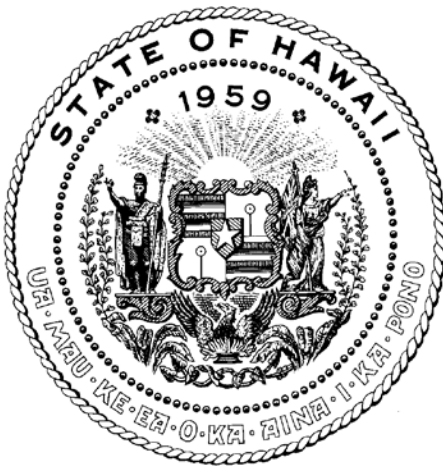


**2017 Annual  
Compliance Resolution Fund Report  
to the Legislature**



**DEPARTMENT OF COMMERCE  
AND CONSUMER AFFAIRS**

**STATE OF HAWAII**

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## INTRODUCTION

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## OVERVIEW

The Department of Commerce and Consumer Affairs (DCCA or Department) submits its Annual Compliance Resolution Fund Report as mandated by Hawaii Revised Statutes (HRS) section 26-9(o). The report describes use of the Compliance Resolution Fund (CRF) for the fiscal year (FY) beginning July 1, 2016, and closing June 30, 2017, by presenting overviews 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.

The CRF is the primary funding source for DCCA's programs, and it relies solely on fees and charges from DCCA's various programs without relying upon 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 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 DCCA. The CRF may also fund any other activity relating to compliance resolution. As defined in HRS section 26-9(o), "compliance resolution" means a determination of whether:

- (1) Any licensee or applicant under any chapter subject to the jurisdiction of DCCA has complied with that chapter;
- (2) Any person subject to 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> CRF summary figures in this report are pre-close numbers.

## **COMPOSITION OF THE DIRECTOR'S OFFICE AGENCIES**

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

## **GOALS AND OBJECTIVES**

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

- To 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.
- To improve and upgrade existing operating systems and technologies the Department uses to advance its capabilities in both responding to consumer issues and helping businesses navigate the regulatory environment, and to provide transparency and accountability in its operations.
- To improve the regulatory environment for businesses and consumers by collaborating with fellow agencies to identify opportunities for more effective and efficient regulation and safe and appropriate economic development.

## **ACCOMPLISHMENTS OF THE DIRECTOR'S OFFICE AGENCIES**

### **Director's Office Consumer Education Program**

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

The Director's Office organized the 12th Annual National Consumer Protection Week Fair on March 8, 2017, at the King Kalakaua Building in downtown Honolulu. This event regularly has over two dozen organizations providing information about services that will help consumers make educated decisions in the marketplace.

The Director's Office organized a consumer fair celebrating the Month of the Military Consumer on July 1, 2017, at Windward Mall. This fair offered Hawaii service members free resources as a first line of defense against fraud. The celebration is a joint initiative with the Department of Defense, Federal Trade

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

Commission, and Consumer Financial Protection Bureau to empower active and retired service members, military families, veterans, and civilians in the military community.

The Director's Office published a 40-page Military Consumer Fraud Guide. This publication was created to equip Hawaii service members and their families with information to make better and informed decisions about managing their money. The booklet offers comprehensive guidelines to protect against fraudulent activities and provides necessary information to live and work in the State. Information about various issues and consumer topics that often affect Hawaii's military community is highlighted, including housing, buying a car, payday lending, and identity theft. The guide is being distributed throughout the local military community and is available online at [cca.hawaii.gov/militaryconsumer/](http://cca.hawaii.gov/militaryconsumer/).

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

### **Hawaii Post-Secondary Education Authorization Program (HPEAP)**

In 2017, HPEAP issued two new school authorizations. The total number of authorized schools is 27.

HPEAP continues its efforts to assist former students of Heald College Honolulu who were displaced when the institution closed suddenly in 2015. HPEAP joined with at least 42 other states and the District of Columbia in notifying nearly 2,500 Hawaii residents who attended schools operated by Corinthian Colleges, Inc. that they are eligible for cancellation of their federal student loans. HPEAP continues to receive hundreds of Heald College transcript requests from students and government and third-party background and education verification entities.

HPEAP is the 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 and programs. SARA aims to make it easier for students to take online courses offered by post-secondary institutions in another state. HPEAP has approved three applications from Hawaii-based institutions to become SARA institutions.

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

### **Department Legislative Coordinator Functions**

In 2017, the Director's Office, including multiple DCCA administrative services and support offices, oversaw the Department's legislative activities involving budgetary or fiscal, personnel, general administrative, and other department-wide issues. This oversight role was in addition to assisting DCCA's multiple divisions with their own legislative operations, including coordinating among and between divisions and serving as their legislative point-of-contact. The Department submitted nearly 550 testimonies for the Regular Session of 2017 on issues concerning consumer and commerce-related matters, as well as supporting various nominees for DCCA-attached boards and commissions. Several of the Department's primary legislative proposals – those introduced as part of the Governor's administrative package of legislation – were fortunate to receive favorable consideration by the Legislature and be subsequently enacted. After adjournment of the 2017 legislative session, the Department's Legislative Coordinator continues to support DCCA in

implementing a broad set of legislative directives and coordinating activities departmentwide to prepare for the 2018 legislative session.

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

For FY 2017, ISCO underwent a leadership change that resulted in some inefficiency while the change was being effected. Since the change, the DCCA Information Systems Steering Committee has been reconstituted and received a briefing on the DCCA Cloud Strategy. ISCO's Solutions Branch and Infrastructure Branch have also been briefed on this strategy and given tactical planning assumptions to support it.

ISCO continues its commitment to reducing DCCA's carbon footprint and power consumption by replacing older PCs with more efficient systems. Virtualization is also being extended from servers to workstations (desktops and laptops) and, in the coming years, to network equipment as well.

The Infrastructure Branch leads DCCA's efforts in upgrading the computer network to Neighbor Islands and remote offices on Oahu and increasing the security of DCCA's computers and networks while improving their performance. The branch is also focusing more on attaining high-value expertise in areas such as virtualization and networking, while also looking for opportunities to outsource low-value activities, such as printer fleet maintenance.

Meanwhile, ISCO is refocusing the Solutions Branch into three core competencies:

- Engaging and sustaining relationships with DCCA's functional divisions;
- Workflow analysis and design; and
- Cloud platform configuration to meet application requirements.

This effort has just gotten underway and will be the focus of ISCO leadership in calendar year 2018.

### **CRF FINANCIAL SUMMARY**

The following is the Department's CRF financial summary for FY 2017:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$32,494,888	\$11,169,660	\$43,664,548	\$53,956,066

The Department's financial strategy requires that revenue-generating divisions secure revenues to cover their expenses and contribute equitably to overhead costs, while ensuring that anticipated major improvements are addressed and a portion of the next year's operating expenses is available. In addition, the Department has a longstanding financial goal to bring its beginning year cash reserves to nine months of budget ceiling plus overhead. This 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 fiscal year expenses, as well as future major projects and expenditures.

The following is ADMIN's (Director's Office, Personnel, Office of Administrative Hearings, Fiscal, Administrative Services Office, and ISCO) CRF financial summary for FY 2017:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,423,897	\$2,440,973	\$6,864,870	\$1,359,223

## **CONCLUSION**

During the past year, the Department, through its various divisions, programs, and attached agency, made numerous critical decisions and took many necessary actions to ensure Hawaii's consumers received adequate representation and protection. Significant cases in FY 2017 included violations of Hawaii's consumer protection laws governing mortgage rescue fraud, data breaches, and unfair or deceptive trade practices. The Department was also involved in high-profile proceedings impacting the local communications industry, such as the HT and CB proposed merger, as well as countless other critical determinations taken up by DCCA staff and affiliated board and commission members. Each decision reached is important in maintaining a strong and safe commercial environment in the State and covers the complete gamut of commercial matters, including banking and financial institution regulation, insurance, securities and investments, and general consumer protection.

In addition, the Department acted throughout the year to lead, where appropriate, or to assist with protecting and educating consumers. To improve its operations and the level of service provided to the consumer and licensing public, the Department also worked throughout the year on its ongoing initiative to update its computer network and implementing cloud platform configuration.

With these accomplishments and efforts in mind, DCCA is committed to improving consumer protection and business regulation in the State. Amid a complex and evolving regulatory environment, the Department continuously strives to make Hawaii a safer place for consumers and a better place for businesses to operate.



**BUSINESS REGISTRATION DIVISION (BREG)**Website: [cca.hawaii.gov/breg](http://cca.hawaii.gov/breg)Email address: [breg@dcca.hawaii.gov](mailto:breg@dcca.hawaii.gov)**OVERVIEW**

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

The following is BREG's contact information:

Office address:	335 Merchant Street Room 201 Honolulu, Hawaii 96813
Mailing address:	P.O. Box 40 Honolulu, Hawaii 96810
Phone:	586-2744 (Administration) 586-2727 (Documents Registration)

BREG also has three Business Action Center offices: 1130 North Nimitz Highway, Suite A-220, Honolulu, Hawaii, 96817; 70 E. Kaahumanu Avenue, Unit 9B, Kahului, Hawaii, 96732; and 25 Aupuni Street, Suite 1201, Hilo, Hawaii, 96720.

In October 2015, the Business Action Center began a pilot program to bring its services to Kona, partnering with Hawaii County's Research and Development Division at the West Hawaii Civic Center: 74-5044 Ane Keohokalole Highway, Building C, 2<sup>nd</sup> Floor, Kailua-Kona, Hawaii, 96740. The once-per-month Kona Resource Days have been well-received, and the program will continue through 2018.

## COMPOSITION

BREG is organized as follows:

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

The **Business Action Center** operates offices on Oahu, Maui, and Hawaii Island and provides point-of-service information and assistance to the public to facilitate, coordinate, and simplify the application process with the State for business and employer registration and tax licensing purposes. The center accepts BREG filings and fees and serves as an information clearinghouse that provides general information on county, state and federal licensing, permitting and filing requirements, and assistance programs related to business or commercial activities. Services are delivered in-person at the center and via phone, 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 center has one business registration supervisor and four business registration assistants to cover all three of its offices spread across the State.

The **Securities Enforcement Branch** enforces state laws governing the securities industry under the Hawaii Uniform Securities Act and franchises under the Franchise Investment Law, as well as other state laws, by investigating and taking legal action against persons, registered firms, and unregistered firms violating or evading these laws. The branch has one Senior Enforcement Attorney, four attorneys, one supervising investigator, six investigators, one legal secretary, three legal clerks, and one office assistant.

The **Securities Compliance Branch** handles the registration activities for the securities industry operating in the State. This includes the registration of securities broker-dealers, securities agents, investment advisers, investment adviser representatives, investment companies, securities offerings, and the filing of franchise offering circulars in the State. The branch is also responsible for conducting field examinations of broker-dealers and investment advisers in the State. The branch has one securities compliance specialist, one examination supervisor, one licensing supervisor, five examiners, four licensing clerical staff, and one secretary.

The **Investor Education Program** falls under the Securities Compliance Branch and provides investor education and financial literacy outreach statewide. The program maintains outreach programs in the areas of: (1) kupuna (seniors) and caregivers; (2) working families and union members; (3) keiki (youths); (4) industry professionals; (5) military; and (6) Hawaiian and other ethnic communities. Free educational materials, presentations, and exhibits the program provides include information to help consumers and investors detect and prevent securities fraud and report securities violations. The program has been expanding its multi-media presence, allowing the public statewide to access investor education and fraud protection information electronically via the program's website and social media platforms. The program has one education specialist, one program assistant, and one multi-media education specialist.

## GOALS AND OBJECTIVES

The following are BREG's goals and objectives:

- (1) **Documents Registration Branch:** Be an efficient and customer-oriented business registry.
  - Review and implement policies and procedures that efficiently process document filings and information requests in a timely manner and consistent with industry best practices.
  - Modernize business laws so they closely track the most current versions of the best uniform or model laws.
  - Enhance information systems to improve retrieval, processing, and recording of public filing information while protecting the integrity of the data system.
  - Develop more online services and other useful innovations.
- (2) **Business Action Center:** Be a responsive and helpful point-of-service business center for business registration and licensing assistance to all businesses in Hawaii.
  - Provide efficient customer service to the public who visit or otherwise contact this center for assistance. Develop relationships with the business community and seek ways to reach communities in need of business registration assistance. Work closely with other federal, state, and county agencies, including cross-training, to improve customer service and increase compliance with new laws.
- (3) **Securities Enforcement Branch:** Be an effective state securities regulatory agency that is responsive, appropriately aggressive, and efficient. The complexity of cases this branch handles is increasing every year, as many cases now involve multiple respondents, multiple complainants, and multiple bank accounts and require extensive financial analysis.
  - Investigate and prosecute state securities violations under the Hawaii Uniform Securities Act.
  - Receive complaints from the public and respond quickly and appropriately.
  - Reduce case backlog.
  - Inform consumers of enforcement matters and investment scams through participation in investor education.
  - Develop and implement internal procedures that timely and effectively resolve cases, thereby improving the branch's overall effectiveness.
  - Ensure that staff understands this branch's mission and purpose through internal and cross-training.
  - Attend and develop training to keep staff current on emerging investigative techniques, legal analysis, and trends in securities fraud and other securities violations;
  - Draft and assist with securities legislation.
  - Work with the media to raise public awareness of securities fraud.
- (4) **Securities Compliance Branch:** Be a state securities regulatory agency that is responsive, effective, and efficient.
  - Keep current with regulatory changes and updates by providing ongoing training for professional staff.
  - Implement a regular field examination cycle for registered broker-dealers and state registered investment advisers.

- Develop and implement internal procedures that will improve the efficiency of processing applications.
- (5) **Investor Education Program:** Develop meaningful investor education programs, materials, and active outreach programs that respond to the public's needs and are current with the financial problems investors face, and timely reach communities throughout Hawaii with practical and helpful information.
- Continue developing partnerships with federal, state, and county agencies, nonprofit organizations, and private companies to provide outreach to various audiences throughout Hawaii.
  - Expand statewide outreach by conducting fraud prevention presentations, exhibit investor education materials at various community events, and use multi-media technology to reach audiences in a current and relevant manner.

## **ACCOMPLISHMENTS**

### **Documents Registration Branch**

- (1) The branch continues to ensure that business registration information on file is readily available, accessible, and current to support commercial activities in the State.
- (2) Over 143,860 documents were filed during FY 2017.
- (3) The branch maintains the public registry of over 197,570 active businesses, trade names, trademarks, and service marks.
- (4) The Hawaii Business Express business registration portal at [hbe.hawaii.gov](http://hbe.hawaii.gov) continues to be a popular service among users, with over 7.8 million unique hits in FY 2017.
- (5) The branch has maintained an 88% voluntary online adoption rate for annual renewals. The online adoption rate reduces paper, postage, and other costs for customers, helps keep our community green, and reduces BREG's manual handling, thereby allowing faster automated processes.

### **Business Action Center**

- (1) The center's offices on Oahu, Maui, and Hawaii Island provided personal assistance to customers nearly 19,600 times this FY via its counter service, phone, email, regular mail, and Live Chat.
- (2) The center's offices provided personal assistance to customers filing over 8,300 paper documents at its counters.
- (3) The pilot program brought Business Action Center services to the West Hawaii County Civic Center once per month. As the program successfully reached small business owners in rural communities, it will continue through 2018.
- (4) On Oahu, the center continues to host sessions where customers can receive free expert assistance. Participating organizations include volunteer attorneys from the Hawaii State Bar Association's (HSBA) Business Law Section (96 customers served) and representatives from the federal Small Business Administration who explain financing options to customers (9 customers assisted). The

center also facilitated three counseling sessions this year with business counselors from the small business assistance nonprofit, SCORE.

- (5) Through the center's outreach efforts at 17 events, over 800 members of the public received information on center services, as well as instruction on forming and registering their businesses, how to properly maintain those registrations, and other obligations such as general excise tax return filings. The center focused its outreach efforts on rural areas, including Waimanalo, Wahiawa, Ewa Beach/Kapolei, and Hawaii County. Other groups, such as the Council on Native Hawaiian Advancement, the Office of Hawaiian Affairs' Hi'ilei Aloha Program, Hawaii Association of Paralegals, the William S. Richardson School of Law, local banks, and young entrepreneurs, were also a focus of this FY's outreach efforts.
- (6) The center continues to help organize the biannual Hawaii Small Business Fair (August 2016 and May 2017), which offers more than 21 free classes on various topics of interest to new entrepreneurs. Partners include the Department of Business, Economic Development and Tourism, the Small Business Development Center of Hawaii, Honolulu Community College, Leeward Community College, and the Internal Revenue Service. Recent fairs have drawn almost 500 entrepreneurs in various stages of business formation.

