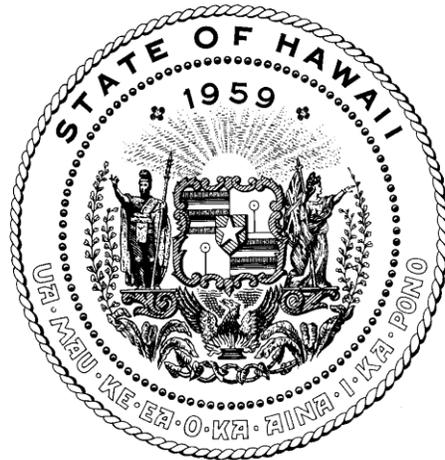


# **Annual Compliance Resolution Fund Report**



**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII  
SUBMITTED DECEMBER 2018**

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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 (CRF) Report as mandated by Hawaii Revised Statutes (HRS) section 26-9(o). The report describes use of the CRF for the fiscal year (FY) beginning July 1, 2017, and closing June 30, 2018, 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 the DCCA's programs, and it relies upon the fees and fines from those programs instead of general tax revenues. Pursuant to HRS section 26-9(o), fees shall be assessed and deposited into the CRF for issuance of a license, permit, certificate, registration, and subsequent renewals, together with all other fines, income, and penalties collected or reimbursement of costs or attorneys' fees assessed from actions brought by the Department. The Director of the DCCA may use the moneys in the CRF to employ and train hearings officers, investigators, attorneys, accountants, and other necessary personnel for CRF-funded operations, and the CRF shall defray all other administrative costs, including costs to operate the supporting offices of the DCCA. The CRF may also fund any other activity relating to compliance resolution.

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

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

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<sup>1</sup> 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 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. This FY, besides typical senior fairs and wellness fairs, the Consumer Education Program participated in disaster preparedness fairs throughout the State. Informational materials were distributed to Hawaii residents to assist in preparing for and rebuilding after a disaster.

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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 the 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.

In addition to participating in more than two dozen outreach events statewide, including the disaster preparedness fairs, the Consumer Education Program sponsored the following programs for Hawaii consumers:

- The 13th Annual National Consumer Protection Week Fair on March 7, 2018, 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.
- A consumer fair celebrating the Month of the Military Consumer on July 7, 2018, 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 Commission, and Consumer Financial Protection Bureau (CFPB or Bureau of Consumer Financial Protection) to empower active and retired service members, military families, veterans, and civilians in the military community. In addition, the Air Force Jazz Band was our special guest and provided entertainment for the crowd.

The Director's Office continues to offer the Military Consumer Fraud Guide, a 40-page publication, published by the DCCA, to equip Hawaii's service members and their families with information as the first line of defense against fraud. This guide will also enable the State's military community to make better and informed decisions when managing money.

The Department also continued its partnerships with the CFPB, the Federal Trade Commission, the U.S. Postal Service, and other national and local agencies to increase the amount of helpful consumer information disseminated in the State.

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

In 2018, HPEAP issued one new school authorization and provided guidance with one school's closure. The total number of authorized schools is currently 26. The program finished an investigation of a complaint filed in late 2017, which resulted in a dismissal. In May, another investigation led to the program's deputy attorney general filing a petition for disciplinary action against a school.

HPEAP continues its efforts to assist former students of Heald College Honolulu who were displaced when the institution closed suddenly in 2015. 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 to take online courses offered by post-secondary institutions based in another state. HPEAP has authorized three Hawaii-based institutions as SARA institutions: University of Hawai'i at Mānoa, Hawai'i Pacific University, and Babel University Professional School of Translation.

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

### **Department Legislative Coordinator Functions**

In 2018, the Director's Office, including multiple DCCA administrative services and support offices, oversaw the Department's legislative activities concerning budgetary, fiscal, personnel, and administrative matters. The Director's Office also assisted with the legislative operations of each division and regularly liaised with other state departments, agencies, branches of government, and community and business groups on legislative matters. During the Regular Session of 2018, the Department submitted nearly 530 testimonies regarding consumer and commerce matters. In addition, it supported various nominees for boards and commissions attached to the DCCA. Several of the Department's legislative proposals, which were introduced as part of the Governor's administration package, received favorable consideration by the Legislature and were subsequently enacted. After adjournment of the 2018 legislative session, the Department's legislative coordinator continues to support the DCCA in implementing legislative directives and coordinating departmentwide activities to prepare for the 2019 legislative session.

### **Information Systems and Communications Office (ISCO)**

For FY 2018, ISCO has continued various 2017 initiatives, including the assessment of products that will contribute to a cloud-based systems future for the DCCA. Additionally, ISCO has earned a "seat at the table" for the Office of Enterprise Technology Services' (ETS) Strategic Planning Initiative, as mandated by House Concurrent Resolution 94 and market research conducted as part of an evaluation of the Access Hawaii Consortium.

ISCO continues its commitment to reducing the 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. Extremely low cost (\$200/unit) thin client laptops have been demonstrated for disaster response scenarios.

ISCO's Infrastructure Branch leads the DCCA's efforts in upgrading the computer network to neighbor islands and remote offices on Oahu and increasing the security of the 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 its Solutions Branch into three core competencies:

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

The overall refocus of the Solutions Branch has been accepted, and the staff is making satisfactory progress.

## CRF FINANCIAL SUMMARY

The following is the Department's CRF financial summary for FY 2017-2018:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$35,351,982	\$11,775,078	\$47,127,060	\$57,668,498

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 FY 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 2017-2018:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,777,288	\$2,521,251	\$7,298,539	\$870,272

## 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 2018 included violations of Hawaii's consumer protection laws governing mortgage rescue fraud, identify theft, data breaches, and unfair or deceptive trade practices. The Department was also involved in other critical determinations taken up by DCCA staff and affiliated board and commission members. Each decision reached is important to 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, in response to flooding on Kauai, volcanic eruptions and earthquakes on the Big Island, and the statewide impact of Hurricane Lane, the Department was actively involved in disaster preparedness and recovery efforts and fully staffed disaster recovery centers on Kauai and Oahu.

With these accomplishments and efforts in mind, the DCCA is committed to improving consumer protection and business regulation in the State. Amid a complex and evolving regulatory environment, the Department continuously strives to make Hawaii a safer place for consumers and a 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 registration documents for public access, including corporations, general and limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies, cooperatives, trade names, trademarks, service marks, and publicity rights; (2) one-stop 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. BREG also conducts statewide outreach through its Investor Education Program, which provides the public with free presentations and resources relating to investment fraud protection.

The following is BREG's contact information:

Main office address:	335 Merchant Street, Room 201 Honolulu, Hawaii 96813 Phone: (808) 586-2744 (Administration) (808) 586-2727 (Documents Registration)
Mailing address:	P.O. Box 40 Honolulu, Hawaii 96810
Business Action Center Oahu:	1130 North Nimitz Highway, Suite A-220 Honolulu, Hawaii 96817 Phone: (808) 586-2545
Business Action Center Maui:	70 E. Kaahumanu Avenue, Suite 9B Kahului, Hawaii 96732 Phone: (808) 270-5769
Business Action Center Hilo:	25 Aupuni Street, Suite 1301 Hilo, Hawaii 96720 Phone: (808) 961-8947 (Business Action Center Resource Days are held on the 1 <sup>st</sup> and 3 <sup>rd</sup> Thursday of each month. Please call to confirm hours.)

Business Action Center Kona: West Hawaii Civic Center  
74-5044 Ane Keohokalole Highway, Building C,  
2<sup>nd</sup> floor  
Kailua-Kona, Hawaii, 96740  
Phone: (808) 323-4700  
(Business Action Center Resource Days are held on  
the 2<sup>nd</sup> Thursday of each month. Please call to  
confirm hours.)

## COMPOSITION

BREG is organized as follows:

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

The **Business Action Center (BAC)** 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 (HBE) website to obtain real-time assistance from a customer service representative. With the popularity of the HBE website, the BAC has moved to encourage and assist more customers to file online. Public computers are available at all BAC locations, enabling customers to access the HBE and the Department of Taxation's and the Internal Revenue Service's (IRS) registration systems online. The center has one business registration supervisor and four business registration assistants to cover all three of its offices.

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

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

branch has one securities compliance specialist, two supervising securities examiners (one in the securities examination section and one in the securities licensing section), five examiners, three licensing clerical staff, one clerical assistant, and one secretary.

The **Investor Education Program (IEP)** falls under the SCB and provides investor education and financial literacy outreach statewide. The program maintains outreach programs in the areas of: (1) kupuna (seniors) and caregivers; (2) working families and union members; (3) keiki (youths); (4) industry professionals; (5) military; and (6) Hawaiian and other ethnic communities. The IEP's free educational materials, presentations, and exhibits help consumers and investors detect and prevent securities fraud and report securities law violations. The program has one education specialist, one program assistant, and one multi-media education specialist.

