citizens.

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

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

### **Intake Section (Consumer Resource Center)**

RICO's Intake Section, or the Consumer Resource Center (CRC), is often the first contact a consumer will have with the division. The CRC handles the intake functions for RICO (and the Office of Consumer Protection (OCP)).<sup>23</sup> CRC staff includes intake investigators and clerical support.

Consumers calling the CRC can speak directly with an intake investigator. If the call pertains to a matter outside RICO's jurisdiction, the intake investigator will try to refer the caller to a more appropriate agency or service. Otherwise, the intake investigator will answer questions, provide information, and walk the consumer through the complaints process if needed. In FY 2022, as part of its intake function, the CRC distributed 721 RICO complaint forms to interested consumers from the Oahu office alone.<sup>24</sup>

The CRC can contribute to the resolution of customer inquiries and complaints even before official RICO action begins by providing consumers with a templated self-help letter to communicate their concerns to their service provider. Intake investigators sometimes solicit an explanation from a

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<sup>23</sup> The Office of Consumer Protection (OCP) is a separate division within the DCCA.

<sup>24</sup> If the call to the CRC is to file an OCP complaint, the intake investigator will walk the consumer through the OCP complaint process or refer the consumer to an OCP investigator for more information. In FY 2022, the CRC distributed 289 OCP complaint forms.



licensee and in some cases the explanation can end the matter such as when there has been a misunderstanding between the parties or inadvertent neglect. Even if the CRC receives a formal complaint form, an intake investigator may still allow the parties more time to resolve their dispute. If the parties opt for additional time and subsequently resolve the dispute, the matter will end in the CRC without the need for official action such as a formal RICO investigation or review. During FY 2022, the CRC closed approximately 1,859 complaints and complaint inquiries without having to initiate further official action by RICO.

Many formal complaints are closed by the CRC staff for a variety of reasons such as the subject matter or question is outside of RICO's jurisdiction, or the filer withdraws the complaint, refuses to cooperate, or is no longer locatable. Most often, the CRC investigator will end up conducting a preliminary investigation or review to determine if enough information exists for further official action by RICO. Further official action can include handling investigations of complaints that cover certain subjects only, pursuant to RICO's Early Complaints Resolution program, and then referring the complaints with probable licensing violations directly to the Legal Section for possible enforcement action. Official action can also involve referring a complaint to the Field Investigation Section for a more formal investigation. In FY 2022, 2808 RICO complaints were officially processed against licensees and unlicensed persons and many began as formal complaint forms that were reviewed in the CRC before they were investigated and/or referred to the Field or Legal Sections for further handling.

### **Licensing and Business Information Section**

The Licensing and Business Information Section (LBIS), is a call center within the CRC that is available to the public by telephone (587-4272 or 587-4CRC) Monday through Friday, from 7:45 A.M. to 4:30 P.M. The LBIS provides business registration information, RICO complaints history information, and information about whether a business or individual has a professional or vocational license.<sup>25</sup> In FY 2022, the LBIS answered over 8,359 telephone calls where staff had assisted customers with at least 38,719 inquiries concerning the regulated industries, licensing information, and prior complaints histories.

### **Field Investigation Section**

The Field Investigation Section contains the largest concentration of RICO employees with investigators and clerical support staff in offices in Honolulu, Hilo, Kailua-Kona, Wailuku, and Lihue.

Field investigators conduct formal investigations of licensees and unlicensed persons who engage in industry work that requires a license. Formal investigations often include more in-depth communications with the parties, obtaining and analyzing information and records, site visits, and interviews. If needed, a field investigator may also consult confidentially with an industry expert for assistance in evaluating the issues in a complaint.

The purpose of a formal investigation is to better determine whether sufficient evidence of a probable licensing violation exists and warrants a referral to the Legal Section. Complaints may

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<sup>25</sup> LBIS also furnishes OCP complaints history information if requested.

end in Field for a variety of reasons, including: the absence of sufficient credible evidence to prove a licensing violation; the investigation establishes that no violation has occurred; or an education contact or a warning is issued. In FY 2022, the Field Investigation Section completed 1,257 licensed and unlicensed investigations statewide.

Field investigators may initiate complaints too when they encounter possible licensing law concerns during a site inspection or as part of a pending complaint. In FY 2022, the Field Investigations Section initiated at least 424 complaints and investigated them each one, which is more than double the amount initiated by Field in the previous fiscal year.

Through the Unlicensed Task Force (UTF), field investigators will issue formal citations to persons engaging in unlicensed activity. The citations contain a fine, injunction, and the right to contest it in a timely fashion. Citations are then referred to the Legal Section for handling, which would include defending the citation should the unlicensed person file a timely appeal of the same.