### **Securities Enforcement Branch**

- (1) In addition to supporting investor education, the branch presented to new audiences, including:
  - The State Department of Labor's Wage Standards Division, which included staff who investigates cases involving unpaid wages and work injury termination complaints;
  - The Hawaii State Teachers Association Retirees, comprised of newly retired teachers;
  - The Hawaii Bankers Association during its Bank Secrecy Act/Anti-Money Laundering Conference, which comprised of about 130 attendees from banks and credit unions;
  - Hawaii National Bank's Operation Supervisors, which included branch representatives and deposit operations staff from Oahu and the Neighbor Islands;
  - The Association of Certified Fraud Examiners Hawaii Chapter, which included accountants who may become aware of anomalies in their clients' investment portfolios;
  - The Alliance of Residential Care Administrators, whose members include caregivers who provide long term care to the elderly; and
  - Students in the sixth, ninth, tenth, eleventh, and twelfth grades at Aiea Elementary School and Aiea High School.
- (2) The branch has emphasized internal training and cross-training for professional and support staff through presentations given by fellow experienced BREG staff. Training topics include an overview of the securities industry and investment fraud schemes. These presentations also afforded attendees the opportunity to share their own experiences and tips for effective and efficient work.

**Securities Compliance Branch**

- (1) The branch currently regulates approximately 108,000 securities agents and 1,300 broker-dealer firms registered to sell securities in Hawaii. In addition, the branch has 67 state-registered investment advisory firms, over 1,000 federally covered investment advisers, and an estimated 2,200 registered investment adviser representatives on record. The branch also processed an estimated 670 franchise disclosure document filings, conducted 20 exams, and received approximately 600 federal Regulation D notice filings for the private placement of securities and over 9,000 initial and renewal mutual fund notice filings in FY 2017.
- (2) Staff continues to efficiently process the high volume of applications and renewals received each year. Examinations of broker-dealers and investment advisers throughout the State are conducted continuously to provide onsite review of compliance with state securities laws.
- (3) The branch continues its comprehensive training program for professional development of its securities examiners staff.

**Investor Education Program**

- (1) The program continues to expand outreach to audiences through various community events across the State. The program completed 86 investor protection presentations in FY 2017, and this program participated in 72 community events statewide, through which IEP reached an estimated 23,000 consumers in Hawaii.
- (2) In FY 2017, the program completed 53 senior presentations and participated in 12 senior-focused community events.
- (3) The program continues to maintain key partnerships to help educate Hawaii residents on investor protection. Federal and national partners include the: United States Securities and Exchange Commission (SEC), North American Securities Administrators Association (NASAA), Financial Industry Regulatory Authority (FINRA), Commodity Futures Trading Commission (CFTC), United States Attorney's Office (USAO) for the District of Hawaii, Federal Bureau of Investigation's (FBI) Honolulu field office, and Consumer Financial Protection Bureau (CFPB). Local, state, and city partners include the: Department of the Attorney General's (AG) Crime Prevention and Justice Assistance Division, Department of Human Services' Adult Protective and Community Services Branch (APS), Department of Health's Senior Medicare Patrol Program (SMP), Honolulu Police Department, Department of Public Safety's Narcotics Enforcement Division (NED), City and County of Honolulu's Elderly Affairs Division (EAD), Better Business Bureau (BBB), and American Association of Retired Persons (AARP) Hawaii.
- (4) The program continues its participation with the Kupuna Alert Partners program (KAP). Representatives from the AG's Crime Prevention and Justice Assistance Division, SMP, NED, and IEP provide presentations on Medicare fraud, securities fraud, prescription drug misuse, and other general scams. From April 2013 to June 2017, KAP has completed 67 presentations, reaching nearly 2,800 seniors, caregivers, and elder program providers.

- (5) In October 2016, the Investor Education Program hosted its first industry workshop as part of NASAA's SeniorSafe Program. SeniorSafe aims to educate securities industry professionals about the types of investment fraud and financial exploitation targeting seniors and what they, as professionals, can do to help. This half-day workshop included speakers from various enforcement agencies, panel discussions, and informational exhibitor tables. Participants in the Hawaii SeniorSafe program included representatives from: AG's Crime Prevention and Justice Assistance Division, APS, SEC's Los Angeles regional office, FBI's Honolulu field office, USAO for the District of Hawaii, BBB, SMP, and EAD.
- (6) In March 2017, the program worked with representatives from SEC's and FINRA's Washington, D.C. office to give presentations at Joint Base Pearl Harbor-Hickam. Six presentations were conducted, reaching approximately 200 active and retired military members.
- (7) The program continues to be the state coordinator for LifeSmarts, a national educational program that helps youth develop consumer and life skills. In IEP's fourth year as the state coordinator, the program reached 143 students and 15 coaches from 12 schools statewide. Roosevelt High School, the state champion high school team, competed in the national LifeSmarts competition in Pittsburgh, PA in April 2017. This free and competition-based program is brought to Hawaii in partnership with the National Consumers League and Hawaii Credit Union League. The program partners with credit unions, labor unions, and other partners to award prizes to participants at the state competition.
- (8) The program continues its partnership with the Hawaii Council on Economic Education to support financial literacy and investor education for students via the Stock Market Simulation program (SMS). SMS is an interactive educational tool that trains teachers on how capital markets work and how to make wise investment decisions. The teachers are then expected to relay this knowledge to students participating in SMS. Since Fall 2004, the program has reached nearly 1,353 teachers and 56,540 students.
- (9) The program continues using technology to promote its investor education program by providing online access to investor education materials and increasing its social media presence on Twitter, Facebook, and Instagram. The program uses these platforms to circulate fraud alert and prevention tips and other program-related information.

## CRF FINANCIAL SUMMARY

The following is BREG's CRF financial summary for FY 2017:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,890,955	\$1,104,893	\$5,995,848	\$10,397,463

## **CONCLUSION**

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

The demand for BREG's various services has necessitated improved information systems to handle the workload, more sophisticated online support, increased training to improve regulatory oversight, and constant attention and commitment to the changing and increasingly complex needs for service. In addition, BREG has worked extensively with NASAA to assist in national regulatory reform and to promote and advocate positions that best support Hawaii's consumers.



## CABLE TELEVISION DIVISION (CATV)

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

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

### OVERVIEW

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

CATV's primary regulatory function is to determine whether the issuance, renewal, or transfer of a cable franchise is in the public interest. In so doing, CATV carefully considers the: (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, CATV's role in protecting the public interest continues through the duration of the franchise. 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, CATV responds to public inquiries, concerns, and complaints. Where applicable, 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. CATV's mission is to ensure that all complaints and concerns are researched and appropriately resolved. In furtherance of this goal, CATV continues to monitor resolution of customer service concerns and assess customer satisfaction through review of surveys and reports. CATV also continues to encourage cable operators to develop new, improved, and more effective cable communications services and facilities to enhance customer-based services to the people of Hawaii.

CATV is also responsible for expanding the State's Institutional Network (INET) in a manner that is efficient and effective for the State. INET provides broadband telecommunications capabilities to government and educational organizations and is constructed for two-way operation as part of the State's current cable television 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, connecting state and county government and educational facilities, and INET service connections "free of charge" and "at cost," all of which is primarily maintained and repaired at no cost to state and county

government and educational agencies. DCCA/CATV negotiates these INET benefits and administratively manages INET while other INET Partners<sup>3</sup> manage and operate the State's telecommunications networks.

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

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, civic engagement, and others. CATV therefore continually monitors the 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, which charged DCCA/CATV with broadband-related duties that include supporting public and private efforts to facilitate deployment of and access to competitively priced broadband and Internet access services; facilitating broadband application development to bolster usage and demand for broadband; and facilitating the implementation of recommendations of the Hawaii Broadband Task Force. Pursuant to Act 199, DCCA/CATV convened the Broadband Assistance Advisory Council (BAAC) and continues to use the expertise of BAAC and its working groups in activities to increase broadband adoption and expedite and expand access to competitively priced broadband services.

DCCA/CATV's broadband-related duties have included assisting with legislation related to expediting and increasing broadband adoption and deployment; working with other state and county government agencies, the Legislature, service providers, and other stakeholders to address issues related to the advancement of broadband; planning efforts to facilitate broadband infrastructure development for unserved and underserved communities; working on partnerships with other public and private agencies to expand and expedite broadband deployment and adoption; and participating in Federal Communications Commission (FCC) proceedings related to reforms affecting potential funding for telecommunications and broadband for the State. To further support DCCA's activities, HRS chapter 440J was enacted in 2012 and requires that cable operators, telecommunication carriers, and telecommunication common carriers file with DCCA confidential annual reports on broadband service availability and pricing.

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

The following is CATV's contact information:

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

Phone: 586-2620

## **COMPOSITION**

CATV has an administrator, two staff attorneys, four program specialists (one cable television specialist and three broadband specialists), and a secretary.

## **GOALS AND OBJECTIVES**

The following are CATV's goals and objectives:

- (1) Ensure consistent cable television regulatory policies and practices.
  - Conduct regularly scheduled franchise fee and PEG reviews.
  - Designate access organizations to provide PEG access services.
  - Collaborate and assist in the INET deployment process.
  - Convene regular CAC meetings.
- (2) Monitor and participate in federal telecommunications legislation and rulemaking.
  - Work with Hawaii's congressional delegation on applicable federal legislation.
  - Participate in relevant FCC proceedings on Direct Broadcast Satellite service, universal service support, broadband, and other cable- and telecommunications-related matters.
  - Protect and advocate the State's interests in federal funding programs for broadband infrastructure and services and equivalent enhanced services for the State.
  - Monitor other relevant government programs to identify potential funding for the State's broadband-related activities.
  - Monitor federal issues that may impact Hawaii cable television subscribers and broadband consumers.
  - Ensure that DirecTV and Dish Network comply with the FCC's order regarding service to Hawaii.
- (3) Use DCCA's regulatory function to strengthen INET and provide benefits for the State and counties.
  - Require cable operators to invest in infrastructure as part of a cable franchise award to provide capacity and connections for public, educational, and government facilities to expand and strengthen INET.
  - Provide efficient management of INET to use negotiated INET benefits for the optimal benefit of state and county government and educational facilities.

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

## **ACCOMPLISHMENTS**

### **(1) Institutional Network**

DCCA/CATV continued its leadership role in developing, expanding, and enhancing INET. Working with the INET Partners, DCCA/CATV continued its role under existing cable television franchises in upgrading and expanding INET, administering the INET on-island and interisland network, and deploying broadband infrastructure for education and government applications.

As the INET partner providing the non-technical administration of the network, DCCA/CATV continued during FY 2017 to meet with the INET Partners through their technical team members to update and revise the master plan for statewide infrastructure development and to develop and implement a plan to increase the interisland capacity of INET from 10 Gigabits to ultimately 200 Gigabits via two networks (one shared between UH and ETS, including the Hawaii State Public Library System (HSPLS), and a separate one for DOE). The UH/ETS/HSPLS shared network upgrade was completed during the second half of FY 2017, while the DOE's network upgrade is expected to be completed sometime in FY 2018 or FY 2019.

In addition, DCCA/CATV continued developing an online system that coordinates and tracks "at cost" and "free of charge" INET requests and connections for state and county government. The INET Request Online Coordination (IROC) system was completed and made live on December 1, 2016. DCCA/CATV are the IROC System Administrators. The IROC system is presently being used by UH, DOE, ETS, HSPLS, and Oceanic Time Warner Cable (OTWC).

**(2) Charter/Time Warner Cable Proposed Merger Transaction Review**

On July 15, 2015, OTWC's parent company, Time Warner Cable Inc. (TWC), and Charter Communications, Inc. (Charter) submitted their joint State Transfer Application with DCCA/CATV requesting approval to transfer control of all OTWC's cable franchises in the State from TWC to Charter (Charter/TWC Proposed Merger).

On December 17, 2015, DCCA/CATV issued Decision and Order No. 366 conditionally approving the Charter/TWC Proposed Merger, which requires Charter/OTWC to, among other things:

- Adhere to all terms, requirements, conditions, and obligations of the current Cable Franchise Decisions & Orders and any other orders and directives issued by the Director, including obligations related to system upgrades, institutional network connections, franchise fees, PEG access, the Hawaii Public Television Foundation, and all other existing cable franchise obligations.
- Within three years of the close of the merger, provide low-income consumers in Hawaii (families with children participating in the National School Lunch Program and seniors aged 65 and older who are eligible and who receive federal Supplemental Security Income benefits) with broadband service initially for \$14.99/month, at speeds up to 30 Megabits per second (Mbps) download and 4 Mbps upload.
- Within four years of the close of the merger, invest \$10 million to build out its networks in Hawaii and build out 1,000 new line extensions of its networks to homes in its Hawaii cable franchise areas.
- Within four years of the close of the merger, provide 1,000 new public WiFi access points and deploy 100 of these new access points at public parks, civic and community centers, and other public open areas and gathering places at the direction of DCCA/CATV.
- Obtain a \$1 million performance bond payable to DCCA on, among other matters, a determination that Charter/OTWC failed to comply with the build out requirements or the WiFi obligations of Decision and Order No. 366.
- Within thirty months of the close of the merger, transition virtually all OTWC's cable systems to all-digital networks. Upon this conversion, Charter/OTWC shall provide, among other things, subscribers with two digital transport adaptors or "basic boxes" free of charge for a period of two years and make them available at OTWC's customer service centers and delivery by mail, including prepaid return service.
- Within three years of the close of the merger, promote and make available energy efficient set-top boxes, such that at least 90% of newly deployed boxes shall meet energy star requirements. Charter/OTWC is also encouraged to: (1) partner with community organizations to educate and promote the use of energy efficient set-top boxes; and (2) develop an economically feasible program to replace old boxes with efficient ones.
- Within six months of the close of the merger, provide DCCA/CATV with a report on the impact of the completed merger and submit a plan regarding its conversion to an all-digital network.

DCCA/CATV's approval was subject to additional terms and conditions, including approval of the Charter/TWC Proposed Merger by the FCC, the Department of Justice, and other federal agencies, and adherence to all conditions imposed federally. On May 18, 2016, the Charter/TWC Proposed Merger was completed, and the proceeding was officially closed. DCCA/CATV will continue to monitor implementation of the merger and ensure compliance with Decision and Order No. 366.

### **(3) Cable Advisory Committee Meeting**

On December 1, 2016, CAC was convened to obtain input and comments concerning ongoing matters before DCCA/CATV. Updates were given to CAC on the Maui and Kauai franchise renewals and the PEG designation process. Charter/OTWC's six-month post-transaction progress report was also presented to CAC. This report conveyed, among other things, that approximately 1,500 new home passings with over 26 new plant miles have been completed in the State since the close of the merger. Charter/OTWC also noted it is on course to completing its all-digital transition by November 2018, which will enable OTWC customers to have expanded high-definition access, an enhanced channel guide, expanded video-on-demand, and improved network security.

### **(4) OTWC – Maui Franchise Renewal**

OTWC filed its intent to consolidate renewal applications for its Maui County and Lahaina cable television franchises on June 2, 2011. Since that time, DCCA/CATV conducted an initial round of discovery and ascertainment meetings across Maui County, held four public meetings in Kaunakakai, Lanai City, Lahaina, and Kahului to receive public comments on OTWC's application, conducted numerous discussions in and about Hana regarding service reliability and customer service issues, and reviewed the application and public comments. During FY 2017, DCCA/CATV continued discussions and negotiations with OTWC. Per OTWC's request, DCCA/CATV is working with OTWC to complete the Kauai Franchise Renewal prior to completing the Maui Franchise Renewal. For this reason, DCCA/CATV does not anticipate completing this proceeding until December 2018.

### **(5) OTWC – Kauai Franchise Renewal**

On April 24, 2014, OTWC submitted a letter to notify DCCA/CATV of its intent to seek renewal of its Kauai cable television franchise. DCCA/CATV subsequently planned for and developed the Community Ascertainment and Related Activities Report for the Kauai cable franchise, held two community meetings on Kauai (Waimea on August 26, 2015, and Lihue on August 28, 2015), and met with community leaders and public-sector representatives to obtain input and comments regarding services provided by OTWC and feedback regarding services provided by Ho`ike: Kauai Community Television (Ho`ike), the Kauai Island PEG. In addition, technical, engineering, franchise compliance, and financial reviews of OTWC were conducted. The Community Ascertainment and Related Activities Report was completed on April 5, 2016, and OTWC submitted its application for renewal of its Kauai cable television franchise on December 16, 2016. A public hearing on the application was held on February 2, 2017, at the Kapaa High School Library, and DCCA/CATV issued various information requests to which OTWC responded. Discussions and negotiations between DCCA/CATV and OTWC are ongoing, and DCCA/CATV expects to conclude this proceeding by the end of FY 2018.

### **(6) Franchise Fee Reviews**

CATV has contracted with certified public accounting firm Merina & Co. to conduct annual reviews of the franchise fee calculation, collection, and payment process for each of the cable franchises held by cable television operators OTWC and Hawaiian Telcom Services Company, Inc. (HT).