## **GOALS AND OBJECTIVES**

The following are BREG's goals and objectives:

- (1) The goal of **DocReg** is to maintain an accurate and efficient state business registry. DocReg aims to:
  - Review and implement policies and procedures that efficiently process document filings and information requests in a timely manner.
  - Develop and improve its online services to better assist the public.
  - Enhance information systems to improve retrieval, processing, and recording of public filing information while protecting the integrity of the data system.
  - Modernize business laws so they closely track the most current versions of the best uniform or model laws.
- (2) The goal of the **BAC** is to be a responsive and helpful point-of-service business center for business registration and licensing assistance to all businesses in Hawaii. Specifically, the BAC aims to:
  - Provide efficient customer service to the public.
  - Develop relationships with the business community and seek ways to reach communities in need of business registration assistance.
- (3) The goal of the **SEB** is to be an effective state securities regulatory agency that is responsive, appropriately aggressive, and efficient. The complexity of the cases the branch handles is increasing every year, as many cases now involve multiple respondents, multiple complainants, multiple bank accounts, and require extensive financial analysis. In particular, the SEB aims to:
  - Investigate and prosecute state securities law violations under the Hawaii Uniform Securities Act.
  - Investigate and prosecute consumer complaints timely.
  - Reduce case backlog.
  - Inform consumers of enforcement matters and investment scams through participation in the IEP.

- Develop and implement internal procedures that timely and effectively resolve cases, thereby improving the branch's overall effectiveness.
  - Attend and develop training to keep staff current on emerging investigative techniques, legal analysis, and securities issues.
- (4) The goal of the **SCB** is to be a state securities regulatory agency that is responsive, effective, and efficient. Specifically, the SCB aims to:
- Efficiently and timely review and approve securities and franchise applications and/or filings.
  - Maintain a regular field examination cycle for registered broker-dealers and state registered investment advisers.
  - Develop and implement internal procedures that will improve the efficiency of processing applications.
  - Keep current with regulatory changes and updates by providing ongoing training for professional staff.
- (5) The goal of the **IEP** is to 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 to reach communities throughout Hawaii with practical and helpful information. In particular, the IEP aims to:
- 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 multimedia technology to reach audiences in a current and relevant manner.
  - Develop a securities training program for law enforcement agencies to build partnerships to help prosecute financial fraud.

## **ACCOMPLISHMENTS**

### **Documents Registration Branch**

- (1) DocReg continues to ensure that business registration information on file is readily available, accessible, and current to support commercial activities in the State.
- (2) Over 150,444 documents were filed during FY 2018.
- (3) DocReg maintains the public registry of over 202,720 active businesses, trade names, trademarks, and service marks. The active files include business entities that have been on record with the State for over 100 years.
- (4) The HBE business registration portal at [hbe.hawaii.gov](http://hbe.hawaii.gov) continues to be a popular service among users, with over 7.7 million unique hits in FY 2018.

- (5) DocReg has maintained a 92% voluntary online adoption rate for annual renewals. The online adoption rate reduces paper, postage, and other costs for customers. It also reduces BREG's manual handling, thereby allowing for automated processes that increase the efficiency, accuracy, and processing speed for filings.
- (6) BREG continues to update and improve its website and mobile apps, with the most recent redesign occurring in 2018 to its annual business report filing system. Some improvements include:
  - Shopping cart functionality.
  - Searchability by business name or file number, with the company's record and helpful information displayed.
  - Ability for online submission of delinquent annual business reports.
  - Extensive validation checks to ensure information is properly inputted, allowing for quicker review.

Quickfile, a feature of the HBE that allows users to select, complete, and submit specific forms online, also received an update. Forty of the most commonly used forms are now available online, and BREG is currently redesigning the HBE to become more user-friendly.

### **Business Action Center**

- (1) The BAC's offices on Oahu, Maui, and Hawaii Island provided personal assistance to customers over 18,800 times in FY 2018 via its counter service, phone, email, regular mail, and live chat.
- (2) The BAC's offices on Oahu, Maui, and Hawaii Island provided personal assistance to customers filing approximately 5,100 paper documents at its counters, while encouraging customers to file online in the future.
- (3) The October 2015 pilot program that brought BAC services to the West Hawaii County Civic Center (Kona) once per month will continue through 2019, as the program continues to successfully reach small business owners in rural communities.
- (4) On Oahu, the BAC continues to host sessions where customers can receive free expert assistance. Participating organizations include volunteer attorneys from the Hawaii State Bar Association's Business Law Section (65 customers served), as well as representatives from the Small Business Administration who explain financing options to customers (9 customers assisted).
- (5) Through the BAC's outreach efforts at 18 events, over 500 members of the public received information on BAC 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 BAC focused its outreach efforts on rural areas, including Waimanalo, Wahiawa, Ewa Beach/Kapolei, Kekaha (Kauai), and Hawaii County. Other groups, such as the Council on Native Hawaiian Advancement, the Office of Hawaiian Affairs' Hi'ilei Aloha Program, the Hawaii Association of Paralegals, William

S. Richardson School of Law, local banks, and young entrepreneurs were also a focus of this FY's outreach efforts.

- (6) The BAC continues to play a major role in organizing the annual Hawaii Small Business Fair (August 2018), serving as chair of the executive committee and class speaker and staffing an exhibition booth. The event offers free classes on approximately 20 various topics of interest to new entrepreneurs, including business plans, income and general excise taxes, marketing, intellectual property rights, and exporting. Partner organizations include: the Department of Business, Economic Development and Tourism; the Small Business Administration; the Small Business Development Center of Hawaii; Honolulu Community College; Leeward Community College; and the IRS. The fair draws approximately 250 attendees of all stages of business formation and operation.

### **Securities Enforcement Branch**

- (1) Since 2015, there has been a 102% increase in the number of cases opened by the SEB, with a total of \$2,308,093.25 in fines and \$596,000 in restitution assessed to date.
- (2) As part of the IEP, the SEB's staff presented to new audiences including:
  - The Hawaii State Law Enforcement Officials Association's Annual Conference, which included attendees from: the Homeland Security Investigations arm of the Department of Homeland Security (DHS); the U.S. Attorneys offices; the Federal Bureau of Investigation (FBI); and all island police departments and prosecutors' offices.
  - The Inter-County Criminal Intelligence Unit Conference, which included attendees from the: local police departments; prosecuting attorney offices; U.S. Marshals Service; U.S. Postal Inspection Service; U.S. Secret Service; U.S. Probation Office; Naval Criminal Investigative Service; DHS' Homeland Security Investigations arm; FBI; Department of the Attorney General (AG); Drug Enforcement Administration; IRS; Bureau of Alcohol, Tobacco, Firearms and Explosives; and Department of Public Safety.
  - The U.S. Pacific Command Joint Base Pearl Harbor/Hickam Intelligence Operations Center Annual Retiree Seminar and Active-Duty Personnel Presentations, which included presentations to military retirees and active-duty personnel.
  - St. Francis Healthcare System of Hawaii Summer Caregiver Classes, which held investor education classes to students of the system's caregiver training classes.
- (3) The SEB has developed and implemented a cross-training program with other law enforcement agencies on issues relating to financial fraud, including securities fraud awareness and prevention.
- (4) The SEB has emphasized internal training and cross-training for professional and support staff through presentations by 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 SCB currently regulates approximately 115,000 securities agents and 1,300 broker-dealer firms registered to sell securities in Hawaii. In addition, the SCB oversaw and processed the registrations of 55 state-registered investment advisory firms, over 1,000 federally covered investment advisers, and over 2,200 registered investment adviser representatives in 2018. The branch also processed an estimated 1,000 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 2018.
- (2) The SCB conducts examinations of broker-dealers and investment advisers throughout the State on a rotating basis. Examinations consist of an onsite review of compliance with state securities laws. Since 2016, the SCB has expanded its exam program to the neighbor islands.