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

The Hilo, Kailua-Kona, Lihue, and Wailuku offices handle a high volume of telephone calls and walk-ins too, many of whom bring non-RICO matters and concerns to the table. In FY 2022, RICO's neighbor island staff collectively expended more than 336 hours assisting consumers, the public, and others with at least 1,821 non-RICO matters. The neighbor island staff also provided at least 114 RICO complaint forms to the public during the FY.

### **Legal Section**

The Legal Section is comprised of attorneys and legal clerical support staff. The section reviews completed investigations and decide if sufficient grounds exist to pursue formal enforcement action. Formal enforcement action is discipline in the case of licensees, and a court judgment or formal settlement in the case of unlicensed persons.

Enforcement cases against licensees are handled administratively, with the PVL boards, commissions, and programs serving as decision makers that issue discipline in the form of a final order. Administrative actions in the form of contested case proceedings begin with the filing of a petition for disciplinary action against the licensee. Contested case hearings are then heard by a hearings officer with the Office of Administrative Hearings (OAH), in accordance with Hawaii's Administrative Procedures Act, HRS Chapter 91. After the formal hearing concludes, the hearings officer issues a recommended decision with findings of fact, conclusions of law, and any proposed disciplinary action. The recommended decision is then reviewed by the appropriate board, commission, or program, whose members vote to accept, modify, or reject a recommended decision. If a board, commission, or program vote to accept a recommended decision then they will issue a final order imposing disciplinary action on the licensee. Licensees have a right to

appeal any board final order resulting from a contested case proceeding, to the Hawaii Circuit Court.

Not all cases referred to the Legal Section will result in a contested case proceeding. Most are resolved through negotiated settlements that are reviewed and approved by a board, commission, or program before a petition for disciplinary action is filed or, in some cases, after a petition has been filed but before the contested case hearing occurs. Many factors can influence whether a complaint can or should be settled without a contested case hearing, including: the underlying conduct at issue; the violations alleged; the credibility and reliability of RICO's evidence; and the likelihood of success at a hearing. All approved settlements constitute formal disciplinary action and can consist of license revocations, suspensions, monetary fines, professional evaluations, professional education, monitoring, treatment and, in a few cases, restitution to consumers. In FY 2022, the Legal Section filed 190 disciplinary actions against licensees, and 5 additional actions to enforce pre-existing discipline.

The citations issued to unlicensed persons by RICO investigators are appealable. If the citation is appealed, a RICO staff attorney can negotiate a settlement or defend the citation in a contested case proceeding. Six citation cases were referred to the Legal Section, and all six became final orders that were paid in full. In addition, during the FY 3 former citation cases were reopened and successful collection action was taken in each.

For more formal or complex complaints involving unlicensed activity, RICO can pursue fines, costs, and injunctions prohibiting future unlicensed behavior by filing a lawsuit with the Circuit Court for monetary fines and a permanent injunction prohibiting future unlicensed activity, or through out-of-court settlements known as an assurance of voluntary compliance. In FY 2022, the Legal Section filed an additional 96 legal actions involving unlicensed activity.

### **State Certified Arbitration Program**

RICO also operates SCAP, which administers Hawaii's "Lemon Law." SCAP provides a low-cost arbitration forum for consumers to resolve car warranty complaints with manufacturers.<sup>26</sup>

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 schedule an arbitration hearing where appropriate. 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 2022, 19 claims were initiated which made it another busy year for SCAP. Ten decisions were issued in favor of consumers, two decisions were issued in favor of manufacturers, four cases were settled after filing, one case was withdrawn after filing, and two were pending final settlement

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<sup>26</sup> Specifically, under certain conditions, a consumer may be entitled to receive a refund or replacement of a car that has a nonconformity, defect, or condition that is covered by the car's warranty and that substantially impairs the use, market value, or safety of the car.

at the close of the FY. A total of \$574,586.00 in consumer refunds and bank loan payoffs were issued in FY 2022. The Program provided two separate training classes to assist SCAP arbitrators with fulfilling their duties, and one training class to update RICO personnel on SCAP matters.

SCAP is committed to streamlining and modernizing the program and to go paperless whenever possible. As such, in FY 2022, SCAP was able to revise and update informational materials and its website. SCAP also developed and launched an online application portal where consumers can electronically submit a demand for arbitration. The portal also allows parties to virtually submit and view evidence and other important supporting documents. With these improvements, SCAP will continue to provide high-quality service for consumers and manufacturers.

As government continues to operate in the midst of the pandemic, SCAP continues to effectively utilize several strategies to effectively manage claims, including virtual hearings, email communications with parties where allowed by law, electronic signatures, and secure cloud storage for submission and sharing of key pieces of evidence, all of which have proven to be effective and satisfactory for both consumers and manufacturers. During FY 2022, the SCAP administrator was also able to conduct training courses virtually.