**(7) State Government Linear Digital and Video-On-Demand (VOD) Channels**

Pursuant to the March 4, 2014, Stipulation to Settle All Claims of the Parties (OTWC, DCCA, `Ōlelo Community Media (`Ōlelo), and the City Council of the City and County of Honolulu), OTWC was required to provide one statewide State Government Linear Digital Channel and one statewide State Government VOD Channel for programming use by the Legislature, Office of the Governor, Executive Branch agencies, Judiciary, and other government agencies. The State Government VOD Channel was launched during FY 2016 and is accessible on OTWC's Digital Channel 50, under the Hawaii Government Public Network call name. Through this statewide channel, the public is provided greater access and insight into the workings of state government at every level. It also provides state government agencies with the opportunity to share information with the public using an innovative service through which the public can view and access information "on-demand," meaning per their own convenience and schedule.

The State Government Linear Digital Channel is expected to be launched when sufficient state government content is available to sustain a linear channel that can operate on a 24/7 basis. This FY, DCCA/CATV, in partnership with `Ōlelo, worked with several government agencies to inform and train them to use and develop government content and programming for these two channels.

**(8) Hawaiian Telcom Services Company, Inc. and Cincinnati Bell Inc. (CB) Proposed Merger**

On June 24, 2011, Decision and Order No. 352 was issued, granting HT a cable franchise on Oahu. Near the end of FY 2017, HT informed DCCA/CATV of its intent to submit, in the first or second quarter of FY 2018, an application to CATV for approval of the merger of HT and CB and the transfer of HT's cable franchise to CB. The joint application by CB, HT, and Hawaiian Telcom Holdco, Inc. was filed on August 11, 2017, to approve: (1) the transfer of indirect control of HT to CB; (2) a pro forma transfer of control; and (3) HT's participation in certain financing arrangements. During FY 2018, CATV will be conducting assessments and reviewing submitted material, holding a public hearing and a meeting of CAC, issuing information requests, and having ongoing discussions with HT and CB regarding the joint application.<sup>4</sup>

**(9) Hawaiian Language Video Content**

On January 1, 2017, DCCA/CATV partnered with Makauila, Inc. (Makauila), a not-for-profit corporation specializing in the creation of high-quality multimedia, to develop Hawaiian language video content that promotes Hawaiian culture, history, and language. Makauila's video content is created with the Hawaiian language spoken throughout most of its videos. Under its contract with DCCA/CATV, Makauila is required to develop and produce 12 Hawaiian language video programs, each at least thirty minutes long, and distribute its videos statewide through a variety of media platforms, including cable television, the Internet, and social media. In the first six months of 2017, Makauila's videos, which were produced either under its contract with DCCA or independently, were viewed over 41,000 times on cable television, reached an audience of approximately 140,000 viewers, and were viewed approximately 4,400 times on the Internet. Makauila anticipates that viewership numbers will increase as more Hawaiian language video content becomes available.

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<sup>4</sup> Federal regulations require local franchising authorities (LFAs), such as DCCA/CATV, to act within 120 days of the submission of the FCC's Form 394, various exhibits, and any additional information required by the terms of the franchise agreement and state laws. If an LFA fails to act within that prescribed time, the transfer is deemed approved unless the parties agree otherwise.

**(10) Federal Legislation and FCC Rulemaking**

CATV continued to monitor developments in Congress and at the FCC related to cable television, telecommunications, and broadband. CATV continues to meet and work with Hawaii's congressional delegation on efforts to increase broadband access in the State.

**(11) Designation of PEG Organizations to Provide PEG Services**

DCCA/CATV is responsible for reviewing the applications and negotiations required for the PEG access organization designation process. Since Act 19, SLH 2011, was signed into law, all four existing PEG access organizations, `Ōlelo on Oahu, Nā Leo `O Hawaii Community Television on Hawaii Island, Ho`ike on Kauai, and Akakū: Maui Community Television on Maui, Molokai, and Lanai, have filed applications for designation as PEG access providers in their respective service areas. DCCA/CATV's review of the filed applications are ongoing, and discussions regarding PEG designation contracts have started with draft PEG designation contracts circulated to `Ōlelo and Ho`ike. DCCA/CATV expects to complete its discussions with `Ōlelo and the PEG designation for Oahu by the end of FY 2018.

**(12) Broadband Initiatives and Projects**

DCCA/CATV worked to: (1) migrate Hawaii participants from DCCA/CATV's Measuring Broadband Hawaii program to the FCC's Measuring Broadband America program, which will expand the amount of data gathered about subscriber broadband service performance across the State; (2) monitor and support a project to close the fiber optic network gap on Hawaii Island (Hawaii Island Fiber Gap Project), for which DCCA/CATV had convened a stakeholder group consisting of the County of Hawaii, the U.S. National Park Service, public utilities, and broadband and cable providers; (3) gather data on unserved and underserved areas across the State; and (4) maintain contact with stakeholders to identify possible opportunities to partner on, facilitate, or support projects to extend broadband access and increase broadband adoption.

DCCA/CATV activities also included: (1) developing a DCCA/CATV pilot WiFi project on Hawaii Island to provide community access to WiFi at government locations in unserved and underserved areas; (2) disseminating information to stakeholders on funding opportunities for broadband projects and other resources; (3) researching and working on implementation of recommended best practices for broadband infrastructure deployment; (4) designating 14 OTWC WiFi access points on Kauai and 7 access points in Hana, Maui, pursuant to the Charter/TWC Proposed Merger that closed in May 2016; (5) creating design specifications for an application to gather broadband deployment data and speeds across the State; and (6) providing support for BAAC.

**(13) Broadband Assistance Advisory Council**

In FY 2017, DCCA/CATV convened three BAAC meetings and one meeting of the BAAC Permitting Work Group. These meetings included discussion and presentation on: (1) West Maui and Hawaii Island communications infrastructure redundancy; (2) updates on and facilitation of FCC Connect America fund projects by HT; (3) the Hawaii Broadband Initiative undersea cable landing project of the Department of Business, Economic Development and Tourism; (4) the Hawaii Island Fiber Gap Project and providers' plans and efforts to close their respective fiber gaps; (5) DCCA/CATV's 808 WiFi Pilot Project; (6) the City and County of Honolulu's development of its SmartCity/Enterprise platform, which will include an online project database system; (7) "Dig Once" joint build rights-of-way policies and online project notification system best practices; (8) fifth-generation wireless technology, challenges in deploying small cell systems, smart communities, and the "Internet of Things" network of connected devices; (9) broadband-related legislation; and (10) OTWC WiFi access points deployed pursuant to the Charter/TWC Proposed Merger.



**CRF FINANCIAL SUMMARY**

The following is CATV's CRF financial summary for FY 2017:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$873,883	\$771,052	\$1,644,935	\$3,160,317

**CONCLUSION**

This past FY was a very active one for CATV, due to its continued monitoring of the obligations and requirements set forth in the approval of the transfer of OTWC's cable television franchises across the State to Charter; the multiple cable franchise renewals at issue across the State; the activity surrounding the designation of all four PEG access organizations; its preparation and discussions regarding the filing of the joint application for the proposed HT/CB merger; the rapid development of telecommunications technology and its implications on cable television service, the Internet, and other related services; the changing dynamics related to content distribution and the resulting impact to subscriber services; and its broadband-related activities. Through its many regulatory activities and additional responsibilities to facilitate broadband access, CATV strives to: ensure fairness to the public in the provision of improved cable television services; provide valuable INET benefits to state and county agencies; provide technology neutral support of efforts to extend broadband service; and foster fair competition among providers to provide greater access to reasonably priced broadband services to residents statewide.

**DIVISION OF CONSUMER ADVOCACY (DCA)**Website: [cca.hawaii.gov/dca](http://cca.hawaii.gov/dca)Email address: [consumeradvocate@dca.hawaii.gov](mailto:consumeradvocate@dca.hawaii.gov)**OVERVIEW**

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

The following is DCA's contact information:

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Mailing address: P.O. Box 541  
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Phone: 586-2800

**COMPOSITION**

DCA has 19 incumbent employees, including an Executive Director, a secretary, a utilities/transportation specialist, an education specialist, rate analysts, researchers, engineers, attorneys, and clerical support.

DCA is divided into four branches:

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

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

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

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

## **GOALS AND OBJECTIVES**

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

### **(1) CONSUMER ADVOCACY**

#### **Goal**

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

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

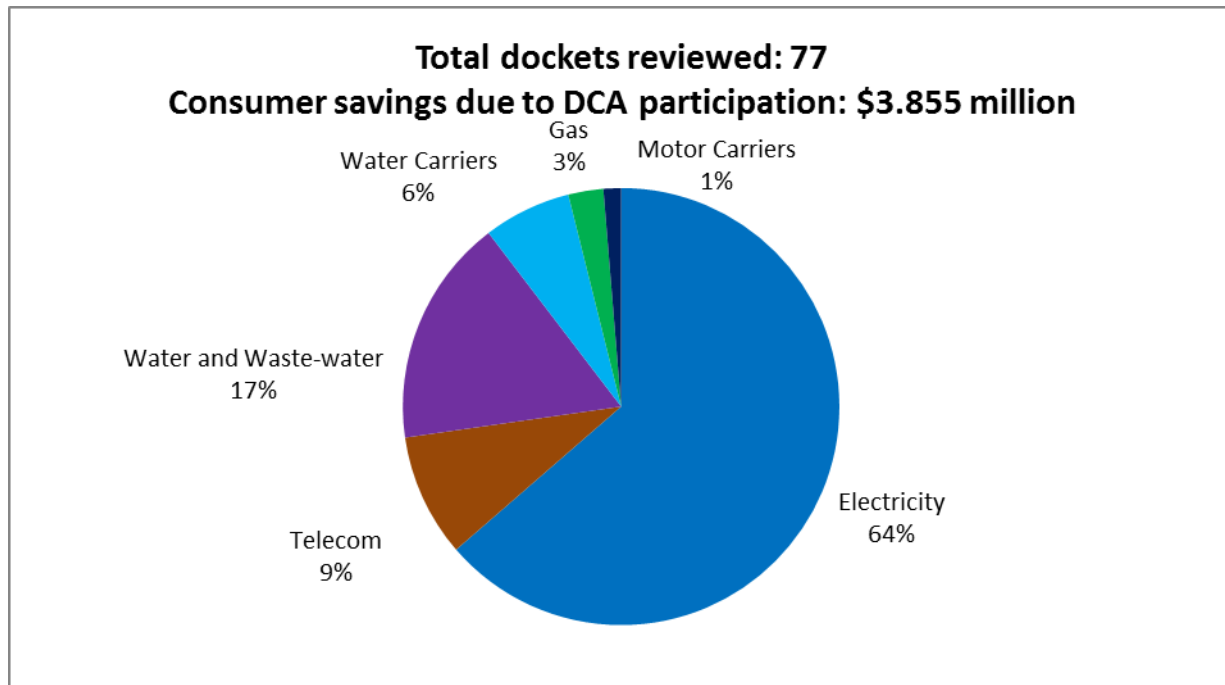
DCA's resources are focused on PUC proceedings, which often affect the rates and reliability of utility and transportation systems and services. DCA's participation in PUC proceedings will typically involve some or all of the following:

- 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 PUC on the merits of the applications 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, etc., as necessary.

## Measures

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

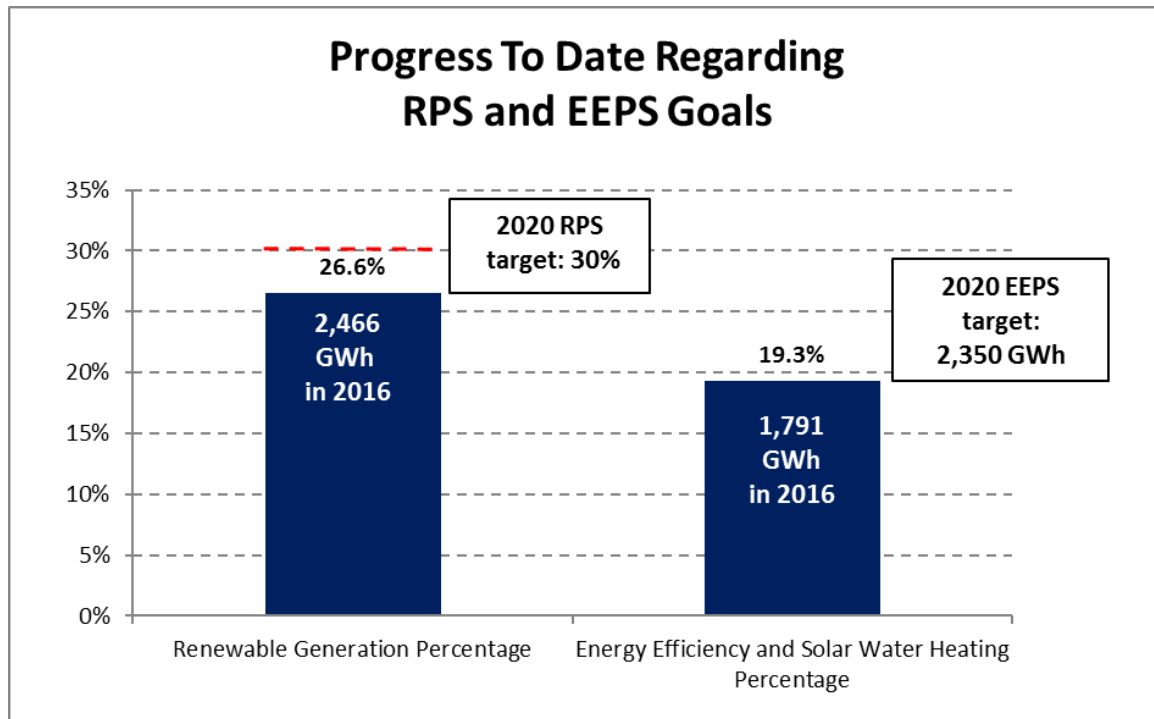
**Chart 1: Dockets Reviewed by Area and Overall Consumer Savings, FY 2017**



## (2) POLICY ADVANCEMENT

### Goal

DCA will remain active in promoting policies to protect and advance the interests of utility and transportation consumers at the local, state, and national levels. Two major objectives DCA will pursue are: (1) continued efforts to promote and facilitate Hawaii's transition from using imported fossil fuels to clean renewable energy advancement of federal and state broadband initiatives; and (2) advancement of federal and state broadband initiatives. As shown in Chart 2, Hawaii appears to have met its 2016 Renewable Portfolio Standard (RPS) and Energy Efficiency Portfolio Standard (EEPS) goals and is progressing toward its 2020 goals.

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

\*Above data is for calendar year 2016.

Changes in reporting requirements have made it necessary to discuss how progress toward EEPS goals will be monitored and reported in the future.

### Planned Approach/Methods

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

1. After DCA and other parties to the proceeding state their initial positions on the issues, discovery and analyses are done to determine the reasonableness of the other parties' positions.
2. 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.
3. DCA provides PUC with a recommendation it believes is in the best interest of consumers.
4. DCA participates in evidentiary or panel hearings conducted by PUC. DCA presents its evidence by way of expert testimony on specific technical issues.

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

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

DCA is actively involved with the State Legislature and provides testimonies that detail consumer benefits or detriments of specific proposals and bills being considered by various legislative committees. In the 2017 legislative session, DCA monitored and/or testified on 69 bills and submitted written testimony on 53 occasions.

### **Measures**

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

## **(3) EDUCATION AND OUTREACH**

### **Goal**

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

### **Planned Approach/Methods**

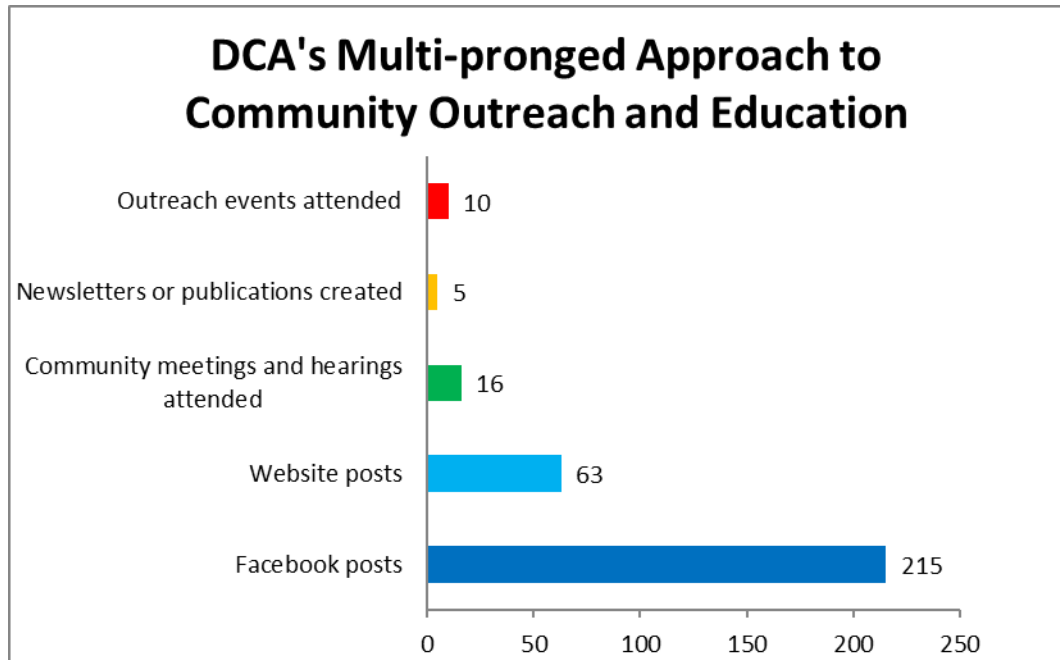
DCA can accomplish its goal of positively affecting the habits of consumers statewide through its website and public outreach activities. DCA established the following action plan to accomplish its goals and objectives:

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

## Measures

To measure its performance and progress on education and outreach activities, 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 DCA engaged in community outreach and education in FY 2017.