**Investor Education Program**

- (1) The IEP continues to expand outreach to audiences through various community events across the State. The IEP completed 79 investor protection presentations in FY 2018 and participated in 74 community events statewide, through which the IEP reached an estimated 22,000 consumers in Hawaii.
- (2) In FY 2018, the IEP completed 52 senior presentations and participated in 15 senior-focused community events.
- (3) The IEP continues its participation with the Kupuna Alert Partners program (KAP). Representatives from the AG's Crime Prevention and Justice Assistance Division, Department of Health's Senior Medicare Patrol Program (SMP), Department of Public Safety's Narcotics Enforcement Division (NED), and IEP provide presentations on Medicare fraud, securities fraud, prescription drug misuse, and other general scams. From April 2013 to June 2018, KAP completed 85 presentations that reached nearly 3,420 seniors, caregivers, and elder program providers.
- (4) In February 2018, the IEP worked with representatives from the U.S. Securities and Exchange Commission's (SEC) Washington, D.C., and Los Angeles offices to conduct securities education and fraud prevention presentations at various military bases on Oahu (i.e., Joint Base Pearl Harbor-Hickam, Camp Smith, Kaneohe Marine Corps Base, and the U.S. Coast Guard). Ten presentations were conducted, reaching approximately 250 active, civilian, and retired service members.
- (5) The IEP continues to be the state coordinator for LifeSmarts, a national educational program that helps youth develop consumer and life skills. In IEP's fifth year as the state coordinator, the program reached 143 students and 13 coaches from 12 schools statewide. The state champion high school team from 'Iolani School competed in the national LifeSmarts competition in San Diego, CA in April 2018. 'Iolani's second-place finish is the highest a Hawaii team has placed thus far. This free, competition-based program is brought to Hawaii in partnership with the National Consumers League and the Hawaii

Credit Union League. The IEP partners with credit unions, labor unions, and other partners to award prizes to participants at the state competition. Since 2013, the IEP has enrolled 621 students and 55 coaches with 104 teams representing 48 schools statewide.

- (6) The IEP continues its partnership with the Hawaii Council on Economic Education to support financial literacy and investor education for students via the Stock Market Simulation program (SMS). The 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 the SMS. Since fall 2004, the program has reached nearly 1,454 teachers and 59,992 students.
- (7) The IEP continues to develop its working relationship with law enforcement agencies at the county, state, and federal levels. These relationships provide valuable information, training, and outreach. The IEP also continues to maintain key partnerships to help educate Hawaii residents on investor protection.
- Federal and national partners include the: SEC; North American Securities Administrators Association (NASAA); Financial Industry Regulatory Authority; Commodity Futures Trading Commission; U.S. Attorney's Office for the District of Hawaii; FBI's Honolulu field office, and CFPB. Local, state, and city partners include the: AG's Crime Prevention and Justice Assistance Division, Department of Human Services' Adult Protective and Community Services Branch, SMP, Honolulu Police Department, NED, City and County of Honolulu's Elderly Affairs Division, Better Business Bureau, and AARP Hawaii.
- (8) The IEP continues to partner with union organizations to raise awareness of fraud prevention and financial education with their membership. The IEP reached members from the Hawaii Government Employees Association, Hawaii State Teachers Association, and Hawaii Teamsters.
- (9) The IEP continues to use its websites ([investing.hawaii.gov](http://investing.hawaii.gov) and [lifesmartshawaii.com](http://lifesmartshawaii.com)) and social media accounts (HISecurities) on Twitter, Facebook, and Instagram to promote its investor education programs and materials and to circulate fraud alert and prevention tips and other program information.

## CRF FINANCIAL SUMMARY

The following is BREG's CRF financial summary for FY 2017-2018:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,263,810	\$1,543,813	\$6,807,623	\$11,377,835

## **CONCLUSION**

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

The demand for BREG's services has necessitated improved information systems 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 continues to work 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. The CATV's primary regulatory function is to determine whether the issuance, renewal, or transfer of a cable franchise is in the public interest. In so doing, the CATV carefully considers the: (1) public need for the proposed service; (2) legal, technical, financial, and operational ability of the applicant or franchisee to provide safe, adequate, and reliable service at a reasonable cost to subscribers; (3) comments arising from public hearing and from the Cable Advisory Committee (CAC) appointed by the Governor pursuant to HRS chapter 440G; and (4) other matters deemed appropriate under the circumstances.

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

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

The CATV is also responsible for expanding the State's Institutional Network (INET) in a manner that is efficient and effective for the State. INET provides broadband telecommunications capabilities to government and educational organizations and is constructed for two-way operation as part of the State's current communications network. The tremendous growth in the State's telecommunications, information processing, storage, and retrieval needs requires high transmission capacity with a more flexible network configuration. INET is a valuable and substantial benefit of the cable television franchises that includes network capacity, 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. The 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, the CATV also requires that cable operators support PEG access facilities and services. Support may be provided in various ways, including setting aside several channels for PEG access and through providing a percentage of gross revenues for PEG use. The DCCA, through the CATV, has contracted oversight of access channels to nonprofit entities located in each of Hawaii's four counties. The CATV supports the Director in designating these PEG access organizations. Designation is based upon written application or proposal and after public hearing, taking into consideration the: (1) public need for the proposed service; (2) legal, technical, financial, and operational ability of the applicant to provide the proposed service in an efficient and effective manner that is fair to the public in the service area; (3) comments arising from public hearing and from the CAC; and (4) other matters deemed appropriate under the circumstances.

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

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

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

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

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

The following is the CATV's contact information:

Office address: 335 Merchant Street  
Room 101  
Honolulu, Hawaii 96813

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

Phone: (808) 586-2620

## **COMPOSITION**

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

## **GOALS AND OBJECTIVES**

The following are the 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 CAC meetings upon the Director's request.
  
- (2) Monitor and participate in federal telecommunications legislation and rulemaking.
  - Provide support to Hawaii's congressional delegation on applicable federal legislation.
  - Participate in relevant FCC proceedings on 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 the DCCA's regulatory function to strengthen INET and provide benefits for the State and counties.
  - As permitted under federal regulations, 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 the BAAC to identify means to streamline government permitting and approval processes.
  - Monitor development and deployment of new advanced services.
  
- (5) Support and facilitate broadband adoption initiatives and programs to drive use of high speed broadband.
  - Support and facilitate government programs and applications, including telework and consumer applications.
  - Support other state agencies' efforts to increase use of broadband through various digital literacy, computer ownership, and other adoption programs.
  - Work with the BAAC to identify programs and policies to advance broadband adoption and use of applications.

## **ACCOMPLISHMENTS**

### **(1) INET**

The DCCA/CATV continued its lead administrative role in developing, expanding, and enhancing INET. Working with the INET Partners, the DCCA/CATV continued its role under existing cable television franchises in upgrading and expanding INET, administering 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, the DCCA/CATV continued during FY 2018 to meet with the INET Partners and their technical team members to update and revise the plans 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 the ETS, including the Hawaii State Public Library System (HSPLS), and a separate one for the 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 2019 or FY 2020.

In addition, the DCCA/CATV served as System Administrator for the INET Request Online Coordination (IROC) system completed and made live on December 1, 2016. The IROC system was developed by the DCCA/CATV to coordinate and track all “at cost” and “free of charge” INET requests for state and county government and educational institutions. All state INET connection requests to Oceanic Time Warner Cable, Inc. (OTWC) are now made on the IROC system. In FY 2018, the DCCA/CATV provided training for most of the counties, and these counties are now also using the IROC system for requests.

## **(2) Charter/Time Warner Cable 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 the DCCA/CATV requesting approval to transfer control of all OTWC’s cable franchises in the State from TWC to Charter (Charter/TWC Merger).

On December 17, 2015, the DCCA/CATV issued Decision and Order No. 366 conditionally approving the Charter/TWC Merger, which was completed on May 18, 2016. The conditional approval requires OTWC/Charter to, among other things: adhere to all terms, requirements, conditions, and obligations of the current Cable Franchise Decisions & Orders and any other directives issued by the Director; invest \$10 million dollars to build out its networks in Hawaii; provide 1,000 new public WiFi access points, with 100 of these new access points designated at public parks, civic and community centers, and other public open areas and gathering places at the DCCA/CATV’s direction; and transition virtually all of OTWC’s cable systems to all-digital networks.

During FY 18, the DCCA/CATV continued to monitor implementation of the merger and to ensure compliance with the requirements of Decision and Order No. 366.

## **(3) OTWC – PEG Access Channels and Digital Transition**

One of the conditions of Decision and Order No. 366 approving the merger between TWC and Charter required OTWC to complete the all-digital transition of its cable networks throughout the State by November 2018. In January 2018, OTWC notified the DCCA/CATV that the digital transition of its cable network would begin in February, starting on Oahu and with the neighbor islands to follow. In conjunction with the digital transition, OTWC also planned to move the Oahu PEG access channels from their current channel placements to locations higher on the digital channel lineup. Information requests were issued, and a CAC meeting was held at the King Kalakaua Building regarding OTWC’s transition and plans to move the PEG access channels. The written and oral comments received by the DCCA/CATV from CAC members, the public, legislators, and various government officials all strongly opposed the relocation of the PEG access channels.

After numerous discussions with OTWC/Charter and taking into consideration a variety of factors, including the comments received, Decision and Order No. 372 was issued on March 23, 2018. Under Decision and Order No. 372, in exchange for amendments to certain agreements and obligations under prior orders, until the year 2036, PEG access channels in which PEG access organizations have programming responsibilities may not be relocated by OTWC/Charter without

the DCCA's prior authorization. The all-digital transition of OTWC's cable system throughout the State was completed on August 28, 2018.