One consumer commented, “We just want to say thank you to you folks for helping and guiding us along the way during this process. You are greatly appreciated!” Another consumer wrote, “Mahalo again for your help and guidance though this lengthy process, you truly are an asset to our community and am grateful for individuals like yourself” 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 and best practices, recalls, flood damage vehicles, class action lawsuits, and technological advancements. More information, including a glimpse into the new SCAP portal, is available on the RICO website at <https://cca.hawaii.gov/rico/lemon-law/>.

### **Education Campaign**

RICO is committed to making available a broad and diverse amount of information for consumers and licensees. Pre-pandemic, RICO personnel appeared at widely-attended community, licensee, and public events including home shows, senior fairs, and industry group gatherings and meetings, where RICO staff engaged and educated attendees about licensing regulation and consumer protection. During FY 2022, RICO was unable to interact directly with consumers and licensees in large gatherings, but it was able to continue educating through several virtual appearances.

FY 2022 saw RICO referring more members of the public and licensees to its website for free information about the regulated industries and consumer protection. During FY 2022, the RICO website received in excess of 89,000 hits. Many who visited were interested in knowing whether

a person had a record of discipline. Specifically, visitors to RICO's website conducted more than 125,000 queries in RICO's complaints history portal during the FY.

RICO's investigative and legal staff also participate in RICO's education campaign by counseling parties about licensure requirements through warnings, education contacts, and brochures, and by answering questions from complainants, licensees, or unlicensed persons while they are reviewing, investigating, or processing complaints. Likewise, the SCAP team confers with consumers regularly about whether their dispute is appropriate for arbitration, and provides tips for proceeding too.

### **GOALS AND OBJECTIVES**

- Continue informal collaborations with state and federal enforcement agencies to better regulate the professions and vocations within RICO's jurisdiction.
  - Continue to monitor and track criminal proceedings involving licensed persons so that a conviction can be acted upon quickly.
  - Continue to pursue, on the civil side, licensees who have already been proven to have run afoul of wage and standard laws.
- Continue modernizing and expediting complaints processing through:
  - Use of IMPACT, RICO's newer complaints management system, and related portals that make it possible to share and receive receiving information in real time;
  - Regular updates to RICO's website and the information on it;
  - Updating equipment and accessories used by RICO staff so that efficient and productive in-office and remote work can continue throughout the division; and
  - Collaborate internally on subjects or projects aimed at expediting complaints processing.
- Continue staff professional growth and development.

### **ACCOMPLISHMENTS IN FY 2022**

#### **Consumer Resource Center**

A paper form, similar to a formal complaint form, has been traditionally used by the CRC to receive anonymous tips of unlicensed activity witnessed by the reporter. The form had to be printed or picked up, filled in manually by a person, and then returned to RICO. During FY 2021, RICO debuted an electronic unlicensed tip portal which allowed the public to anonymously report tips of unlicensed activity that they witnessed, in real time, for RICO's consideration. In FY 2022, the CRC was able to receive 406 electronically-filed tips through the portal, which reduced the time spent by intake investigators in managing paper files and information. In FY 2022, RICO debuted an electronic complaints filing portal, through which CRC was able to receive 648 electronically-filed complaints during the FY, thereby increasing the speed in which the matters can be screened and reviewed at intake.

CRC intake investigators are key to ongoing success of the Early Case Resolution Program. In FY 2022, 95 complaints were officially processed through the Early Case Resolution Program,

which reduced the number of complaints referred for a full field investigation and increased the number of complaints available for quicker resolution by the Legal Section.

In FY 2022, CRC intake investigators and support staff participated in at least 4 different in-house, in-person, or virtual courses to further their professional growth and development.

Finally, during FY 2022, CRC investigators and the LBIS personnel were instrumental in handling several special projects. Notably, they were able to complete the processing of 1,100 matters related to healthcare professionals who were disciplined out-of-state. Their efforts resulted in the creation of 359 new complaints. CRC and the LBIS were also instrumental in researching and monitoring the status of out-of-state health care professionals who, by Emergency Proclamation, were allowed to practice in Hawaii without a local license during the Pandemic but not after the Governor's final Emergency Proclamation came to an end. The project was significant, as CRC created and followed up on more than 1,000 matters to ensure no unlicensed activity was occurring in the State, and ended the project having resolved 98% of those matters.

### **Field Investigation Section**

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

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

In FY 2022, the UTF and neighbor island investigators conducted a minimum of 1688 site inspections<sup>27</sup> or licensure compliance checks statewide, which more than doubled the amount of inspections conducted in the prior FY. Due to continuing health and safety concerns from COVID-19 surges, however, only 9 citations were issued by the UTF during the FY once COVID-19 surges from omicron and the omicron sub-variants began down-trending in the community. Citations require investigators to be present inside of an establishment for an extended period of time when there's evidence of unlicensed conduct, and while confined in the closed space investigators must be near to and interview the establishment's employees and owners, and handle and study tangible objects and documents.