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



## ACCOMPLISHMENTS

Results of DCA's efforts to protect and advance the interests of consumers in FY 2017 are summarized below for some of the more significant matters involving DCA:

### **(1) ADVOCACY BEFORE THE PUBLIC UTILITIES COMMISSION**

#### **Energy Dockets**

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

PUC required the Hawaiian Electric Companies (HECO Companies) to file respective PSIPs to facilitate the review of long-term energy planning objectives. These PSIPs were incorporated into Docket No. 2014-0183. After reviewing the HECO Companies' initial PSIPs, the Consumer Advocate and several other parties indicated numerous revisions and supplements were required. The Consumer Advocate also advocated that the focus should be on a detailed five-year action plan that would be consistent with a reasonable long-range plan. Otherwise, continued focus on a detailed 30-year action plan could result in no approved plan at all; this outcome would be similar to that for integrated resource planning efforts in Docket No. 2012-0036. The

Commission decided an approved PSIP was necessary and that the focus should be on an actionable short-term plan.

The HECO Companies filed their PSIP Updates in December 2016, and the Consumer Advocate, along with other stakeholders, analyzed and offered comments on the PSIP Updates. The Consumer Advocate urged some plan needed to be in place to allow PUC and stakeholders to have some reference against which proposed projects could be measured. PUC accepted but did not approve the PSIPs in July 2017.

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

PUC opened Docket No. 2014-0192 in August 2014 to review various issues related to DER (e.g., photovoltaic rooftop systems) and the measures required to both facilitate the continued adoption of DER and ensure a sustainable market for DER will exist that does not adversely affect other renewable energy markets or consumers. Due to the urgent need to review DER issues, PUC set forth an accelerated timetable to analysis in Phase 1 of this proceeding, with other issues to be analyzed in Phase 2.

In Phase 1, pursuant to concerns raised, PUC closed the Net Energy Metering (NEM) Program for the HECO Companies but created grid-supply and self-supply options to allow the continued adoption of rooftop photovoltaic systems. Furthermore, PUC also required the HECO Companies to provide time-of-use tariffs. In the first part of Phase 2, PUC adopted further changes to the Customer Self-Supply and Customer Grid-Supply programs and instructed the parties to work on a smart export program.

Phase 2 of this proceeding has involved ongoing work to develop a smart export program and on other DER issues. Additional work will address technical track issues, as well as market track issues that consider the needs of and protections for both participating and non-participating customers.

#### Green Energy Market Securitization (GEMS)

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

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

In November 2015, the Commission suspended a HECO Companies' tariff to open a proceeding to investigate CBRE issues. Subsequently, the Commission filed its staff proposal for a CBRE program and requested comments on that proposal. The Consumer Advocate's proposal supported the need for a CBRE program but noted it did not include sufficient customer safeguards and may have been too favorable to industry and developer interests. The Consumer Advocate highlighted the need for low-cost options for renters, multi-unit dwelling residents, and low-income customers and for an initial program that would be relatively simple, rather than a complex program that might doom future CBRE efforts. The Commission proposed a CBRE framework, which the Consumer Advocate and other stakeholders analyzed and offered comments. After the offered comments and technical conferences, PUC action is pending.



## **Other Industries**

The Consumer Advocate also participated in various dockets involving regulated water, wastewater, telecommunications, utility gas, and transportation companies. These dockets included ongoing rate proceedings for water/wastewater utility companies, rate cases and the Annual Freight Rate Adjustment for Young Brothers, as well as eligible telecommunications carrier certification for various telecommunications companies. The Consumer Advocate also handled various dockets relating to Hawaii Gas, including the company's developing plans to convert its supply gas from synthetic natural gas to imported liquefied natural gas.

## **(2) ADVOCACY THROUGH PARTICIPATION ON COMMITTEES AND BOARDS**

### Enhanced Wireless 911 (E911) Services

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

### One Call Center Advisory Committee

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

### Energy Policy Forum

The Executive Director of DCA is a member of the Hawaii Energy Policy Forum (HEPF), a collaborative organization of UH at Manoa. HEPF has members from the business, government, and regulatory communities and provides support to other organizations, such as the Hawaii Clean Energy Initiative (HCEI) Steering Committee. Meetings are held quarterly to discuss Hawaii's energy needs for both electricity and transportation. In FY 2017, DCA continued actively participating in these meetings by providing input to HEPF on consumer concerns in the PUC regulatory process and the difficulties the State faces in achieving reliable electricity service at reasonable rates.

### Hawaii Clean Energy Initiative

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

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

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

The HCEI Management Committee, which includes the Consumer Advocate, is working on HCEI 2.0. A new Memorandum of Understanding between the State and U.S. DOE was drafted in FY 2014 and then executed in FY 2015. Finally, the Management Committee determined the original HCEI entered in 2008 contained numerous provisions that were no longer applicable and voted to rescind it.

### **(3) EDUCATION AND OUTREACH**

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

#### DCA's Facebook page

DCA continues to use its Facebook page to reach consumers more quickly through social media. Through Facebook, DCA educates consumers by posting energy and water-saving tips and notifies consumers of pertinent, utility-related online newspaper articles, blog posts, and radio and television programs. This Facebook page also announces upcoming utility-related public hearings, consumer fairs, utility and green energy conferences, and media events. During FY 2017, in accordance with DCCA's guidance, DCA's Facebook postings have become part of a single DCCA Facebook page for the public.

### **CRF FINANCIAL SUMMARY**

The following is DCA's CRF financial summary for FY 2017:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,886,084	\$1,416,033	\$3,302,117	\$4,406,359

## **CONCLUSION**

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

## DIVISION OF FINANCIAL INSTITUTIONS (DFI)

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

Twitter: @HawaiiDFI

Email for general matters: [dfi@dcca.hawaii.gov](mailto:dfi@dcca.hawaii.gov)

Email for mortgage program: [dfi-nmls@dcca.hawaii.gov](mailto:dfi-nmls@dcca.hawaii.gov)

### OVERVIEW

The Division of Financial Institutions (DFI): (1) addresses the safety and soundness of state-chartered and state-licensed financial institutions; and (2) ensures regulatory compliance by state-licensed financial institutions, escrow depositories, money transmitters, mortgage servicers, mortgage loan originators, and mortgage loan originator companies by fairly administering applicable statutes and rules to protect the rights and funds of depositors, borrowers, consumers, and other members of the public. To effectively regulate a growing and diverse group of industries and implement state and federal regulatory requirements, DFI made changes to its licensing and examination programs to focus its resources on risk-based supervision.

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

The major functions of 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 escrow depositories.
- License, supervise, regulate, and examine money transmitters.
- License, supervise, regulate, and examine mortgage loan originators, mortgage loan originator companies, and mortgage loan originator branches.
- License, supervise, regulate, and examine mortgage servicer companies.
- Accept and investigate complaints by consumers.

DFI is recognized by two accreditation organizations as providing the highest standards of training for its staff and for appropriately supervising and examining chartered and licensed companies and individuals. DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and reaccredited in 1995, 2000, 2005, and 2012.<sup>5</sup> The CSBS accreditation program sets high standards for state banking regulators nationwide. Forty-three out of 50 states meet CSBS accreditation requirements. DFI will seek to maintain its accreditation in 2018 for both banking and mortgage.

In 2Q FY 2015, DFI was the eighteenth state in the nation to be accredited by the CSBS/American Association of Residential Mortgage Regulators (AARMR)<sup>6</sup> for mortgage supervision. The

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<sup>5</sup> Hawaii did not seek reaccreditation in 2010. With the new commissioner appointed in 2011, and updates made to the banking supervision, regulation, and examination, DFI received accreditation in 2012.

<sup>6</sup> AARMR is a trade organization for mortgage regulators.

CSBS/AARMR accreditation program sets high standards for state mortgage regulators nationwide. Currently, 24 out of 66 mortgage regulatory agencies meet CSBS/AARMR accreditation standards. The accreditation program includes the mortgage loan originator, mortgage loan originator companies, and mortgage servicer programs. Hawaii was also recognized for its robust regulatory scheme and oversight, as well its mature examination program.<sup>7</sup>

The following is DFI's contact information:

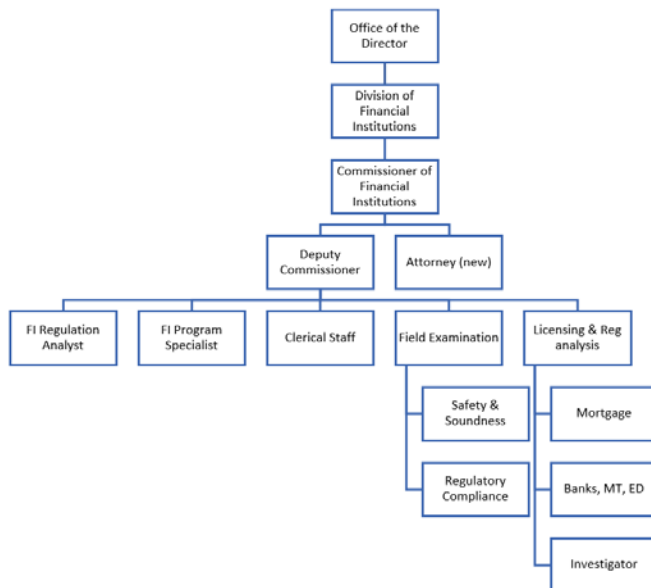
Office address: 335 Merchant Street  
Room 221  
Honolulu, Hawaii 96813

Mailing address: P.O. Box 2054  
Honolulu, Hawaii 96805

Phone: 586-2820

## COMPOSITION

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



<sup>7</sup> In 2009, the Hawaii Secure and Fair Enforcement for Mortgage Licensing Act was passed, giving DFI authority to supervise, regulate, and examine mortgage loan originators and mortgage loan originator companies. In late 2010/early 2011, DFI began its supervision. From 2011 to 2012, DFI provided training to the industry. In 2013, DFI began its examination program.

DFI is divided into two branches:

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

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

## **GOALS AND OBJECTIVES**

### **Goals**

DFI's mission reflects its role in protecting consumers and providing an avenue for companies to provide products and services to Hawaii's residents. The following are DFI's goals and objectives:

- (1) Maintain reliability and integrity of financial and operational information.
  - DFI does not receive any general funds. Instead, the division receives funding from its chartered and licensed companies and individuals. DFI operates like a business, as it balances revenues and expenses to provide oversight and supervision for the benefit of Hawaii's residents.
- (2) Comply with state and federal laws.
  - 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 DFI struggles to continue maintaining proper supervision of licensees.
  - DFI provides joint regulation, supervision, and examination of state-chartered financial institutions. DFI is the primary regulator for non-depository industries.

- (3) Have effective and efficient operations and programs.
  - DFI processes its work through electronic means. 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 on-site with the licensee, saving money for the licensee and travel times by the examiners. DFI still accepts paper inquiries and complaints from consumers, although more consumers have taken advantage of DFI's online consumer complaint process.
- (4) Achieve the division's strategic objectives.
  - Over the last five years, DFI's staffing has undergone a tremendous change, with the addition of 23 new staff members who work with technology to meet DFI's goals and objectives. In FY 2017, DFI added three new examiners. DFI's goals and objectives center on the orientation, training, and effective deployment of its examiners and providing best practices to licensees in a professional manner. Federal training programs administered by the FDIC and the Federal Reserve System are regularly used for this purpose, as are web-based programs provided by CSBS, the Risk Management Association, and the Hawaii Bankers Association. On-the-job training is also a valuable component of the training plan. DFI's goals also focus on recruiting new staff who will be able to adjust to the rapidly changing landscape of the financial services industry. New financial service products continue to be created, modified, and initiated by licensees regulated and supervised by DFI. Delivery methods have also expanded through use of the internet, cellular phones, and other mobile devices, as well as their impact upon cybersecurity. Consequently, it is challenging for examiners to stay up-to-date with the latest iteration of products, services, and delivery methods.

### **Strategic Plan**

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

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

This strategic plan guides DFI's objectives, and the policies to accomplish those objectives are embedded in its policy and operating manuals.

### **Action Plan**

DFI's action plan is built around its strategic plan. DFI has achieved or continues to work toward completion of its strategic goals. In FY 2018, DFI will revisit its strategic plan for the next five years by setting new goals, objectives, and action plans. DFI continues to explore various technology to improve its efficiency, databases, and outreach to consumers and licensees. In addition, DFI has joined other states in the supervisory oversight and examination of non-depository companies who conduct business in the United States and globally.

## **Performance Measurement**

DFI measures performance in two ways. The first measurement is empirical and involves financial and examination-based measurements of the fiscal health and regulatory compliance of DFI-regulated financial institutions. This measurement is critical, especially in the current climate of global turmoil in the financial services industry, and demonstrates DFI's key area of responsibility: to ensure the safety and soundness of Hawaii-chartered and licensed financial institutions. The second measurement involves DFI's internal throughput, i.e., how many complaints have been answered, how many applications have been processed, etc. This measurement is difficult to quantify, since the increasing complexity of inquiries makes reviewing applications and complaints and conducting investigations time- and resource-intensive. This measurement provides DFI with insight into how companies use innovations and solutions to address financial services. DFI is mindful that these measurements do not comprehensively indicate the division's efforts or the regulatory activity occurring at the state and federal level.

## **ACCOMPLISHMENTS**

### **(1) Special projects**

After passage of Hawaii's medical cannabis dispensary law, DFI conducted research for two years to find a banking solution for medical cannabis dispensaries. Through an arrangement with a Colorado credit union, the Commissioner of Financial Institutions provided an option for safe and sound banking services to the medical dispensaries. This arrangement is temporary until a Hawaii-based financial institution is able to provide banking services to the medical dispensaries. The Commissioner of Financial Institutions continues to provide training and oversight over financial institutions that weigh the risks associated with violating the federal laws regarding the Controlled Substances Act and the Bank Secrecy Act.

### **(2) Effective supervision**

Hawaii has six Hawaii state-chartered banks, two out-of-state chartered banks (CA and WA), two national banks, one intra-Pacific branch, and one foreign bank. DFI directly supervises the six Hawaii state-chartered banks, oversees with its sister states the two out-of-state chartered banks, and oversees the one foreign bank. All state-chartered banks are operating in a safe and sound manner and complying with regulatory laws and guidance. As of 2Q FY 2017, all state-chartered banks have reported increased earnings due in part to increased loan growth. DFI conducts multi-state examinations with other states for non-depository companies who conduct business in the United States and abroad.

### **(3) Use of technology for education**

DFI used social media to provide free education to its licensees and consumers. DFI frequently updates its website with regulatory guidance or training videos and sends "e-blasts" to affected industries. DFI uses YouTube videos to educate licensees about regulatory compliance issues. Every year, DFI uploads a training session to remind licensees about renewal requirements; this has increased compliance and reduced the processing time to renew licenses. DFI has also used Twitter to quickly alert followers to new developments or information about fraud, elder financial abuse, cybersecurity, disaster planning, DFI website updates, and upcoming training opportunities.



**(4) Use of technology for applications**

DFI uses the Nationwide Multistate Licensing System (NMLS) to process applications for the non-depository industries of mortgage loan originators, mortgage loan originator companies, mortgage servicers, money transmitters, and escrow depository companies. This technology requires licensees and applicants to respond to each question before submitting an application to DFI for review. DFI communicates with applicants through a secure email channel.

**(5) Use of technology for examination requests**

DFI is using a secure email system to both send and receive examination request information from licensees. Use of this technology has eased the communication between the examiner and licensee and reduced the number of days DFI spends on-site at any location.

**(6) Business continuity/disaster planning**

The Commissioner of Financial Institutions continues to participate with the financial institutions (all banks and credit unions) to improve communication and disaster planning.