**(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, the 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 2018, the DCCA/CATV continued discussions with OTWC. Per OTWC's request, the DCCA/CATV is working with OTWC to complete the Kauai Franchise Renewal prior to completing the Maui Franchise Renewal. For this reason, the DCCA/CATV does not anticipate completing this proceeding until December 2019.

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

On April 24, 2014, OTWC submitted a letter to notify the DCCA/CATV of its intent to seek renewal of its Kauai cable television franchise. The 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 the DCCA/CATV issued various information requests to which OTWC responded. Discussions and negotiations between the DCCA/CATV and OTWC are ongoing, and the DCCA/CATV expects to conclude this proceeding by the end of FY 2019.

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

On June 24, 2011, Decision and Order No. 352 was issued, granting Hawaiian Telcom Services Company, Inc. (HT) a cable franchise on Oahu. On August 11, 2017, a joint application was filed by Cincinnati Bell Inc. (CB) and HT and its parent company, Hawaiian Telcom Holdco, Inc., 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. On October 5, 2017, a public hearing was held on Oahu regarding the joint application, and CB presented its application to the CAC on October 19, 2017. In addition, technical, engineering, franchise compliance, and financial reviews of HT and CB were conducted.

On December 8, 2017, the DCCA/CATV issued Decision and Order No. 370 conditionally approving the joint application, which requires HT/CB to, among other things: invest at least \$20 million dollars in its statewide networks and infrastructure within four years of the close of the transaction; commit to provide low-cost internet service; provide rate transparency; deploy a mobile application that facilitates out-of-home public WiFi at certain commercial venues

throughout the State within two years; and provide a report to the DCCA within six months of the close of the transaction that details the impacts of the transaction and the progress in fulfilling all of the purported benefits as represented by HT/CB. On July 2, 2018, the transfer was completed, and the proceeding was officially closed. The DCCA/CATV will continue to monitor implementation of the transfer and ensure compliance with the requirements of Decision and Order No. 370.

On July 2, 2018, the transfer was completed, and the proceeding was officially closed. The DCCA/CATV will continue to monitor implementation of the transfer and ensure compliance with the requirements of Decision and Order No. 370.

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

On October 19, 2017, the CAC convened to obtain input and comments concerning ongoing matters before the DCCA/CATV and to introduce a new CAC member, Scott K. Wong. Updates were given to the CAC on the Maui and Kauai franchise renewals and the PEG designation process. In addition, a CB representative gave a presentation on the HT merger application that discussed the financial, technical, and customer benefits the merger could provide to the State. As requested by the CAC members in the prior meeting, HT also provided an update on its current cable network buildout and future plans.

On February 2, 2018, the CAC convened again to have OTWC/Charter present its planned migration of the PEG channels in relation to its digital transition and to obtain input and comments from the CAC members.

#### **(8) Hawaiian Language Video Content**

On January 1, 2017, the 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 the DCCA, Makauila is required to develop and produce 12 Hawaiian language video programs, each at least 30 minutes long, and distribute its videos statewide through a variety of media platforms, including cable television, the Internet, and social media. In 2017, Makauila's videos, which were produced under its contract with the DCCA, were viewed over 73,000 times on cable television, reached an audience of approximately 250,000 viewers, and were viewed approximately 17,000 times on its website. In the first six months of 2018, its second year under contract with the DCCA, Makauila's recently released programs were viewed over 94,000 times on cable television, reached an audience of approximately 323,000 viewers, and were viewed over 15,000 times on its website and over 49,000 times on Facebook. Makauila believes that its viewership numbers are on an upward trend and will continue to increase as new content is produced and shows become more established among its audience.

#### **(9) 'Ulu'ulu: Henry Ku'ualoha Giugni Moving Image Archive of Hawaii**

In 2012, 'Ulu'ulu: Henry Ku'ualoha Giugni Moving Image Archive of Hawaii (HKG Archive) was designated as the official archive for moving images for the State under HRS section 304A-1864. The HKG Archive is dedicated to perpetuating and sharing the moving image heritage of Hawaii through the digital preservation of film and videotape related to the history and culture

of Native Hawaiians and the people of Hawaii. On July 15, 2014, in support of the HKG Archive's services by the Governor and Director, a Memorandum of Agreement was entered into between the CATV and HKG Archive (Master Agreement) for the provision of digital preservation services in exchange for a portion of Oceanic's annual franchise fee obligation. On December 14, 2015, by Supplemental Agreement No. 1, the Master Agreement was amended and extended through the year 2018.

With Supplemental Agreement No. 1 expiring at the end of 2018, discussions between the CATV and HKG Archive began in early January regarding the possibility of additional support. On June 22, 2018, Supplemental Agreement No. 2 was executed. Supplemental Agreement No. 2 further amended certain terms of the Master Agreement, as amended by Supplemental Agreement No. 1, and extended the Master Agreement through 2020.

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

The CATV continued to monitor developments in Congress and at the FCC relating to cable television, telecommunications, and broadband. The CATV continues to offer assistance to Hawaii's congressional delegation on efforts to increase broadband access in the State.

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

The 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. The 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. The DCCA/CATV expects to complete its discussions with `Ōlelo and the PEG designation for Oahu by the end of FY 2019.

#### **(12) Broadband Projects and Activities**

In FY 2018, the DCCA/CATV's broadband-related activities included the following:

- Work with the FCC on Hawaii's participation in the FCC's Measuring Broadband America program, which can expand the amount of data gathered about subscriber broadband service performance across the State.
- Monitor and support a project to close the fiber optic network gap on Hawaii Island (Hawaii Island Fiber Gap Project), for which the DCCA/CATV had convened a stakeholder group consisting of the County of Hawaii, the National Park Service, public utilities, and broadband and cable providers.
- Gather data on unserved and underserved areas and broadband performance across the State for use by policymakers in understanding the State's broadband landscape to better inform policies and strategies to advance the State's broadband goals. Efforts included: (1) soliciting ideas for tools to gather and disseminate broadband information through participation in the ETS' Hawaii Annual Code Challenge; (2) publishing a public report on

fixed wireline broadband speeds across the State; and (3) working on applications to gather and map broadband deployment data and speeds across the State.

- Connect with stakeholders to identify possible opportunities to partner on, facilitate, or support projects to extend broadband access and increase broadband adoption.
- Draft legislative proposals to incorporate “best practices” from other jurisdictions to facilitate the deployment of broadband infrastructure. The DCCA submitted two draft bills for review by the BAAC and for possible action by its members. This included a bill to require all utility pole owners to use a single statewide utility pole notification system for pole attachments and pole projects to, among other things, lower costs and increase efficiency and coordination of projects that could in turn expedite and increase broadband infrastructure deployment; and a bill to direct the Hawaii Public Utilities Commission to consider the leasing of temporarily available, unused ratepayer-funded utility infrastructure, such as dark fiber and conduit space, that could generate utility revenues for the benefit of ratepayers while making available existing infrastructure to expedite and lower costs for broadband deployment.
- Develop and begin implementation of a DCCA/CATV pilot WiFi project on Hawaii Island to provide community access to WiFi at government locations in unserved and underserved areas around the island. The pilot locations will provide access to broadband-level Internet services. This pilot project will be used to create a plan and collect data that may be used to budget for and implement similar WiFi projects across the State.
- Disseminate information to stakeholders on funding opportunities for broadband projects and best practices for broadband infrastructure deployment.
- Identify locations for designation of public WiFi access points pursuant to Decision and Order No. 366 that may provide Internet access in rural, underserved communities as well as locations that would greatly benefit the broader public. (The designated WiFi access points provide the general public with 1 hour of free service per device per day.) Through the end of FY 2018, the DCCA/CATV designated the following 44 out of 100 OTWC WiFi access points required under Decision and Order No. 366: 14 bus stops that circle the island of Kauai; seven locations in Hana, Maui with coverage areas that include community centers and parks; five locations in Wailuku, Maui widely used for its First Friday event; 10 locations in remote Kalaupapa, Molokai; two locations in the Princess Ruth Keelikolani Building that may be used by residents doing business with the Department of Taxation and the Department of Labor and Industrial Relations; and six locations in Kaunakakai, Molokai with coverage areas that include parks and community services centers.
- Pursuant to Decision and Order No. 368 (Franchise Order for Hawaii County), the DCCA/CATV also identified fire stations and educational facilities to receive the free INET connection on the island of Hawaii, as provided for by that order.