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<sup>27</sup> This number includes inspections of written media and publications and licensee business websites for advertising compliance.

In FY 2022, the field investigators and support staff presented or completed at least 57 webinar courses covering areas regulated by RICO, professionalism, ethics, safety, work practices, or substantive investigations.

Finally, during FY 2022 the Field Section participated in impactful special projects. First, several investigators assisted the Department as part of the Covid Recovery Exemption team. Second, the Field Section kicked off a property management working group that focused on randomly auditing real estate licensees about their property management practices. The aim of the work group is to help prevent or minimize situations where abuse can occur resulting in substantial monetary loss to owners and renters of realty.

### **Legal Section**

During FY 2022, over 300 civil and administrative actions were filed by RICO staff attorneys, and \$640,763 in assessed fines and penalties were paid by licensees and unlicensed persons. The prosecutions also resulted in the revocation of 16 licenses and the suspension of 2.

Recognizing the need to address more expeditiously licensees who have been seriously disciplined by another state's licensing authority, Act 38 (SLH 2016) enabled certain Hawaii health care boards to notify licensees of proposed disciplinary action based on the discipline that had been imposed in another state, and to have the proposed discipline imposed automatically if the licensee failed to timely contest the board's proposal. Act 38 cases can effectively "leapfrog" the RICO complaints processing system if the licensee does not contest the board-proposed action, which effectively preserves investigative and legal resources for more complex matters. During FY 2022, RICO screened at least 50 separate health-related complaints that involved serious discipline in other jurisdictions, resulting in the issuance of at least 1 final order imposing disciplinary action, and the others being targeted for prompt scrutiny.

During FY 2022, the Legal Section disciplined at least 20 licensees upon entry of a judgment of criminal conviction, and at least 2 licensees for violations of the State's wage and labor laws.

RICO receives numerous formal and informal requests for complaints-related information from parties, individuals, litigants, employers, educational and professional institutions, credentialing organizations, reporters, researchers, and government agencies too. During FY 2022, the Legal Section processed at least 162 requests for information that resulted in the release of approximately 4,236 pages of publicly disclosable records.

Because RICO is responsible for enforcing thousands of licensing laws, the Legal Section continues to take courses and conduct in-house meetings and education sessions for newer attorneys especially, and staff, to ensure the section remains current and competent. In FY 2022, the Legal Section attorneys took 30 virtual courses on a variety of subjects, and Legal staff conducted 37 in-house trainings for attorneys new to RICO, and other RICO staff members too.

**CRF FINANCIAL SUMMARY FOR FY 2022**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,717,384.87	\$767,646.22	\$6,485,031.09	\$10,483,132.59

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

**CONCLUSION**

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

**TABLES**

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

**Table 1: Top 5 Subjects of Callers Seeking Assistance from the LBIS**

<b>FY 2022</b>
1. Contractor (4903)
2. Is a person or business licensed? (2133)
3. Real Estate (680)
4. Medical (392)
5. Motor Vehicle Industry (324)



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

<b>FY 2022</b>
1. Medical (40)
2. Real Estate (34)
3. Contractor (30)
4. Dentist and Dental Hygienist (13)
5. Pest Control Operator (8)

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

<b>FY 2022</b>
1. RICO complaints history queries (125,057)
2. RICO homepage (89,840 hits)
3. RICO complaints history portal (36,803 hits)
4. RICO webpage on filing a complaint (13,399 hits)
5. RICO complaints history details (16,558 hits)

**Table 4: Top 5 Industry Complaints Processed by RICO**

<b>FY 2022</b>
1. Nursing (899) <sup>28</sup>
2. Contractor (504)
3. Real Estate (476)
4. Medical (247)
5. Barber (154)

**Table 5: Top 5 Industry Prosecutions – Licensees**

<b>FY 2022</b>
1. Real Estate (46)

<sup>28</sup> Many complaints were initiated and reviewed when the licensure waivers for nonresident healthcare workers came to an end in March 2022 following the expiration of the Governor’s final Covid-19 Emergency Proclamation.

2. Pharmacy (30)
3. Contractor (29)
4. Nursing (26)
5. Motor Vehicle Industry (14)

**Table 6: Top 5 Industry Prosecutions – Unlicensed Persons**

<b>FY 2022</b>
1. Contractor (65)
2. Electricians and Plumbers (10)
3. Real Estate (6)
4. Barbering, Cosmetology & Massage (4 each)
5. Motor Vehicle Repair (3)