**(7) CSBS District V**

The Commissioner of Financial Institutions serves as Chairperson for the CSBS District V, which consists of the commissioners for banking departments in the Western states of the United States. As Chair, the Commissioner of Financial Institutions coordinates semi-annual meetings of the District V states and territories to discuss emerging issues in supervision, regulation, and examination, with emphasis on issues affecting Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, and Washington. The meetings also include representatives of the FDIC, FRB, CFPB, and the Office of the Comptroller of the Currency. The Commissioner of Financial Institutions also serves on several CSBS committees, including the regulatory compliance, supervision, technology, and legislation committees with other state commissioners.

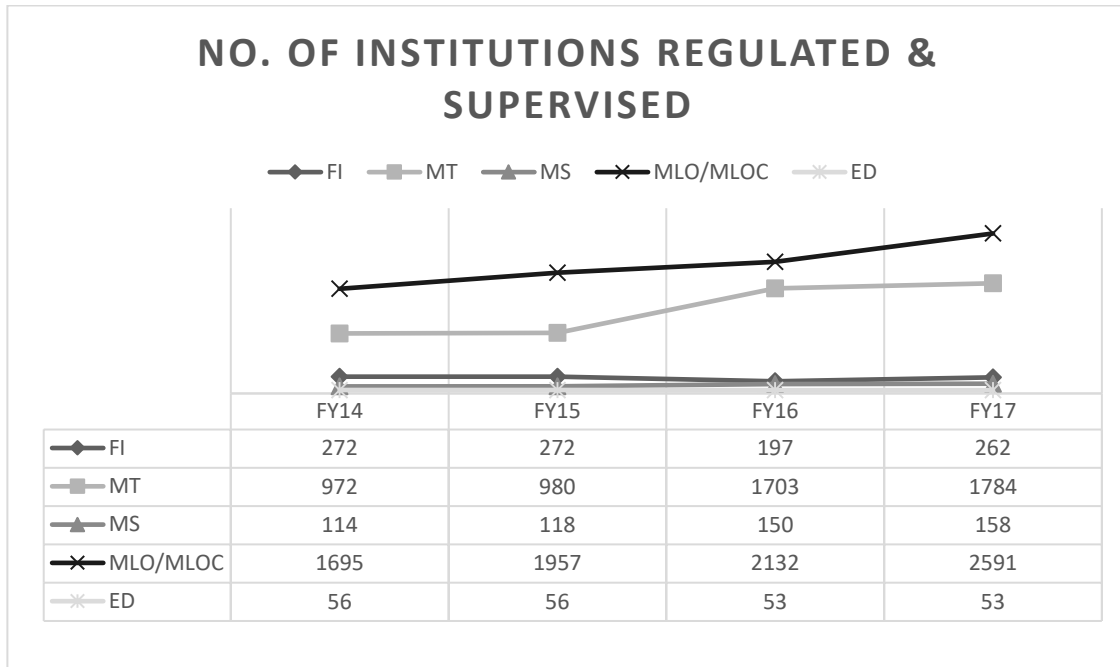
**(8) Efficiency**

DFI continued its efforts to automate the initial application and renewal process for mortgage loan originators, mortgage loan originator companies, mortgage servicers, money transmitters, and escrow depository companies. The limited success of this automation is due to statutory constraints that will be addressed in upcoming legislative sessions. With automation, additional electronic tools are necessary to implement document management by chartered institutions and licensees. The automation effort includes filing additional documentation through NMLS. All states can share regulatory information with one another to assist in ongoing supervision, licensing, and enforcement of multi-state licensees.

**(9) Workload**

DFI's workload has increased dramatically, both in the type and number of institutions regulated (*see* Chart 1: No. of Institutions Regulated & Supervised) and in the scope and complexity of the work.

**Chart 1: Number of Institutions Regulated and Supervised**



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

DFI has implemented its examination program for mortgage loan originator companies and mortgage servicers. With over 400 licensed companies that need to be examined at least once every five years, DFI added additional examiners to properly examine these companies. Currently, DFI has four field examiners conducting examinations. To improve efficiency, DFI has teamed with other states to conduct multi-state examinations on the larger mortgage loan originator companies and mortgage servicers. In addition, DFI has teamed with CFPB in examining very large (licensed in 35 states or more) mortgage loan originator companies and mortgage servicers.

**CRF FINANCIAL SUMMARY**

The following is DFI’s CRF financial summary for FY 2017:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,016,932	\$982,820	\$3,999,752	\$5,578,296

## **CONCLUSION**

The long-term impact of the global financial crisis of the last decade has created a “new normal” for financial service products and delivery of products and services. This evolution has increased supervisory oversight, as mandated by new federal laws and as a response to consumer expectations.

Overall, DFI and its federal partners have provided Hawaii’s state-chartered banks and financial institutions with the supervision necessary to operate in a safe and sound manner, with adequate capital and capable management. Oversight over non-depository financial institutions has increased due to their complex business models, innovative use of product delivery, and creative thinking to circumvent state and federal laws in providing products and services to consumers.

During FY 2017, while DFI maintained its established regulatory, supervisory, and licensing programs and devoted considerable resources to implementing the newer mortgage servicer and mortgage loan originator examination programs, the division continued finding solutions to overcome its resource challenges. Recent appropriations by the Legislature to increase DFI staffing will improve the division’s ability to provide appropriate ongoing supervision, regulation, and examination of licensees for the protection of consumers. DFI continues to use technology to inform and educate licensees and consumers, process applications from applicants and licensees, and conduct examinations on licensees.

The mission and goals of DFI have been met through its service to applicants, state-chartered institutions, state-licensed companies and individuals, and Hawaii’s residents. The focus on cybersecurity, information security, and information technology will continue as companies use technology more innovatively and creatively. DFI will endeavor to keep pace with the changing times through training opportunities and providing appropriate oversight over licensees.

**INSURANCE DIVISION (INS)**Website: [cca.hawaii.gov/ins](http://cca.hawaii.gov/ins)Email address: [insurance@dcca.hawaii.gov](mailto:insurance@dcca.hawaii.gov)**OVERVIEW**

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. INS licenses, supervises, and regulates all insurance transactions in the State under HRS title 24 (Insurance Code). Legal Service Plans also fall under the division's duties.

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

<u>Type of License</u>	<u>Licenses as of June 30, 2017</u>	<u>Licenses as of June 30, 2016</u>
Adjuster	2,705	2,467
Captive	221	208
Certificate of Authority (Insurer)	1,018	1,016
Foreign Risk Retention Group (Registered)	59	58
Fraternal Benefit Society	7	7
Health Maintenance Organization	4	3
Independent Bill Reviewer	29	31
Life Settlement Broker	26	18
Life Settlement Provider	20	20
Limited Lines Motor Vehicle Rental Company Producer	37	32
Limited Lines Portable	16	17
Limited Lines Producer	1,416	1,220
Managing General Agent	42	37
Mutual Benefit Society	5	6
Nonresident Producer	49,284	46,237
Producer	7,477	7,305
Purchasing Group (Registered)	223	218
Reinsurance Intermediary Broker	36	31
Service Contract Provider Registration	167	160
Surplus Lines Broker	1,900	1,781
<u>Vehicle Protection Product Warrantor Registration</u>	<u>38</u>	<u>33</u>
<b>TOTAL:</b>	<b>64730</b>	<b>60,905</b>

INS administers HRS chapters 431, 431C, 431K, 431L, 431M, 431P, 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.

The following is INS' contact information:

Office address: 335 Merchant Street  
Room 213  
Honolulu, Hawaii 96813

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

Phone: 586-2790

## COMPOSITION

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

The **Captive Insurance Branch** handles all aspects of licensing, regulating, and developing the State's captive insurance industry. With 208 active licenses as of December 31, 2016, Hawaii's captive insurance domicile is ranked 11<sup>th</sup> worldwide and 4<sup>th</sup> in the U.S. for largest captive domiciles. Pursuant to Act 1, SLH 2005, the Captive Insurance Administrative Fund defrays funds expended for INS' captive insurance program. Accordingly, the CRF does not fund the cost of this program. The branch has a captive insurance administrator, a secretary, a captive program specialist, and 13 captive insurance examiners.

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

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

- Licenses more than 1,300 domestic, foreign and alien insurers.
- Processes and collects more than \$159 million in premium and surplus lines taxes on behalf of the General Fund and workers' compensation levies on behalf of the Department of Labor and Industrial Relations.
- Processes and administers Qualified High Technology Business Investment Tax Credits and Low-Income Housing Tax Credits claimed against insurance premium taxes.
- Authorizes and monitors accredited and trustee reinsurers.
- Registers purchasing groups and foreign risk retention groups.
- Regulates self-insurers.
- Maintains security deposits.

- Monitors market share and competitive standards of mergers and acquisitions.

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

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

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

The **Legal Branch** advises the Insurance Commissioner, Chief Deputy Commissioner, branch chiefs, and INS on all legal matters and serves as the interface between INS and AG. The branch serves as hearings officers for administrative hearings as assigned by the Insurance Commissioner; researches insurance issues; interprets statutes and rules; reviews and analyzes administrative decisions and rulings; prepares legislative bills, legislative testimonies, and administrative rules; responds to requests for formal and informal legal opinions; assists other INS branches in enforcing compliance with the Insurance Code; and provides assistance to other branches in supervision, rehabilitation, and liquidation proceedings. The branch has a supervising attorney, three staff attorneys, and a legal assistant.

The **Licensing Branch** oversees licensing examinations and continuing education and issues licenses to qualified applicants. The major license types are: producer, nonresident producer, surplus lines broker, and adjuster. The branch maintains records of these licensees and is responsible for issuing continuing education deficiency notices and license renewal notifications; processing remittance checks; processing amendments to licensees' status; preparing and updating fee schedules; addressing licensing inquiries from the public; and providing confirmation of insurance licenses. The branch also works with the Insurance Commissioner's advisory board on continuing education requirements for producers. The branch has a licensing assistant, six licensing clerks, and an office assistant.

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

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

## **GOALS AND OBJECTIVES**

The following are INS' goals and objectives:

- (1) Continue meeting its statutorily mandated requirements.
  - INS will continue complying with the Insurance Code and the Hawaii Administrative Rules through proper personnel and caseload management.
- (2) Meet its statutorily mandated requirements for compliance with the Patient Protection and Affordable Care Act (PPACA) of 2010.
  - President Obama signed the PPACA into law in 2010. INS was the recipient of several grants from the Department of Health and Human Services beginning in 2010. The existing grant is being used to further develop effective rate review processes and to study the healthcare cost drivers of premiums. A second grant is being used to promote health insurance regulatory enforcement and to provide for consumer protections and education. INS continues to review and qualify PPACA health plans.
- (3) 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, INS will ensure the required level of funding for its financial surveillance resources. In addition, INS will review and submit to the Legislature, when necessary, proposed legislation for the adoption of NAIC model laws required for accreditation.
- (4) Develop a marketing strategy that will maintain 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. INS continues 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.

- (5) Further increase the efficiency of INS' operations.
  - INS continuously seeks to improve its computer systems and leverage the internet in its regulation of insurance. This includes reviewing current operating systems and exploring the adoption and use of national insurance regulatory systems to increase efficiency. INS developed the Hawaii Insurance Division System (HIDS), an integrated database with a licensing module and subsystems to support other INS functions. In providing better management of INS' voluminous transactions, HIDS has reduced manual processes, increased dissemination of information to the public, and increased efficiency through electronic receipt of premium taxes and payments.
- (6) Redevelop and redesign INS' database.
  - As INS looks to the future, it is focused on exploring turn-key systems to replace certain HIDS functions and to integrate with other divisions. Where necessary, these new systems will interface with the NAIC and the Hawaii Information Consortium, which provides the internet portal for the State of Hawaii's website. Keeping up with rapid technological changes in the insurance regulatory arena will improve INS' efficiency and provide better online services and information to consumers and insurance licensees.

## **ACCOMPLISHMENTS**

### **Compliance and Enforcement Branch**

- (1) Consumers and the insurance industry saved or recovered \$632,656 from insurers and agents with the branch's assistance in handling consumer and industry complaints.
- (2) The branch received 468 complaints and initiated nine formal actions: three license revocations, two cease and desists, two claim-related, one related to a late and incomplete response, and one reprimand.
- (3) The branch levied \$101,000 in fines.

### **Financial Surveillance and Examination Branch**

- (1) An independent FRSAP conducts a comprehensive review of all accredited state insurance departments at least once every five years to ensure compliance with NAIC standards. First accredited by the NAIC FRSAP in 1996, INS was reaccredited in 2001, 2006, and 2011 and successfully completed its latest review in August 2016, thereby receiving full five-year accreditation status.
- (2) A summary of activities administered by the branch during the last two calendar years follows (dollar amounts are rounded to the nearest thousand):



	<u>2016</u>	<u>2015</u>
Direct premiums written in Hawaii – licensed companies*	\$11,672,891,000	\$11,116,736,000
Surplus lines premiums written in Hawaii	\$ 252,947,000	\$ 231,060,000
Foreign risk retention group premiums written in Hawaii	\$ 7,357,000	\$ 6,590,000
Premium tax returns processed 9,400+	9,500+	
Premium taxes and levies collected**	\$ 165,285,000	\$ 159,280,000
Total Hawaii investments***	\$ 8,624,452,000	\$ 8,052,585,000

\* Includes annuities, fraternal benefit societies, mutual benefit societies, health maintenance organizations, and dental insurers that are not subject to premium taxes. Annuities and premiums for fraternal benefit societies, mutual benefit societies, health maintenance organizations, and dental insurers in 2016 and 2015 were \$6,904,831,000 and \$6,465,400,000, respectively.

\*\* Net of premium tax credits.

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

### Active Company Licenses and Registrations

Type of License	Companies Active as of December 31, 2016	Change During 2016		Companies Active as of December 31, 2015
		Admitted	Withdrew or Merged	
Life	365	2	4	367
Health****	20		1	21
Fraternal benefit societies	7			7
Health maintenance organizations	3			3
Mutual benefit societies	6			6
Property and casualty	619	19	7	607
Title	13			13
Dental	1			1
Licenses authorized in Hawaii	1,034	21	12	1,025
Foreign risk retention groups (Registered)	57	3	4	58
Purchasing groups (registered)	217	8	10	219
Total active licenses and registrations	1,308	32	26	1,342

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

### Health Insurance Branch

- (1) For FY 2017, the branch received 108 complaints and written inquiries, with the resolution of complaints saving consumers \$75,967.
- (2) For FY 2017, the branch reviewed 100 rate and policy form filings, resulting in consumers saving \$10,153,469.
- (3) The branch conducts independent external reviews of managed care plan coverage decisions that are appealed by the plan member pursuant to HRS chapter 432E. For FYs 2016 and 2017, the branch received 14 external reviews.

- (4) The branch was awarded a grant from the Department of Health and Human Services for improving its health insurance premium rate review program. Implementation of those improvements are underway. The branch has also refined the policies and procedures governing the oversight of rates in the small group and individual markets and is studying the impact of healthcare cost drivers on premiums to inform health policy.

### **Insurance Fraud Investigations Branch**

- (1) During FY 2017, the branch received 350 referrals from insurance companies, various agencies, and the public. Of those accepted for prosecution, criminal indictments were obtained against 35 individuals who submitted fraudulent claims totaling \$328,867 for the fiscal year.
- (2) The branch obtained restitution orders totaling \$1,013,665, with \$17,397 payable to the Crime Victim Compensation Fund, \$6,995 in fines to the State, and \$4,395 paid to the General Fund. There were also probation service fees in the amount of \$3,750, miscellaneous fees of \$1,015, and \$505 paid to the Criminal Injuries Compensation Fund.

### **Rate and Policy Analysis Branch**

- (1) During FY 2017, the number of filings reviewed remained steady as compared to FY 2016.
- (2) Review of property and casualty rate filings saved consumers over \$2.4 million.

### **CRF FINANCIAL SUMMARY**

The following is INS' CRF financial summary for FY 2017:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,977,376	\$1,770,397	\$7,747,773	\$8,629,084

### **CONCLUSION**

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

**OFFICE OF ADMINISTRATIVE HEARINGS (OAH)**Website: [www.cca.hawaii.gov/oah](http://www.cca.hawaii.gov/oah)Email address: [oah@dcca.hawaii.gov](mailto:oah@dcca.hawaii.gov)**OVERVIEW**

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

OAH also is responsible for conducting administrative hearings on: (1) procurement cases from all agencies and divisions of the State and its four counties that arise under the State's Procurement Code, HRS chapter 103D; (2) certain kinds of motor vehicle dealer, distributor, and manufacturer disputes under HRS chapter 437, part 2; (3) appeals of benefit determinations from the Employer-Union Health Benefits Trust Fund under a Memorandum of Understanding; and (4) appeals of benefits determinations from the Hawaii Employees' Retirement System under a Memorandum of Understanding.