- Support and facilitate provider efforts to extend and improve broadband infrastructure through efforts such as serving as a liaison with other government entities and the public.
- Support and facilitate discussions and activities of the BAAC and solicit recommendations to expand broadband access and use.
- Provide assistance to the public with broadband-related inquiries.
- Maintain a website to support statutory duties under HRS chapter 440J and Act 151, SLH 2011; provide access to broadband coverage information and broadband development resources; and provide digital literacy resources and consumer information.

### **(13) Broadband Assistance Advisory Council**

In FY 2018, DCCA/CATV convened two BAAC meetings. These meetings included discussion and/or presentation on: (1) broadband-related legislation, including proposals circulated to BAAC members related to broadband infrastructure project management and coordination and the lease of unused fiber to expand broadband access; (2) HT's FCC Connect America fund projects and SEA-US undersea cable; (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) the DCCA/CATV's WiFi Pilot Project; (6) the ETS Hawaii Annual Code Challenge and the DCCA's challenge submission; (7) FirstNet; and (8) the DCCA/CATV's designation of OTWC WiFi access points.

### **CRF FINANCIAL SUMMARY**

The following is the CATV's financial summary for FY 2017-2018:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$965,480	\$797,421	\$1,762,901	\$2,989,889

### **CONCLUSION**

The CATV was very active in FY 2018, due to its continued monitoring of the obligations and requirements set forth in the approval of the transfer of the OTWC's cable television franchises across the State to Charter; the transfer of HT's cable franchise to CB, the multiple cable franchise renewals at issue across the State; the activity surrounding the designation of all four PEG access organizations; the rapid development of telecommunications technology and its implications 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, the CATV continues to strive 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@dcca.hawaii.gov](mailto:consumeradvocate@dcca.hawaii.gov)**OVERVIEW**

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

Office address: 335 Merchant Street  
Room 326  
Honolulu, Hawaii 96813

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

Phone: (808) 586-2800

**COMPOSITION**

The DCA has 15 incumbent employees, including the Executive Director, a secretary, a utilities/transportation specialist, an education specialist, rate analysts, researchers, engineers, attorneys, and clerical support.

The 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 the DCA's docket, general office, and electronic database files, formatting draft documents prepared by the technical staff and attorneys for filing with regulatory agencies and utility companies; and maintaining the division's library.

## **GOALS AND OBJECTIVES**

The 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 the DCA's goals and how the DCA will reach them, the goals will be described separately.

### **CONSUMER ADVOCACY**

#### **Goal**

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

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

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

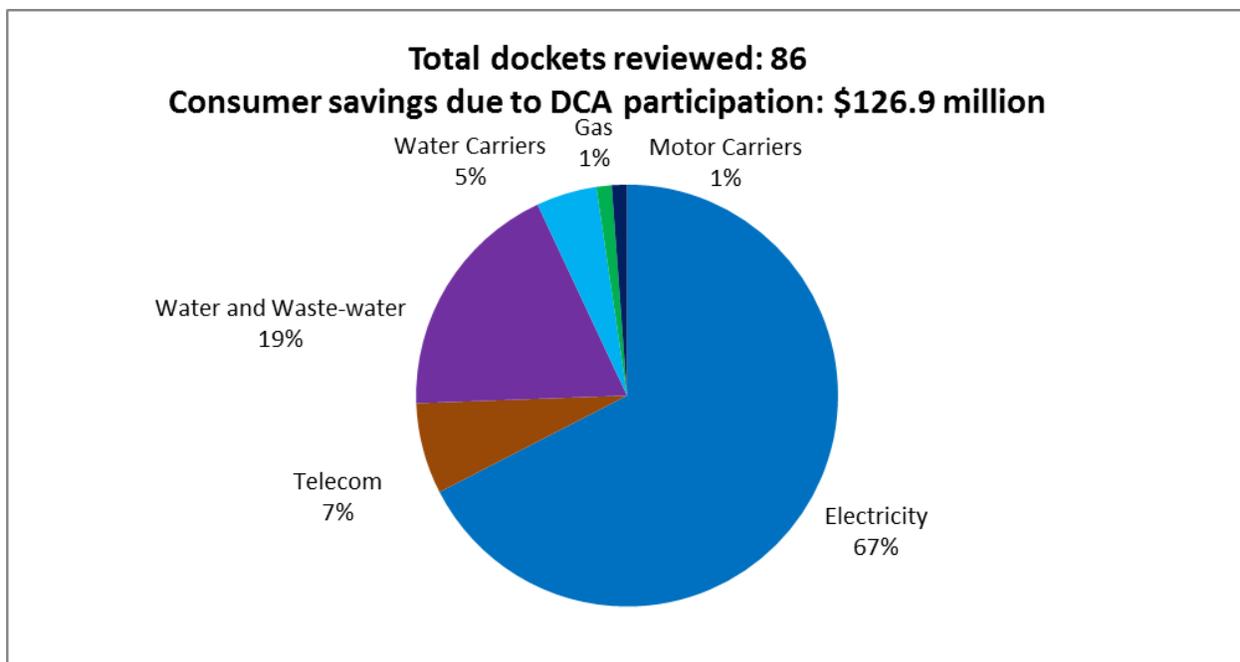
- Review of applications to ensure compliance with regulations.
- Participation at PUC public hearings.
- Procurement of consultant services to manage workload and for complex cases.
- Completion of discovery.
- Analysis of applications and supporting documents to determine the accuracy and reasonableness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

- Completion of related legal actions, such as filings of legal briefs, motions, and appeals, as necessary.

### Measures

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

**Chart 1: Dockets Reviewed by Area and Overall Consumer Savings, FY 2018**

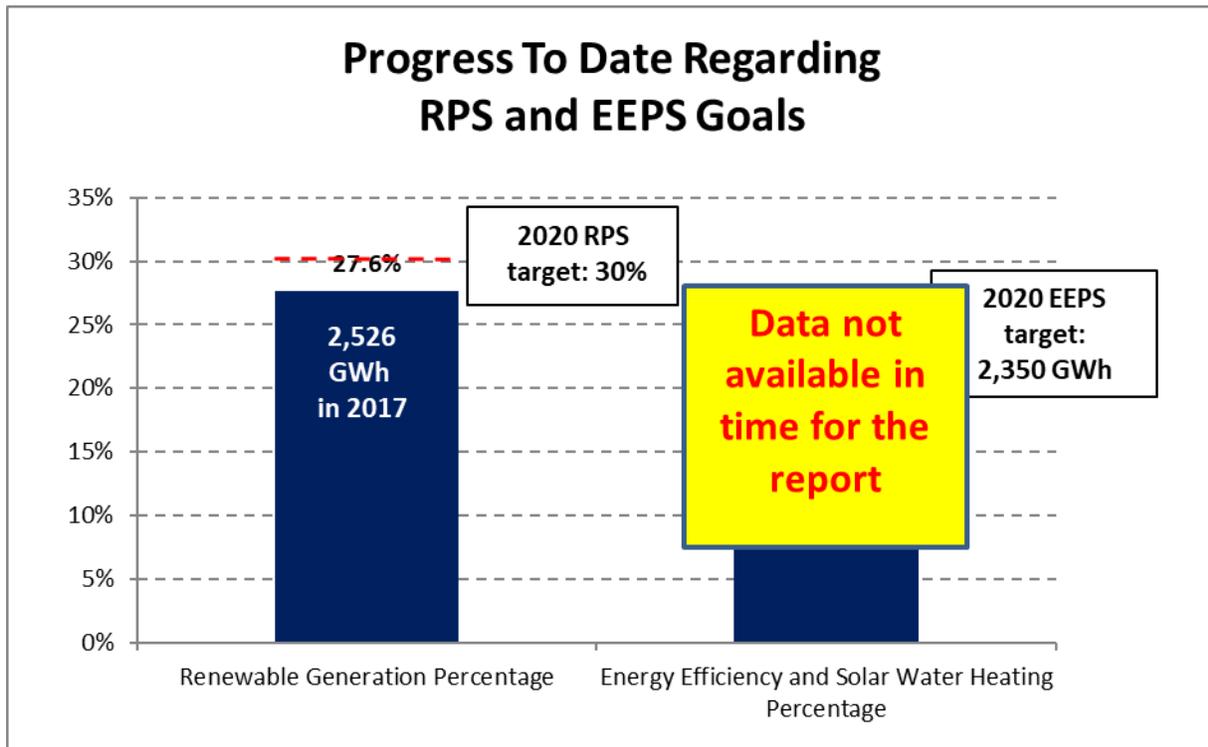


## POLICY ADVANCEMENT

### Goal

The DCA will remain active in promoting policies to protect and advance the interests of utility and transportation consumers on the local, state, and national levels. Two major objectives that the 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 of the submission date of this report, the DCA has not received data since last year's CRF Report on the State's progress toward its Energy Efficiency Portfolio Standard (EEPS) goals; however, Chart 2 reflects Hawaii's progress on its Renewable Portfolio Standard (RPS) goals, and the State continues to progress toward its 2020 RPS and EEPS goals.