Lastly, OAH provides administrative support to the Medical Inquiry and Conciliation Panel (MICP) and the Design Claim Conciliation Panel (DCCP). The MICP program conducts informal conciliation hearings on inquiries regarding health care providers before any claims against those providers can be filed as lawsuits. Similarly, the DCCP program conducts informal conciliation hearings on claims against design professionals (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, in the event any party still wishes to pursue the matter via the courts. An annual report is separately produced regarding MICP and DCCP activities.

The following is OAH's contact information:

Office and mailing address: 335 Merchant Street  
Suite 100  
Honolulu, Hawaii 96813

Phone: 586-2828

Fax: 586-3097

## COMPOSITION

OAH staff responsible for CRF-related activities are: Senior Hearings Officer, division secretary, three additional hearings officers, one legal clerk, and an MICP/DCCP clerk.

## GOALS AND OBJECTIVES

The following are OAH's goals and objectives:

- (1) Conduct contested case hearings and issue well-reasoned, recommended decisions in a fair and impartial manner and as expeditiously as possible.
  - OAH has implemented additional processes and procedures to ensure all cases are timely processed, from the date of filing to the issuance of a final order:
    - Include additional data fields in OAH's database so that all pending cases can be tracked for timeliness throughout the entire hearings process.
    - Inventory all OAH cases every February and August of each year.
    - Dispose of cases where no party has taken any action.
- (2) Make available to the public all decisions issued by CRF-related boards, commissions, programs, and divisions.
  - OAH makes available online all procurement protest decisions shortly after it notifies the parties of the decisions. Since January 2009, OAH has posted on its website all decisions in other areas.
  - Through new software, OAH redacts personal information protected by privacy laws from decisions and makes decisions ADA-compliant.
  - 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.

## ACCOMPLISHMENTS

The following table summarizes the CRF-related activities OAH conducted in FY 2017:

<b>Type of Proceeding Conducted</b>	<b>Number</b>
Pre-hearing conferences	52
Status conferences	47
Motions	25
Hearings	59

The following table summarizes the number of cases and relative percentage of CRF-related activities OAH conducted in FY 2017.

<b>DCCA Divisions Referring Matters to OAH</b>	<b>Cases Filed</b>	<b>%</b>
Insurance Division (denial of personal injury protection benefits)	178	64%
Regulated Industries Complaints Office (petitions for discipline and appeals from citations for unlicensed activities)	47	17%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, violations of securities laws)	13	5%
Professional and Vocational Licensing (license denials)	17	6%
Hawaii Employees' Retirement System	11	4%
Procurement protests	7	3%
Other CRF-related hearings	4	1%

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

## **CONCLUSION**

OAH will continue working closely with all CRF-related boards, commissions, programs, and divisions to ensure cases are processed as expeditiously as possible and all participating entities and the public have access to OAH's case database and archives of past decisions.

**OFFICE OF CONSUMER PROTECTION (OCP)**Website: [cca.hawaii.gov/ocp](http://cca.hawaii.gov/ocp)Email address: [ocp@dcca.hawaii.gov](mailto:ocp@dcca.hawaii.gov)**OVERVIEW**

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

OCP's enforcement jurisdiction encompasses a wide range of businesses and commercial activities, including, but not limited to: advertising violations, door-to-door sales, gift certificates, offers of gifts and prizes, going-out-of-business sales, refunds and exchanges, collection practices, credit sales, health clubs, towing, fine prints, and motor vehicle rentals. More recently, OCP has investigated and initiated enforcement actions in numerous consumer fraud cases stemming from mortgage foreclosure rescue scams under HRS chapter 480E. *See* Table 1: Laws Enforced by OCP.

OCP received approximately 700 consumer complaints in FY 2017. The actual number of OCP complaints varies from year to year depending on circumstances. Many factors may influence the number of complaints to OCP in any given year, such as the number of victims impacted by a business' illegal conduct. During the past several years, OCP averaged approximately 1,000 consumer complaints per year.

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

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, OCP initiates investigations of problematic commercial practices. Third, OCP staff attempts to provide as much telephonic 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, OCP partners with numerous public and private agencies to promote consumer protection throughout Hawaii. OCP will continue to implement these strategies for the foreseeable future.

The following is OCP's contact information:

Honolulu office address and phone:	Leiopapa A Kamehameha Building (State Office Tower) 235 South Beretania Street Suite 801 Honolulu, Hawaii 96813 586-2630
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Wailuku office address and phone: 1063 Lower Main Street  
Suite C-216  
Wailuku, Maui 96793  
243-4648

Hilo office address and phone: Bank of Hawaii Building  
120 Pauahi Street  
Suite 212  
Hilo, Hawaii 96720  
933-8845

## COMPOSITION

OCP has four sections:

The **Consumer Resource Center (phone: 587-4272)** performs intake of complaints for 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 OCP for review, closure, or further investigation. In FY 2017, the center resolved approximately 972 OCP complaint inquiries without a formal complaint. In addition, a section of the center answers telephonic requests for prior complaint history. If circumstances permit, consumers can also visit OCP's Honolulu office to view hard copies of case files. Prior to the release of any file, OCP's staff reviews its contents to ensure legally protected private information is not disclosed.

The **Investigation Section (phone: 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 Top Ten Complaints.

The **Residential Landlord-Tenant Information Center (phone: 586-2634, Consumer Dial: 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. OCP supplements this function by making available additional information on DCCA's 24-hour Consumer Dial Information Service and on its website. OCP also publishes the Hawaii Residential Landlord-Tenant Handbook, of which thousands are distributed each year.

The **Legal Section (phone: 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.

OCP also provides the following services:

### Consumer Education

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

consumer information through its website and its Consumer Dial Information Service, in which interested persons may call 24 hours a day and receive information on a variety of topics. OCP staff participates in numerous educational forums in which thousands of consumers and business persons have received extensive information about consumer protection in Hawaii.

### **Neighbor Island Assistance Requests**

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

## **GOALS AND OBJECTIVES**

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

- (1) Maintain fiscal responsibility on behalf of DCCA and OCP operations.
- (2) Support innovative legislation designed to protect consumers in Hawaii.
- (3) Proactively initiate cases against problematic business practices before widespread consumer harm occurs.
- (4) Disseminate consumer education to the largest possible populace.
- (5) Facilitate the exchange of information with a wide array of civil and criminal law enforcement agencies.
- (6) Provide in-house training to OCP investigators and attorneys.

## **ACCOMPLISHMENTS**

### **(1) Consumer Education**

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

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

In FY 2017, OCP responded to more than 80,000 requests and inquiries from the public, including more than 10,000 requests for information through its Residential Landlord-Tenant Information Center. *See* Table 2: OCP Information Requests.



**(2) Legislation**

OCP testified and provided input on numerous measures related to consumer protection during the Twenty-Ninth Hawaii State Legislature of 2017, including bills relating to the Residential Landlord-Tenant Code, foreclosures, credit reports, payday lending, motor vehicle rentals, social security number protection, and self-service storage facilities.

**(3) Cases**

OCP handled many significant cases in FY 2017 that involved nearly every area of consumer protection. These cases involved violations of Hawaii’s consumer protection laws governing mortgage rescue fraud, data breaches, gift certificates, door-to-door sales, refunds and exchanges, and unfair or deceptive trade practices, including complex multistate enforcement actions based on unfair or deceptive marketing practices by pharmaceutical companies.

Through its efforts, OCP recovered more than \$3,262,847 in fines and penalties and hundreds of thousands of dollars in restitution for Hawaii consumers.

**CRF FINANCIAL SUMMARY**

The following is OCP’s CRF financial summary for FY 2017:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,572,027	\$331,921	\$1,903,948	\$3,262,847

**CONCLUSION**

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

**Table 1: Laws Enforced by OCP**

HRS section 127A-30	Rental or sale of essential commodities during a state of emergency; prohibition against price increases
HRS section 290-11	Vehicles left unattended on private and public property; sale or disposition of abandoned vehicles
HRS chapter 437D	Motor Vehicle Rental Industry Act
HRS chapter 446	Debt Adjusting
HRS chapter 446E	Unaccredited Degree Granting Institutions
HRS chapter 476	Credit Sales <sup>8</sup>
HRS chapter 477E	Fair Credit Extension
HRS section 480-2	Unfair competition, practices, declared unlawful <sup>9</sup>
HRS chapter 480D	Collection Practices <sup>10</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>11</sup>

<sup>8</sup> HRS section 476-31. OCP has also filed cases based upon the Federal Truth in Lending Act and the State's usury statute, HRS chapter 478.

<sup>9</sup> 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>10</sup> See also HRS section 443B-20 (Unfair competition, unfair or deceptive acts or practices of collection agencies).

<sup>11</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 OCP may receive, investigate, and attempt to resolve any dispute arising under HRS chapter 521.

**Table 2: OCP Information Requests**

<b>REQUEST AND INQUIRIES</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
Requests for Prior Complaint History	8,200	8,603	6,238
Website Inquiry General Information	54,977	34,048	34,386
Website Inquiry Landlord/Tenant Information	9,384	16,488	19,098
Requests for Landlord/Tenant Information	11,431	10,441	10,853
Complaint Inquiries	14,561	14,180	9,920
Requests for Records Review	4	2	12
<b>TOTAL</b>	<b>98,557</b>	<b>83,762</b>	<b>80,507</b>

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

<b>DISPOSITIONS</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
Complaint Withdrawn	3	4	4
Legal Action & Referrals to Legal	153	214	85
Advisory Contact	17	15	6
Civil Dispute/Personal Matter	43	51	43
Monetary Threshold	1	0	0
Complainant Uncooperative	28	16	12
Consumer Complaint Resolved	19	24	23
Respondent Died or Bankrupt	35	15	10
Business vs. Business	9	17	18
No Jurisdiction	35	16	8
Refer to Investigation	92	220	128
Other	3	20	4
Warning Letter	27	19	8
Insufficient Evidence	210	93	80
Transferred to Other Government Agency	289	175	191
No Violation	24	20	27
Information Only/Inquiry	57	51	88
<b>TOTAL</b>	<b>1,045</b>	<b>970</b>	<b>802</b>

**Table 4: OCP Top Ten Complaints**

<b>SUBJECT</b>	<b>FY 2015</b> (rank/total)	<b>FY 2016</b> (rank/total)	<b>FY 2017</b> (rank/total)
Internet Crime Complaints (NWC3)	#6.49		
Internet Transactions (PC/Software/Server)		#4.73	#9.25
Exercise/Health Club (Exercise, Devices, Clubs, Foods)	#1.271		#4.42
Scams	#3.68	#6.46	#7.29
Real Estate	#4.60	#8.37	#5.34
Loans/Mortgage Related Services	#7.47		
Appliances (Purchase/Repair)		#5.52	#7.29
Travel/Vacation	#5.59	#1.84	#2.78
Identity Theft/Security Breach	#10.36	#7.39	#6.30
Transportation (Sale/Repair/Rent/Tow/Parking)	#2.91	#2.83	#1.84
Gift Certificate		#10.33	
Service Agreements/Warranties/Insurance	#8.45	#9.34	
Food/Drink Service	#9.39	#3.61	
Investment/Financial			#3.49
Education (Trade, Vocational, Home study, Unaccredited Degree Granting Institution)			#8.27
Medical (Hospital, Clinic, Convalescence, Equipment, Service Company, Laboratory)			#10.23
Professional Services (Attorney, Accountant, Bookkeeper, RICO)			#10.23
Utilities (Electric, Telephone, Cable)			#10.23

**Table 5: OCP Neighbor Island Assistance FY 2017**

<b>DIVISION</b>	<b>HILO</b>	<b>MAUI</b>	<b>TOTAL</b>
Division of Financial Institutions	2	2	4
Business Registration	8	6	14
Cable Television	1	0	1
Insurance Division	7	1	8
Division of Consumer Advocacy	0	0	0
Professional and Vocational Licensing	2	5	7
Regulated Industries Complaints Office	56	23	79
Non-Departmental Related	26	25	51
Other DCCA Divisions	0	0	0
<b>TOTAL</b>	<b>102</b>	<b>62</b>	<b>164</b>

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

Website address: [cca.hawaii.gov/pvl](http://cca.hawaii.gov/pvl)

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

**OVERVIEW**

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations of 49<sup>12</sup> different professions and vocations. Twenty-five licensing regulatory boards and commissions are administratively attached to DCCA/PVL, as well as 24 licensing programs whose board duties and functions are vested in the DCCA Director. The division provides staff support to licensing regulatory boards, commissions, and programs, handles applications and licenses, reviews and processes renewals, and maintains license records. The division provides guidance to properly implement licensing laws and administrative rules for the 49 professions and vocations. Additionally, PVL responds to email and phone inquiries on whether a person or an entity is properly licensed. This service assists consumers in deciding whether to use the services of that person or entity.

PVL continues exploring ways to enhance public accessibility to licensing information, the licensing process, and its licensee roster. PVL's website provides licensing information for all 49 licensing areas, fillable license applications, publications, links to the HRS and Hawaii Administrative Rules (HAR), and the ability to request an application or email board or program staff. The website also includes FAQs, a link to online services, a link to board meeting schedules and agendas, board meeting minutes, the ability to request a license verification, and a Geographical Report of current licensees organized by licensee type, island, and entity type. The Geographical Report is updated regularly to reflect the number of current licensees with licenses issued by PVL. It is a useful tool for those interested in the number of licensees, as organized by their professions and geographic locations.

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

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<sup>12</sup> This number will increase to 51 with the addition of the required regulation of veterinary technicians, which will take effect on July 1, 2018, pursuant to Act 147, SLH 2016, and the regulation of appraisal management companies, which will take effect on January 1, 2018, pursuant to Act 118, SLH 2017.

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

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

The following is PVL's contact information:

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

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

## COMPOSITION

PVL is divided into four branches:

The **Licensing Branch (phone: 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 PVL's main public call-in line, which normally exceeds 7,000 calls per month. 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 telephone inquiries. Both sections of the Licensing Branch use 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: 586-2690)** has a staff attorney, supervising executive officer, executive officers, program specialists, and secretaries. The branch handles board affairs such as coordinating, preparing, facilitating, and recording board meetings; ensuring board compliance with applicable laws that guide and direct its conduct; and implementing board decisions on applications, policies and procedures, and disciplinary actions. The branch also responds to requests for interpreting licensing laws and rules, oversees licensing and examination activities, and guides and assists with regulatory compliance issues. The same activities are done for the 24 programs (absent the necessity of board

meetings) on behalf of the DCCA Director. The Administration Branch also performs substantial coordination and facilitation activities with other state, county, and federal agencies involved with licensing and regulatory issues.

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

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

All PVL branches collectively work toward efficient and expedient processing of applications, licenses, and renewals to ensure the public has choices among competent and licensed practitioners.

In FY 2017, 87.92% or 54,720 licensees renewed their licenses online, as compared to 87.50% or 47,763 licensees who renewed online in FY 2015. PVL encourages licensees to use its online renewal system, which helps them save valuable time and effort. The continued success of this system is attributed to the user-friendliness and efficiency of PVL's online processing, which reduces the processing of renewals from 14 to 21 business days to three to five business days.

Also in FY 2017, PVL received and responded to 69,385 emails, as compared to 44,467 emails PVL received and responded to in FY 2016. This increase is likely due to licensees and consumers having greater accessibility to modern technological hardware and increased computer savviness.

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

## **GOALS AND OBJECTIVES**

- (1) PVL is working toward allowing consumers to complete the following tasks online: submit initial applications for licensure, make address changes, and request pocket identification and wall certificates.
- (2) PVL is striving to replace its antiquated Application/Licensee Integrated Automated System (ALIAS) database. The division will be looking to secure the professional services of a vendor to implement a



solution for the licensing of soon-to-be 51 different professions and vocations in Hawaii, as well as manage the ongoing supervision, regulation, examination, and renewal of licenses.

(3) Two new license types have been added to PVL's growing list of regulated areas. In accordance with Act 147, SLH 2016, effective July 1, 2018, all veterinary technicians will be required to register with PVL. In addition, pursuant to Act 118, SLH 2017, effective January 1, 2018, all appraisal management companies will be required to register with DCCA.

(4) PVL is working with Kapiolani Community College to provide guidance and training on proper telephone etiquette for PVL staff. It will mainly focus on how to deal with difficult people and showing customers the division cares – an essential component of excellent customer service.

(5) PVL is invited to participate in cardiopulmonary resuscitation (CPR) training in the fall. The division is grateful to Kapiolani Community College's paramedics program for offering this wonderful opportunity to become certified.

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

(7) The Examination Branch continues making necessary adjustments to incorporate new technologies, updated databases, and ongoing program requirements. Staff will continue working closely with executive officers and the Licensing Branch and use internally developed processes to improve the transmission and maintenance of exam-related documents to the Licensing Branch. The branch will continue looking for appropriate ways to improve the exam portion of the licensing process to benefit the applicant population and PVL's operations, including participating in PVL process mapping and identifying other opportunities to increase exam efficiency. PVL process mapping will help the branch identify "pain points" in existing examination processes and allow staff to streamline processing activities, provide timely services, and ultimately provide a more efficient application process.