Chart 2: Hawaii's RPS and EEPS Goals



\*Above data is for calendar year 2017. Due to changes in reporting requirements, it is necessary to discuss how progress toward EEPS goals will be monitored and reported in the future.

### Planned Approach/Methods

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

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

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

The DCA is actively involved in the National Association of State Utility Consumer Advocates (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.

The 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 2018 legislative session, the DCA monitored and/or testified on 65 bills and submitted written testimony on 34 occasions.

### **Measures**

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

## **EDUCATION & OUTREACH**

### **Goal**

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

### **Planned Approach/Methods**

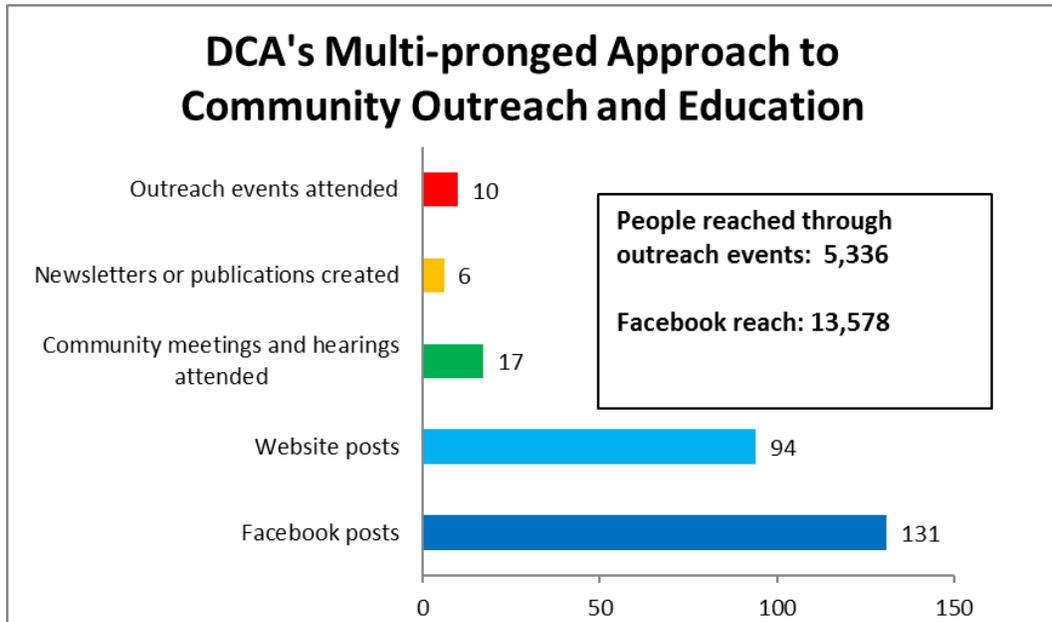
The DCA can accomplish its goal of positively affecting the habits of consumers statewide through its website and public outreach activities. The DCA established the following action plan to accomplish its goals and objectives:

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

## Measures

To measure its performance and progress on education and outreach activities, the DCA tracks the number of people reached through education and outreach events, newsletters and other publications distributed, and consumers assisted with complaints and other issues. Chart 3 illustrates various ways the DCA engaged in community outreach and education in FY 2018.

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



## ACCOMPLISHMENTS

Results of the DCA's efforts to protect and advance the interests of consumers in FY 2018 are summarized below for some of the more significant matters involving the DCA:

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

#### **Energy Dockets**

##### **Resource Planning**

Throughout most jurisdictions, energy utility companies are required to conduct long-term planning processes to efficiently plan on how to meet customer needs with an optimal mix of resources, such as central station generation, distributed generation, and demand-side resources. The need for energy planning is heightened in Hawaii since Hawaii's RPS and EEPS objectives require careful planning to ensure that Hawaii's energy rates do not unreasonably escalate or the reliability and resiliency of electric services do not suffer. While such planning was historically done through Integrated Resources Planning, or IRP, proceedings, and more recently as Power Supply Improvement Plans, or PSIP, proceedings, the Hawaiian Electric Companies (HECO Companies) are now conducting Integrated Grip Planning (IGP). The PUC recently opened

Docket No. 2018-0165 to investigate the IGP process. The DCA will continue to actively review and provide recommendations regarding the utilities' resource planning efforts.

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

The 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 that 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 certain DER issues, the PUC set forth an accelerated timetable for analysis of these issues in Phase 1 of this proceeding, with other issues to be analyzed in Phase 2.

In Phase 1, pursuant to concerns raised, the PUC closed the Net Energy Metering program for the HECO Companies but created grid-supply and self-supply options to allow the continued adoption of rooftop photovoltaic systems. Furthermore, the PUC also required the HECO Companies to provide time-of-use tariffs. In the first part of Phase 2, the 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 need to consider the needs and protections for both participating and non-participating customers.

**Performance-Based Ratemaking (PBR)**

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

**2017 Tax Cuts and Jobs Act (2017 Tax Act)**

In December 2017, the 2017 Tax Act was passed, which modified the tax code, including collapsing all corporate tax rate brackets into a single bracket at 21%. Since utility rates existing at the time were based on the higher corporate tax rates, the DCA urged the PUC to ensure that the benefits associated with the tax reduction would be passed onto customers. The PUC agreed and filed an order in Docket No. 2018-0012 that required utility companies to take the necessary steps to ensure that the benefits would be passed onto customers. Docket No. 2018-0012 is ongoing, but the relevant benefits are generally being identified, and the means of returning the benefits are occurring in individual rate case proceedings.

**Green Energy Market Securitization (GEMS)**

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

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

In November of 2015, the PUC suspended a HECO Companies' tariff to open a proceeding to investigate CBRE issues. Subsequently, the PUC filed its staff proposal for a CBRE program and requested comments on that proposal. The Consumer Advocate's proposal supported the need for a CBRE program but noted the proposal did not include sufficient customer safeguards and may have been too favorable to industry and developer interests. The Consumer Advocate highlighted the need for low-cost options for renters, multi-unit dwelling residents, and low-income customers and for an initial program that would be relatively simple, rather than a complex program that might doom any future CBRE efforts. The PUC proposed a CBRE framework, which the Consumer Advocate and other stakeholders analyzed and offered comments. After the offered comments and technical conferences, the 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, a rate case for Young Brothers, the merger between CB and HT, and eligible telecommunications carrier certification for various telecommunications companies. The Consumer Advocate also worked on various dockets related to Hawaii Gas.

**(2) ADVOCACY THROUGH PARTICIPATION ON COMMITTEES AND BOARDS****Enhanced Wireless 911 (E911) Services**

Act 168, SLH 2011 (Act 168) created the E911 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 the DCA as a member of the E911 Board.

**One Call Center Advisory Committee**

The Executive Director of the DCA is also a member of the One Call Center Advisory Committee, which makes recommendations to the PUC regarding the implementation of HRS chapter 269E and Act 141, SLH 2004. This advisory committee was integral in developing the request for proposals for a vendor to operate a "call-before-you-dig" system. This system, which became operational on January 1, 2006, helps reduce 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 saves excavators time and money.

### **Energy Policy Forum**

The Executive Director of the DCA is a member of the Hawaii Energy Policy Forum (HEPF), which is a collaborative organization of UH at Mānoa. The HEPF consists of members from the business, government, and regulatory communities. Meetings are held quarterly to discuss Hawaii's energy needs for both electricity and transportation. The HEPF also provides support to other organizations, such as the Hawaii Clean Energy Initiative Steering Committee. In FY 2018, the DCA continued to actively participate in these meetings by providing input to the 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 (HCEI)**

On January 31, 2008, the State of Hawaii and the U.S. Department of Energy (U.S. DOE) launched the HCEI, 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, including transportation, electricity, and energy efficiency. The DCA is participating in the HCEI's Integration Committee, which, with the aid of U.S. DOE experts, seeks to consolidate the themes and suggestions put forth by the remaining committees.

As part of the HCEI, the Executive Director of the 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 the HCEI.

The 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 monies collected through the Public Benefits Fund surcharge, TAG evaluates the use of the monies to help Hawaii's efforts to reduce its overreliance on imported fossil fuels.

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

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

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

The DCA continues to use Facebook to reach consumers more quickly through social media. Through Facebook, the DCA educates consumers by posting energy and water-saving tips and notifying consumers of pertinent, utility-related online newspaper articles, blog posts, and radio

and television programs. The Facebook page is also used to announce upcoming utility-related public hearings, consumer fairs, utility and green energy conferences, and media events.

### **CRF FINANCIAL SUMMARY**

The following is the DCA's CRF financial summary for FY 2017-2018:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,885,673	\$1,259,124	\$3,144,798	\$4,398,762

### **CONCLUSION**

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

**DIVISION OF FINANCIAL INSTITUTIONS (DFI)**

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, the DFI made changes to its licensing and examination programs to focus its resources on risk-based supervision.

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

The major functions of the DFI are to:

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

The DFI is recognized by two accreditation organizations as providing the highest standards of training for its staff and for appropriately supervising and examining chartered and licensed companies and individuals. The DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and reaccredited in 1995, 2000, 2005, 2012<sup>4</sup>, and 2018. The CSBS accreditation program sets high standards for state banking regulators nationwide. Forty-seven of 52 states<sup>5</sup> meet CSBS accreditation requirements.

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<sup>4</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, the DFI received accreditation in 2012.

<sup>5</sup> Includes the District of Columbia and Puerto Rico.

In 2Q FY 2015, the DFI was the eighteenth state in the nation to be accredited by the CSBS/AARMR<sup>6</sup> for mortgage supervision. The CSBS/AARMR accreditation program sets high standards for state mortgage regulators nationwide. Currently, 26 of 66 mortgage regulatory agencies meet CSBS/AARMR accreditation standards. The accreditation program includes the mortgage loan 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 the DFI's contact information:

Office address:	335 Merchant Street Room 221 Honolulu, Hawaii 96813
Mailing address:	P.O. Box 2054 Honolulu, Hawaii 96805
Phone:	(808) 586-2820

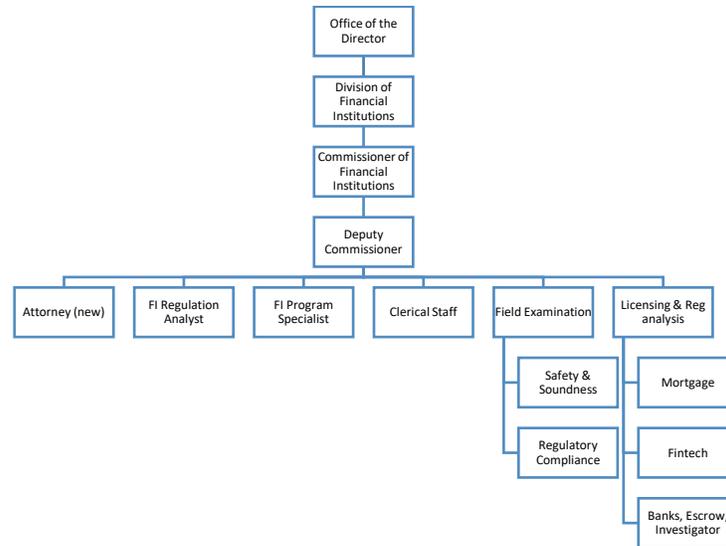
## COMPOSITION

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

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

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



The 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 emerging financial technology (fintech) companies including money transmitters, while the other section focuses on the mortgage industry, including mortgage loan originators, mortgage loan originator companies, and mortgage servicers. This branch also oversees banks and escrow depositories and includes an investigator who conducts investigations in all industries supervised by the DFI.

## **GOALS AND OBJECTIVES**

### **Goals**

The 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 the DFI's goals and objectives:

- (1) Maintain public confidence and trust in the financial system in a changing environment.
  - The DFI does not receive any general funds. Instead, the division receives funding from its chartered and licensed companies and individuals. The DFI operates like a business, as it balances revenues and expenses to provide oversight and supervision for the benefit of Hawaii's residents.
  - The DFI reviews and proposes changes to its laws to appropriately meet the everchanging environment in which it functions. The innovative business models and functions of licensees have changed the landscape of compliance to become complex and multifaceted. Instant fulfillment of services has become the norm for consumers, and the DFI struggles to continue maintaining proper supervision of licensees.
  - The DFI provides joint regulation, supervision, and examination of state-chartered financial institutions. The DFI is the primary regulator for non-depository industries.
  
- (2) Have an effective and collaborative workforce with satisfied and valued employees who see the DFI and DCCA as their employer of choice.
  - Since 2011, the DFI processes its work through electronic means and continues to expand the use of technology in processing work from applicants and licensees. Licensees apply for licenses, renewals, and any changes through a secure electronic channel. All processing of applications and requests occurs electronically. Examinations are also conducted electronically, where licensees provide examination documents through a secure channel. Examiners spend less time on-site with the licensee, saving money for the licensee and travel times by the examiners. The DFI still accepts paper inquiries and complaints from consumers, although more consumers have taken advantage of the DFI's online consumer complaint process.
  - The DFI has been developing a career path for employees to advance and retain employees. The DFI has been successful in recruiting new employees and retaining employees once trained.
  - The DFI leverages its resources with other state and federal agencies to provide oversight over state-chartered and licensed companies. This coordination involves communication skills to efficiently discuss and take appropriate action on licensees.
  
- (3) Have effective and efficient operations and programs.
  - The DFI re-organized its licensing branch to create two distinct branches.
  - The DFI continues to work with a vendor to implement a workflow process that would include a searchable database.

(4) Achieve the DFI's strategic objectives.

- Over the last five years, the DFI's staffing has undergone a tremendous change, with the addition of 23 new staff members who work with technology to meet the DFI's goals and objectives. In FY 2018, the DFI added one new examiner. The DFI's goals and objectives center on the orientation, training, and effective deployment of its examiners and providing best practices to licensees in a professional manner. Federal training programs administered by the FDIC and the Federal Reserve System are regularly used for this purpose, as are web-based programs provided by the CSBS, Risk Management Association, and Hawaii Bankers Association. On-the-job training is also a valuable component of the training plan. The DFI's goals also focus on recruiting new staff who will be able to adjust to the rapidly changing landscape of the financial services industry. New financial service products continue to be created, modified, and initiated by licensees regulated and supervised by the DFI. Delivery methods have also expanded through use of the internet, cellular phones, and other mobile devices, as well as their impact upon cybersecurity. Consequently, it is challenging for examiners to stay up-to-date with the latest iteration of products, services, and delivery methods.

### **Strategic Plan**

As a part of the CSBS accreditation process, the DFI established a strategic plan and developed policies and operating guidelines to achieve plan objectives. The following is the 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 the DFI's objectives, and the policies to accomplish those objectives are embedded in its policy and operating manuals.

### **Action Plan**

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

## **Performance Measurement**

The 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 the DFI's key area of responsibility: to ensure the safety and soundness of Hawaii-chartered and licensed financial institutions. The second measurement involves the 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 the DFI with insight into how companies use innovations and solutions to address financial services. The 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, the 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. The Commissioner of Financial Institutions continues to be a leader among the financial institution regulators, speaking at various seminars, symposiums, and conferences about banking and cannabis businesses.

### **(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. The 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 Q1 FY 2019, all state-chartered banks have reported increased earnings due in part to increased loan growth, but the primary reason for increased earnings is the double-digit decrease in tax rates. The DFI conducts multi-state examinations with other states for non-depository companies who conduct business in the U.S. and abroad.

As the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) are implemented by the various federal regulatory agencies, the DFI will also meet the needs of informing and supervising our state-chartered and state-licensed financial institutions to protect consumers. Some of the amendments of the Dodd-Frank Act include changes in capital requirements, executive compensation and corporate governance, the direction of the CFPB, the

regulatory burdens on community banks (banks with less than \$10 billion in assets), stress testing, mortgage foreclosure, loosening of lending standards, and the Bank Secrecy Act and Anti-Money Laundering laws.

The DFI is also watching the following issues over the next few years, as regulatory oversight continues to evolve and tighten:

- Fintech companies offering traditionally banking products.
- Effective regulation of Non-bank Financial Institutions and the impact on global economic conditions.

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

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

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

The 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 allows licensees to input information about their licenses in one place and that information is provided to all state regulators, thereby increasing efficiency for our licensees. This technology also requires licensees and applicants to respond to each question before submitting an application to the DFI for review. The DFI communicates with applicants through a secure email channel.

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

The 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 the 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. The DFI has continued to provide information to consumers about disaster recovery and how to plan and recover from a disaster.

**(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 U.S. 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 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.