(8) The Real Estate Branch (REB) will continue improving the offering and delivery of real estate prelicensing and continuing education (CE) courses. Rulemaking continues for HAR chapter 99 for real estate brokers and salespersons and for HRS chapter 514B. REB will continue educating its licensees on the topic of condominiums through the Real Estate Commission's (REC) mandatory core course. For the condominium program, REB solicited and collected suggestions from stakeholders in the condominium community and is continuing its revision of rules for HRS chapter 514B. REB will further work to enhance online public access to condominium projects, Association of Unit Owners registrations, and further develop its communication efforts with unit owners, developers, boards, associations, and the public. The Program of Work for REC and REB also includes developing and implementing a new registration program

for condominium projects. For a comprehensive report on REB's and REC'S FY 2017 goals and objectives, please refer to [cca.hawaii.gov/reb/reports/](http://cca.hawaii.gov/reb/reports/) to view their Annual Report for fiscal year ending June 30, 2017.

## **ACCOMPLISHMENTS**

### **(1) Significant Online User Activities**

In pursuing the division's objective of improving and expanding customer online services, the ability to allow PVL licensees to renew their licenses online continues to be successful with an online renewal user rate of 91.4% for FY 2016 and 87.92% for FY 2017.

The webpage for PVL's License Search online system was viewed 2,311,354 times in FY 2017. This service is a popular, valuable, and useful tool for those who want information on licensees, including whether a licensee is currently licensed and whether any formal disciplinary actions have been taken against the licensee.

PVL's online surety system, which allows insurance companies to submit general liability and workers' compensation insurance updates for contractor and pest control licensees, continues to be successful by reducing PVL's insurance processing time from 14 to 21 business days to three to five business days. PVL received 2,533 submittals online. in FY2017.

PVL continues to enhance and improve its MyPVL online service, which allows licensees to access their PVL licensing and online renewal information via a single online user account 24/7, 365 days a year. This initiative has proven incredibly successful, with 120,337 registered accounts with 140,548 linked PVL licenses as of FY 2017.

In FY 2017, PVL permitted online submission of late renewals or restorations for the following license types: electrologists, occupational therapists, mental health counselors, respiratory therapists, contractors, marriage and family therapists, physical therapist assistants, dispensing opticians, elevator mechanics, massage therapists, acupuncturists, nurses, nursing home administrators, barbers, beauty operators, psychologists, uniform athlete agents, landscape architects, land surveyors, and professional engineers. In the past, PVL accepted only hardcopy submittals, which it processed manually.

In FY 2017, PVL received 3,108 guard employee (GDE) license applications, with 1,460 of those applications submitted online, or 46.98% of those applications received via PVL's Initial Online GDE Application Submittal System.

### **(2) Significant Branch Activities**

As in past years, in anticipation of hurricane season in Hawaii, PVL secured an updated list of licensed contractors and other professions and vocations, should this information need to be retrieved quickly in an emergency situation. Fortunately, there was no need to access this secured data as a result of no recent hurricane impacts.

To comply with Act 115, SLH 2016, Relating to Health Care Professionals, the Administration Branch worked closely with the Hawaii Information Consortium (HIC) to give the Department of Health (DOH) the capability to download from MyPVL email addresses for physicians, osteopathic physicians, physician assistants, advanced practice registered nurses, and naturopathic physicians. PVL may share these email addresses only with other state or federal agencies upon request and for purposes of public health and safety.

On March 16, 2017, the State Senate graciously sponsored a resolution to congratulate the State Board of Nursing (BON) as it observed its 100<sup>th</sup> anniversary. It was a momentous occasion, as the Executive Officer and several board members were present at the Senate floor presentation. The first BON meeting convened on July 11, 1917.

The Executive Officer for the Athletic Trainers Program met with the State Auditor and his staff on April 26, 2017, to discuss the statutorily mandated sunset review of athletic trainers. The Auditor's Report was released in September 2017 and indicated the regulation of athletic trainers should continue. The Department concurred with the recommendations of the Auditor.

The Licensing Branch received approximately 20,309 new applications and issued 14,923 licenses. In addition, approximately 248,306 license-related changes were processed by staff, such as address changes, name changes, and changes in broker, to name a few. One of the goals of the Licensing Branch was to address the problematic issues with incoming telephone calls on the 586-3000 telephone number. Members of the public (applicants and licensees) complained that they were unable to get through the main telephone number. The Licensing Branch chose to use a Hosted VoIP Solution. The "go live" date of VoIP was November 22, 2016. While the complaints have subsided somewhat, the problem is still ongoing, as PVL strives to provide the best customer service to its valued customers.

The Examination Branch maintained processing of applicant eligibility for testing, as well as post-examination results, in a timely manner. The branch worked closely with the testing organizations, applicants, and affected PVL staff, such as its executive officers and its Licensing Branch, to ensure the transitions were as smooth and seamless as possible. The Examination Branch continued working with the national board associations and testing agencies regarding requests from applicants for special testing accommodations. All requests were handled in a timely and professional manner. The branch continued streamlining internal processes for greater efficiency by reviewing and reassessing existing online systems and reevaluating existing forms, logs, and filing systems.

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 CE system that allowed real estate licensees to view the number of CE hours required and earned for the current licensing period and their CE history, renew their licenses online, and search for future CE courses offered by approved CE providers. Additionally, real estate principal brokers and brokers-in-charge can monitor and view the current CE hours, CE history, and license status of all licensees associated with the brokerage. This system is simple to use and updated daily, and information may be found at <https://pvl.ehawaii.gov/rece/app/welcome.html>.

REB continued educating the condominium community by presenting "Condorama" in the State Capitol Auditorium in April 2017, with assistance from the Community Associations Institute. This condominium educational seminar was free-of-charge and featured a panel of speakers on topics including the rights and duties of directors and owners, the importance of reserves, effective rulemaking, and the ABCs of condominium insurance. Condorama is the first in a series of seminars featuring speakers recognized in the condominium community for their expertise in law, property management, and insurance.

For a comprehensive report on matters addressed by REB and REC in FY 2016, please refer to <http://cca.hawaii.gov/reb/reports/> to view their Annual Report for fiscal year ending June 30, 2017.

**(3) Significant Division Activity**

The PVL team has been expeditiously working with a vendor since late June to develop its business processing maps (current and future states). The team consists of PVL branch chiefs and supervisors, in addition to key staff who have knowledge of and experience with PVL's numerous business processes. Many meetings have been conducted, and staff have been devoting their precious time and resources to make this project a success.

**CRF FINANCIAL SUMMARY**

The following is PVL's CRF financial summary for FY 2017:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,586,284	\$1,233,111	\$5,819,395	\$7,814,387

**CONCLUSION**

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

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

**Table 1: PVL Statistical Overview**

<b>Number of . . .</b>	<b>FY 2016</b>	<b>FY 2017</b>
Applications received	18,839	20,309
Applicants licensed	14,239	14,923
Licenses renewed	68,400	67,179
Permits issued	2,178	1,533
Changes processed	222,045	248,306
Calls received by Licensing Branch	92,765	132,000
Current licensees	156,554	155,887
<b>Total licensee population (all statuses, i.e., current, forfeited, delinquent)</b>	<b>418,190</b>	<b>429,379</b>

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

<b>Boards and Commissions (shown by asterisk) and Programs</b>	<b>FY 2016</b>	<b>FY 2017</b>
Accountants*	3,509	3,675
Activity Desks	852	954
Acupuncturists*	725	754
Athletic Trainers	198	164
Barbering and Cosmetology*		
Barbers	1,400	1,492
Barber Shops	194	209
Beauty Operators*	8,589	9,179
Beauty Instructors	112	120
Beauty Schools	11	10
Beauty Shops	1,295	1,403
Behavior Analysts	147	185
Boxing (all categories)*	20	15
Cemeteries and Pre-need Funeral Authorities	22	22
Chiropractors*	595	642
Collection Agencies	650	582
Contractors*	13,053	12,804
Dentists*	1,501	1,553
Community Service Dentists	23	31
Dental Hygienists	1,084	1,147
Community Service Dental Hygienists	1	3
Dispensing Opticians	200	188
Electricians (all categories)*	3,644	3,785
Plumbers (all categories)*	1,222	1,268
Electrologists	18	16
Elevator Mechanics*	235	223
Employment Agencies	65	67

Engineers, Architects, Surveyors, and Landscape Architects:*		
Engineers	6,693	7,046
Architects	2,350	2,488
Surveyors	209	213
Landscape Architects	147	148
Hearing Aid Dealers and Fitters	125	133
Marriage and Family Therapists	432	446
Massage Therapists*	8,412	8,144
Massage Establishments	895	866
Medical and Osteopathy*		
Physicians	8,794	9,332
Podiatrists	81	85
Osteopaths	906	899
Physician Assistants	358	424
Emergency Medical Technicians	774	857
Mobile Intensive Care Technicians	499	542
Mental Health Counselors	355	407
Mixed Martial Arts	152	207
Motor Vehicle Dealers*	272	261
Motor Vehicle Dealer Branches	39	34
Motor Vehicle Distributors	30	33
Motor Vehicle Manufacturers	43	44
Motor Vehicle Salespersons	1,827	1,672
Motor Vehicle Others (Auction, Broker, Consultant)	11	9
Motor Vehicle Repair Dealers*	712	749
Motor Vehicle Mechanics	1,528	1,624
Naturopaths*	140	152
Nursing*		
Registered Nurses (RN)	25,410	28,313
Licensed Practical Nurses (LPN)	2,759	3,045
Advanced Practice Registered Nurses (APRN)	1,436	1,572
Nurse Aides	7,909	7,962
Nursing Home Administrators	174	171
Occupational Therapists	728	612
Occupational Therapists Assistants – licensure effective 7/1/17	-	129
Optometrists*	412	431
Pest Control Operators*	199	182
Pest Control Field Representatives	226	208
Pharmacists*	2,674	2,810
Pharmacies	288	288
Wholesale Prescription Drug Distributors	58	59
Miscellaneous Permits	666	712
Physical Therapists	1,806	1,628
Physical Therapist Assistants	316	312
Port Pilots	9	8
Private Detective Agencies*	44	36

Private Detectives	114	110
Guard Agencies	81	77
Guards	104	99
Guard Employees	14,644	12,062
Psychologists*	1,180	1,213
Real Estate Appraisers	532	559
Real Estate Brokers*	6,572	6,378
Real Estate Salespersons	12,583	11,769
Real Estate Branch Offices	100	103
Condominium Hotel Operators	33	31
Respiratory Therapists	651	754
Social Workers	2,209	2,073
Speech Pathologists*	652	724
Audiologists	80	93
Travel Agencies	1,136	1,198
Uniform Athlete Agents	9	7
Veterinarians*	572	577
<b>TOTAL</b>	<b>161,516</b>	<b>163,611</b>

‡ Occupational therapist assistants were added as a regulated profession effective January 1, 2017, pursuant to Act 209, SLH 2014.

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

License Types	FY 2014	FY 2015	FY 2016	FY 2017
Accountants	2,362 (95.5%)		2,479 (98.3%)	
Accountancy Firm Permits to Practice	361 (86.4%)		319 (86.9%)	
Activity Desks	195 (86.7%)		235 (90%)	
Acupuncturists		618 (96.41%)		647 (94.59%)
Architects	2,034 (94.56%)		2,178 (96.8%)	
Audiologists	61 (95.3%)		74 (100%)	
Barbers	905 (79%)		939 (76.1%)	
Barber Shops	115 (78.8%)		124 (84.4%)	
Beauty Operators	6,087 (86.3%)		6,568 (86.4%)	
Beauty Instructors	69 (87.3%)		86 (89.6%)	
Beauty Shops	781 (80.1%)		929 (85.5%)	
Chiropractors	494 (95.6%)		518 (94.5%)	
Contractors		6,291 (62.62%)		6,797 (61.36%)
Community Service Dentists	16 (84.2%)		21 (95.5%)	
Dental Hygienists	881 (95.4%)		952 (94.6%)	
Dentists	1,301 (94.5%)		1,342 (94.8%)	
Dispensing Opticians	152 (100%)		163 (92.61%)	
Electrologists		15 (88.24%)		12 (85.71%)
Electricians	2,941 (90.8%)			3,002 (90.37%)

## Professional and Vocational Licensing Division (PVL)

Elevator Mechanics	150 (72.46%)		202 (95.73%)	
Emergency Medical Technicians (basic)	373 (64.6%)		387 (55.8%)	
Emergency Medical Technicians (paramedic)	362 (78.5%)		367 (77.4%)	
Guards	79 (92.94%)		74 (92.5%)	
Guard Agencies	48 (81.36%)		54 (87.1%)	
Guard Employees	6,464 (90.07%)		7,585 (89.55%)	
Hearing Aid Dealers and Fitters	92 (92.9%)		103 (95.4%)	
Landscape Architects	130 (90.28%)		140 (97.9%)	
Land Surveyors	181 (90.05%)		200 (96.62%)	
Marriage and Family Therapists	267 (91.75%)			384 (94.58%)
Massage Establishments	553 (88.48%)		604 (92.92%)	
Massage Therapists	6231 (92.5%)		6,449 (93.4%)	
Mental Health Counselors	239 (90.19%)			328 (93.71%)
Motor Vehicle Auctions	4 (80%)		4 (100%)	
Motor Vehicle Brokers	1 (100%)		1 (100%)	
Motor Vehicle Branches	26 (92.86%)		32 (96.97%)	
Motor Vehicle Consumer Consultants	3 (100%)		4 (100%)	
Motor Vehicle Dealers	201 (85.9%)		213 (90.25%)	
Motor Vehicle Salespersons	1,221 (90.92%)		1,274 (94.3%)	
Motor Vehicle Distributors	24 (92.31%)		27 (100%)	
Motor Vehicle Manufacturers	36 (97.3%)		35 (100%)	
Motor Vehicle Repair Dealers		473 (91.67%)		486 (82.37%)
Motor Vehicle Repair Registered Mechanics		290 (89.23%)		267 (82.41%)
Naturopaths	104 (93.7%)		129 (99.2%)	
Nurses, Advanced Practice Registered (APRN)		1,001 (87.73%)		1,231 (92.14%)
Nurses, Licensed Practical (LPN)		2,019 (90.25%)		1,917 (90.77%)
Nurses, Registered (RN)		19,008 (92.05%)		21,119 (94.46%)
Nursing Home Administrators	126 (92.65%)		149 (94.9%)	
Occupational Therapists		487 (95.68%)		497 (95.39%)
Optometrists	340 (90.2%)		378 (97.9%)	
Osteopaths	599 (90.48%)		612 (84.41%)	



## Professional and Vocational Licensing Division (PVL)

Pest Control Field Representatives	133 (95%)		140 (87.5%)	
Pest Control Operators (inactive status only)	10 (71.43%)		6 (60%)	
Pharmacists	2,206 (95.9%)		2,447 (96.2%)	
Pharmacies	213 (81.9%)		241 (87.3%)	
Pharmacy – Miscellaneous Permits	327 (78.8%)		493 (82.7%)	
Pharmacy – Wholesale Prescription Drug Distributors	42 (84%)		37 (71.2%)	
Physical Therapists		1,350 (96.64%)		1,393 (98.38%)
Physical Therapist Assistants				210 (78.65%)
Physicians	6,728 (87.3%)		7,255 (90.6%)	
Plumbers		967 (93.79%)		
Podiatrists	59 (81.9%)		69 (89.6%)	
Private Detectives	87 (94.57%)		92 (92.93%)	
Private Detective Agencies	23 (76.67%)		32 (96.97%)	
Professional Engineers	5,816 (95.13%)		6,264 (97.83%)	
Psychologists	978 (95.98%)		1,036 (94.78%)	
Real Estate Branch Offices		65 (95.59%)		88 (94.62%)
Real Estate Brokers		5,597 (93.89%)		5,698 (93.44%)
Real Estate Salespersons		9,582 (95.36%)		10,144 (94.38%)
Respiratory Therapists	402 (96.87%)			500 (95.42%)
Social Workers			743 (90.06%)	
Speech Pathologists	465 (96.9%)		548 (97.7%)	
Travel Agencies	624 (86.8%)		721 (91.7%)	
Uniform Athlete Agents	4 (100%)		5 (83.33%)	
Veterinarians	435 (94.16%)		464 (94.89%)	
<b>TOTAL</b>	<b>55,161 (90.21%)</b>	<b>47,763 (87.5%)</b>	<b>57,434 (91.4%)</b>	<b>54,720 (87.92%)</b>

Table 4: Total Number of Email Inquiries

Boards and Programs	FY 2015	FY 2016	FY 2017
Accountancy	896	1,319	1,036
Activity Desk	137	41	158
Acupuncture	189	135	305
Athletic Trainer	25	100	114
Barbering and Cosmetology	1,465	1,386	1,797
Boxing	28	50	67
Behavior Analyst – licensure effective 7/1/16	-	8	82

## Professional and Vocational Licensing Division (PVL)

Cemetery and Pre-need Funeral Authority	80	62	78
Chiropractor	202	290	375
Collection Agency	545	519	803
Contractor	2,339	1,832	4,257
Dentist and Dental Hygienist	90	51	37
Dispensing Optician	64	61	66
Electrician and Plumber	510	631	471
Electrologist	4	3	6
Elevator Mechanic	10	55	55
Employment Agency	22	9	48
Engineer, Architect, Surveyor, and Landscape Architect	850	407	904
Exam Branch	108	438	447
Hearing Aid Dealer and Fitter	40	93	50
Marriage and Family Therapist	248	232	355
Massage Therapy	1,352	1,267	1,777
Medical and Osteopathy	4,035	4,184	5,988
Mental Health Counselor	402	398	646
Mixed Martial Arts	680	637	419
Motor Vehicle Industry	274	809	653
Motor Vehicle Repair	198	86	102
Naturopathy	150	134	141
Nurse Aide	44	40	55
Nursing	4,081	3,558	7,074
Nursing Home Administrator	41	19	49
Occupational Therapist	234	209	425
Optometry	211	341	327
Pest Control	396	595	494
Pharmacy and Pharmacist	1,919	1,766	2,238
Physical Therapy	1,320	1,306	1,961
Private Detective and Guard	702	1,315	1,038
Psychology	639	904	1,188
Professional and Vocational Licensing (PVL)	8,254	12,475	25,423
Real Estate	5,183	4,261	4,847
Real Estate Appraiser	790	518	362
Respiratory Therapist	86	89	182
Social Worker	518	915	1,009
Speech Pathology and Audiology	295	296	336
Subdivision	39	27	105
Time Share	592	182	430
Travel Agency	65	128	150
Uniform Athlete Agent	0	1	0
Veterinary	247	285	455
<b>TOTAL</b>	<b>40,599</b>	<b>44,467</b>	<b>69,385</b>

† Behavior analysts were added as a regulated profession effective January 1, 2016, pursuant to Act 199, SLH 2015.

**REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)**

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

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

**OVERVIEW**

Most people are not aware that a professional or vocational license is required before you can work in certain industries. Currently, 49<sup>13</sup> different industries require a professional or vocational license. These industries are the kind that affect the health, safety, and welfare of Hawaii's citizens.

**Purpose**

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

**Source of Complaints**

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

**COMPOSITION**

The following is RICO's contact information:

Main office address: Leiopapa A Kamehameha Building (State Office Tower)  
235 South Beretania Street (8<sup>th</sup> and 9<sup>th</sup> Floors)  
Honolulu, Hawaii 96813

The division also operates four neighbor island offices in Hilo, Kailua-Kona, Wailuku, and Lihue.

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

**Intake**

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

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<sup>13</sup> This number will increase to 51 with the addition of the required regulation of veterinary technicians, which will take effect on July 1, 2018, pursuant to Act 147, SLH 2016, and the regulation of appraisal management companies, which will take effect on January 1, 2018, pursuant to Act 118, SLH 2017.

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

As part of the complaint filing process, consumers are encouraged to try to resolve problems before filing a complaint, and a self-help letter template is provided. Even after a written complaint is received, an intake investigator may continue working with the parties if the investigator believes a dispute can be resolved. Frequently, an intake investigator will simply solicit an explanation or a response from a licensee, and in many cases, this response is sufficient to resolve the problem without formal investigation. An estimated 5,027 complaint inquiries were resolved in FY 2017 without a formal complaint being filed. An estimated additional 972 OCP complaint inquiries were resolved without a formal complaint.

Intake investigators conduct screen cases for further investigation and conduct preliminary investigations. Complaints outside of RICO’s jurisdiction may be referred to another agency. If a complaint lacks sufficient basis for further investigation, or if a complainant withdraws the complaint, refuses to cooperate, or is no longer locatable, a complaint may be inactivated at the intake stage. In FY 2017, 2,918 complaints were processed.

### **Accomplishments of CRC**

RICO relies on information from consumers to monitor conduct in the industry and to watch for unlicensed activity. In FY 2017, RICO introduced a new short-form report designed to expedite reporting of unlicensed activity. The two-page RICO “Report of Ongoing Unlicensed Activity” allows consumers and industry members to report suspected ongoing unlicensed activity as it is happening, thereby allowing RICO investigators to gather real-time information about possible unlicensed activity occurring throughout the State. Receiving information in real time allows the agency to address activity as it is happening, which can be critical in unlicensed activity investigations.

Several matters continue to be investigated by RICO intake investigators as part of RICO’s Early Case Resolution Program. Intake investigators obtain statements and relevant records and consult with legal staff to identify cases appropriate for early resolution. The Early Case Resolution Program continues to reduce the number of cases being referred for field investigation and increase the number of cases being resolved by the Legal Section.

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

### **Investigation**

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

Field investigators conduct interviews, obtain relevant records, and consult with Advisory Committee Members to determine if sufficient evidence exists to warrant consideration for legal action. Advisory Committee Members are appointed by various boards, commissions, and programs and serve as industry experts to assist in licensing matters. Expert evaluations can be important in cases involving professional misconduct or alleged violations of standards of care. Again, investigations may focus on licensing violations committed by licensees or may involve allegations of unlicensed activity.

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

Field investigators continue working with staff attorneys throughout the prosecution process, conducting any additional investigation that may be needed, serving hearing notices, and providing testimony in administrative hearings. With enforcement responsibility over the licensing laws for over 49 different boards, commissions, and programs, investigators evaluate a diverse population of licensees with a wide range of possible violations. In FY 2017, the unit completed 1,362 investigations. Work included investigating unlicensed activity on all islands.

In addition to investigating RICO complaints, investigators and clerical staff in RICO's neighbor island offices play an important role as neighbor island liaisons for DCCA. Many neighbor island residents prefer working with a local RICO office, and these offices experience a high volume of visitors. In addition to providing RICO information, neighbor island staff provide licensing applications and other forms. Neighbor island staff also provide technical assistance for hearings and facilitate meetings in RICO spaces. In FY 2017, neighbor island staff responded to 5,582 requests for assistance on non-RICO matters.

#### **Accomplishments of Field Investigation Unit**

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

At any time during the investigation process, a licensee may indicate a willingness to resolve a case. Field investigators may request early assistance from the Supervising Attorney to review a pending case for possible settlement. If settlement is not appropriate or achievable, the RICO investigation continues. In FY 2017, early settlement offers were made in several matters, resulting in fewer cases requiring formal hearings and faster processing times.

The unit has developed two full-time Unlicensed Task Force Teams to work primarily on unlicensed cases and to be available to respond to tip information about unlicensed jobs.

**Prosecution**

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

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

Not all cases referred to the Legal Section result in formal hearings. Some matters are resolved before a petition for disciplinary action is filed. If a settlement agreement is accepted, it becomes a final order of the licensing authority. If a settlement agreement is rejected, RICO must revisit the case and determine if a petition for disciplinary action will be filed. Many factors determine whether a RICO case is appropriate for settlement. These factors include the underlying conduct, type of violation alleged, and ability of the State to obtain at hearing the same or greater sanction as that proposed. In FY 2017, over 214 cases were resolved with licensees without a contested case hearing. Settlement allows RICO to resolve cases more efficiently, within shorter time frames, and with fewer attorney hours. All settlements must be approved by a board, commission, or program.

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

Persons who practice a regulated business or profession without a license may be issued a citation and ordered to cease and desist engaging in unlicensed conduct. In FY 2017, RICO investigators issued 57 citations for unlicensed activity and certain licensed activity in massage therapy and beauty culture. Staff attorneys may also petition Circuit Court for a permanent injunction prohibiting future unlicensed activity and civil fines. In FY 2017, 153 actions were filed based on allegations of unlicensed activity. Many licensing statutes also subject unlicensed persons to criminal prosecution by local authorities, and RICO works closely with criminal law enforcement to seek criminal prosecution where appropriate.

**Accomplishments of Legal Section**

RICO filed over 400 civil and administrative actions last year. In FY 2017, RICO assessed \$1,844,944.04 in fines or civil penalties. The division removed thirty-one licensees from practice and imposed probation or other conditions in an additional 45 cases. The fines RICO imposed had a 55% collection rate.

**Table 1: Complaints Filed With RICO**

	FY 2015	FY 2016	FY 2017
Accountants	12	15	27
Activity Desks	4	19	2
Acupuncturists	2	1	9
Athletic Trainers	1	2	1
Barbers & Cosmetologists	104	139	259
Behavior Analysts (effective 1/1/2016)	-	0	1
Boxing	0	0	0
Cemeteries and Pre-need Funeral Authorities	12	8	7
Chiropractors	6	8	11
Collection Agencies	12	9	13
Contractors	412	480	460
Dentists and Dental Hygienists	34	63	49
Dispensing Opticians	5	4	3
Electricians and Plumbers	27	25	41
Electrologists	1	0	0
Elevator Mechanics	1	0	2
Employment Agencies	0	0	4
Engineers, Architects, Surveyors, and Landscape Architects	36	37	29
Hearing Aid Dealers and Fitters	0	1	0
Marriage and Family Therapists	2	2	1
Massage Therapists	64	59	174
Medical (including Osteopathy)	141	236	188
Mental Health Counselors	2	1	1

	FY 2015	FY 2016	FY 2017
Mortgage Brokers and Solicitors	1	3	1
Motor Vehicle Industry	74	60	72
Motor Vehicle Repair	44	87	48
Naturopaths	1	1	4
Nursing	73	86	83
Nursing Home Administrators	4	2	5
Occupational Therapist	1	2	4
Optometrists	2	0	1
Pest Control	10	13	13
Pharmacy	132	129	90
Physical Therapists	2	2	10
Pilotage	1	1	0
Private Detectives & Guards	253	60	102
Psychologists	22	13	11
Real Estate Appraisers	0	9	7
Real Estate (including Condominiums)	449	312	512
Respiratory Therapists	0	0	1
Social Workers	9	4	21
Speech Pathologists and Audiologists	1	1	0
Subdivision	0	0	0
Time Share	11	5	2
Travel Agencies	21	27	27
Mixed Martial Arts	1	1	1
Uniform Athlete Agents	0	0	0
Veterinarians	17	5	9
Veterinary Technicians (effective 7/1/2018)	-	-	-
<b>TOTAL</b>	<b>2,007*</b>	<b>1,932*</b>	<b>2,306</b>

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



**Education and Information**

RICO is committed to providing information to both consumers and licensees about the different areas it oversees. Consumer education is important for consumers to make informed decisions and avoid fraud. Licensee education is important for licensees to adjust their practices to avoid violating licensing laws. Each year, RICO participates in numerous home shows, senior fairs, and industry group presentations, and reached an estimated 52,529 consumers and licensees throughout the State in FY 2017. RICO also actively participates in elder fraud enforcement initiatives, working with law enforcement agencies and providing consumer information specifically geared toward seniors. One of the most requested education pieces continues to be RICO's "At the Door/On the Phone," which provides helpful tips on how to handle unwanted solicitations. In FY 2017, RICO distributed 22,790 printed brochures. These brochures are also available on the RICO website.

Consumer education and outreach efforts are coordinated by CRC, which also operates RICO's call center, the Licensing and Business Information Section (LBIS). By calling 587-4272 (587-4CRC), consumers can get basic business registration information, find out whether a business or an individual is licensed, and obtain information about complaints filed with RICO and OCP. The call center is widely used by consumers, businesses, licensees, and credentialing organizations. In FY 2017, LBIS answered 10,592 calls and conducted an estimated 43,964 searches. Staff is available Mondays through Friday, from 7:45 a.m. to 4:30 p.m. Neighbor island residents can call LBIS toll-free.

Licensing and complaint history information is also available online at [www.businesscheck.hawaii.gov](http://www.businesscheck.hawaii.gov), which provides 24/7 access to current licensing, complaints, and business registration information. Like the call center, this website is widely used by consumers, businesses, licensees, and credentialing organizations. In FY 2017, the [businesscheck.hawaii.gov](http://www.businesscheck.hawaii.gov) website was viewed 200,605 times via RICO's website.

**State Certified Arbitration Program**

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

RICO counsels consumers to first read the Lemon Law Consumer Handbook for information and instructions and then write to the manufacturer. If the consumer is unable to reach a resolution, the consumer can file a demand for arbitration. SCAP will evaluate the demand, and, if appropriate, schedule an arbitration hearing. The consumer pays a \$50.00 filing fee that is refunded if the consumer prevails at arbitration. Before an arbitration hearing can be scheduled, the manufacturer or its authorized repair dealership must be given a reasonable opportunity to repair the vehicle.

In FY 2017, 23 cases were initiated, with 9 decisions issued in favor of consumers and one decision issued in favor of manufacturers. SCAP also works with manufacturers and consumers to resolve issues, and in FY 2017, 12 cases were settled after filing. A total of \$642,831 in consumer refunds and bank loan payoffs were issued. Access to SCAP is increasing, and the number of cases and arbitrations on the neighbor islands are on the rise. SCAP participates in consumer fairs and provides lemon law educational opportunities to the community.

One consumer described SCAP as “one of the few ways a consumer can legally and inexpensively fight for their rights in a fair process against an intimidating, large manufacturer.” While each year only a small percentage of cars sold in the State are declared lemons, all new car buyers benefit from SCAP, which creates incentives for manufacturers to deliver cars that are free from defect and to address ongoing problems through efficient repair and voluntary recall.

The program operates under the direction of a lemon law administrator, who currently serves on the national board of directors for the International Association of Lemon Law Administrators. Participation in this national organization allows SCAP to obtain information about recalls, flood damage vehicles, and technological advancements, including the appearance of automated vehicles in the marketplace. More information, including an educational video about the SCAP process, is available on the RICO website at [cca.hawaii.gov/rico/lemon-law](http://cca.hawaii.gov/rico/lemon-law).

## **GOALS AND OBJECTIVES**

### **(1) Expand resources and personnel.**

Under RICO’s Early Case Resolution Program, cases preliminarily investigated by intake investigators are referred directly to the Legal Section. While the program expanded the number of investigators available to work on RICO cases, it also increased the number of cases referred to the Legal Section for review. In 2017, RICO was allowed to convert an investigator position to a much-needed staff attorney position. The agency is actively working to fill position vacancies in other sections as well. RICO continues to see a marked increase in serious cases. Allegations of gross medical and dental malpractice, allegations of abuse and improper touching by healthcare professionals, drug diversion, and allegations of theft are just some of the types of complaints RICO is currently investigating. RICO staff must be ready to investigate and prosecute all levels of conduct. Training is critical for staff dealing with new issues and new licensing areas.

### **(2) Develop additional tools for enforcement.**

In addition to its Early Case Resolution Program, RICO is looking at other ways to speed up and improve the enforcement process. One such initiative, Act 148, SLH 2017 (Relating to Citations for Beauty Culture Violations), effective July 1, 2017, authorizes RICO investigators to issue citations to licensees who violate the following beauty culture laws or rules: (1) failing to display a license or permit; (2) allowing unlicensed or unpermitted individuals to work; and (3) failing to display a sign if any work is being performed by students. Citations must be personally served, and licensees can request a hearing to contest a citation. The maximum fine that can be imposed is \$100.00 per violation. RICO believes developing enforcement tools, like citations for technical violations, frees up investigator and attorney time to focus on more serious violations. Initiatives like early case resolution and the ability to issue citations in certain industry areas decrease the number of cases requiring expanded investigation and promote compliance by licensees. RICO is actively looking at developing additional enforcement tools.

### **(3) Replace RICO’s Complaints Management System (CMS).**

The complaints tracking database RICO has used since the early 1980s is no longer being supported by the manufacturer and is in critical need of replacement. RICO relies upon CMS to track complaints as they move through the various sections of RICO, to record information about legal actions taken by RICO, and to provide reports on RICO’s complaint processing activity. RICO also uses CMS to provide historical information about complaints and disciplinary actions. Replacement of this legacy system is underway and RICO hopes to add a public facing website for consumers to file and track complaints. RICO believes

efficiencies will go a long way in improving how cases are tracked and processed and will help improve case processing times. A more robust system will also allow RICO to track additional data points, which RICO hopes to use to track trends, allocate resources, and provide information to licensees about practices to correct.

**(4) Process cases in a timely manner.**

The complexity of RICO cases, increased number of licensing areas, and limitations on resources continue to affect timely case processing. However, the filling of vacancies, development of additional investigation and enforcement tools, and incorporation of new technology are actively moving RICO toward its goal of efficient and effective enforcement.

**CRF FINANCIAL SUMMARY**

The following is RICO's CRF financial summary for FY 2017:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,076,827	\$1,108,006	\$6,184,833	\$9,249,335

**CONCLUSION**

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