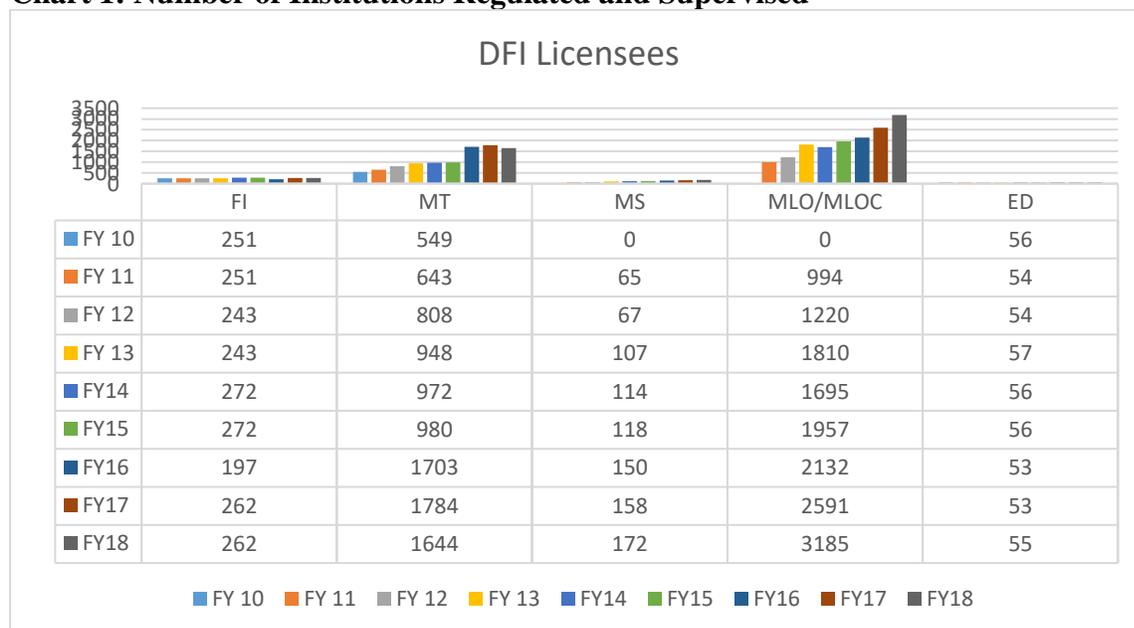
**(8) Efficiency**

The 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 the NMLS. All states can share regulatory information with one another to assist in ongoing supervision, licensing, and enforcement of multi-state licensees.

**(9) Workload**

The DFI’s workload has increased dramatically, both in the type and number of institutions regulated (*see* Chart 1: Number of Institutions Regulated and 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. The DFI is working to address these issues as they impact cybersecurity, consumer security and privacy, potential money laundering and fraud, and others.

The 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, the DFI added additional examiners to properly examine these companies. In 2018, the DFI had six field examiners conducting examinations. To improve efficiency, the DFI has teamed with other states to conduct multi-state examinations on the larger mortgage loan originator companies and mortgage servicers. In addition, the DFI has teamed with the CFPB in examining very large (licensed in 35 states or more) mortgage loan originator companies and mortgage servicers.

## **CRF FINANCIAL SUMMARY**

The following is the DFI’s CRF financial summary for FY 2017-2018:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,657,485	\$573,996	\$4,231,480	\$5,678,123

## **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. New federal laws changing the requirements under the Dodd-Frank Act have added a new complexity to supervising both large banks and community banks.

The major outcome of the global financial crisis is fintech companies disrupting the financial industry by offering products and services traditionally offered by banks. Consequently, information security, cybersecurity risks, and data privacy have become a focus for the DFI. Training and finding staff in this area is challenging due to the disparate salaries offered by the DFI and private industry. The DFI continues to aggressively respond to these rapidly changing global and local economic conditions and pursues the active regulation and supervision of Hawaii-chartered financial institutions to preserve their safety and soundness and protect the rights of depositors, borrowers, consumers and other members of the community.

Overall, the DFI and its federal partners have provided Hawaii's state-chartered banks and financial institutions with the supervision necessary to operate in a safe and sound manner, 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 2018, while the 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. Previous 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. The DFI continues to use technology and social media to inform and educate licensees and consumers, process applications from applicants and licensees, and conduct examinations on licensees.

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

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

<b>Type of License</b>	<b>Licenses as of June 30, 2018</b>	<b>Licenses as of June 30, 2017</b>
Adjuster	2,998	2,705
Captive	228	221
Certificate of Authority (Insurer)	1,031	1,018
Foreign Risk Retention Group (Registered)	57	59
Fraternal Benefit Society	7	7
Health Maintenance Organization	4	4
Independent Bill Reviewer	29	29
Life Settlement Broker	23	26
Life Settlement Provider	18	20
Limited Lines Motor Vehicle Rental Company Producer	38	37
Limited Lines Portable	19	16
Limited Lines Producer	1,543	1,416
Managing General Agent	45	42
Mutual Benefit Society	5	5
Nonresident Producer	56,250	49,284
Pharmacy Benefit Manager	29	0
Producer	7,634	7,477
Purchasing Group (Registered)	230	223
Reinsurance Intermediary Broker	38	36
Service Contract Provider Registration	173	167
Surplus Lines Broker	2,003	1,900
Vehicle Protection Product Warrantor Registration	43	38
<b>TOTAL:</b>	<b>72,445</b>	<b>64,730</b>

The 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 the INS' contact information:

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

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

Phone: (808) 586-2790

## COMPOSITION

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

The **Captive Insurance Branch** handles all aspects of licensing, regulating, and developing the State's captive insurance industry. With 230 active licenses as of December 31, 2017, Hawaii's captive insurance domicile is ranked 9<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 the INS' captive insurance program. Accordingly, the CRF does not fund the cost of this program. The branch has a captive insurance administrator, a secretary, a captive program specialist, and 13 captive insurance examiners.

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

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

- Licenses more than 1,300 domestic, foreign and alien insurers.
- Processes and collects more than \$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.

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

The **Health Insurance Branch** regulates health insurers, including health maintenance organizations and mutual benefit societies. The branch's primary responsibilities include: receiving inquiries and complaints pertaining to health insurance, including long-term care insurance; receiving requests from consumers for external reviews of a health plan's coverage decisions under HRS chapter 432E and administering the external review process; reviewing premium rate filings and forms to ensure readability and disclosure of required information; and coordinating with the Financial Surveillance and Examination Branch to conduct financial surveillance of health insurers. The Health Insurance Branch has a program administrator and 16 other established positions.

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

The **Legal Branch** advises the Insurance Commissioner, Chief Deputy Commissioner, branch chiefs, and the INS on all legal matters and serves as the interface between the INS and 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 (CE) 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 CE 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 CE 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 the INS; maintains the INS' central administrative files, including memoranda, newspaper articles, documents, and reports; orders office supplies and equipment for the INS and maintains its inventory; and receives and distributes the INS' mail. The branch has a clerical supervisor, a clerk-typist, and five office assistants.

The **Rate and Policy Analysis Branch** provides systems and procedures for the analyses of rate and policy filings of domestic, foreign, and alien insurance companies for compliance with 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 the INS' goals and objectives:

- (1) Continue meeting its statutorily mandated requirements.
  - The INS will continue complying with the Insurance Code and the Hawaii Administrative Rules (HAR) through proper personnel and caseload management.

- (2) Maintain accreditation status with the NAIC.
  - Accreditation of state insurance regulators is administered by the NAIC and requires state insurance departments and divisions to maintain adequate statutory and administrative authority, as well as sufficient resources to effectively regulate the financial solvency of insurance companies. To maintain its accreditation status, the INS will ensure the required level of funding for its financial surveillance resources. In addition, the INS will review and submit to the Legislature, when necessary, proposed legislation for the adoption of NAIC model laws required for accreditation.
- (3) Improve Hawaii's world ranking as a leading captive insurance domicile.
  - Hawaii has long been an attractive domicile for the captive insurance industry because of its rigorous standards and geographical location. The INS continues to review its marketing strategy and amend existing components to remain competitive with the maturing and dynamic captive market in the U.S. Hawaii actively pursues opportunities in Asia and has maintained its standing as a captive insurer domicile world leader.
- (4) Redevelop and redesign the INS' database.
  - As the INS looks to the future, it is focused on exploring system solutions to replace an aging Hawaii Insurance Database System. 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 the INS' efficiency and provide better online services and information to consumers and insurance licensees.

## **ACCOMPLISHMENTS**

### **Captive Insurance Branch**

- (1) The Captive Insurance Branch licensed 30 new captive insurance companies in the calendar year 2017, matching the most licensed in a single year since enactment of legislation that allowed captive insurance companies to operate in the State.
- (2) The State of Hawaii was named the 2018 Domicile of the Year in the 200 Plus Captives category by Captive Review. The State won this highly prestigious award over many other well-known captive domiciles, and this is the first time Hawaii has received this award.

### **Compliance and Enforcement Branch**

- (1) Consumers and the insurance industry saved or recovered \$199,466 from insurers and agents with the branch's assistance in handling consumer and industry complaints.
- (2) The branch received 507 complaints and initiated 12 formal actions: four license revocations, four cease and desists, three certificates of authority revoked, and one license suspended.

(3) The branch levied \$89,000 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, the INS has been reaccruited 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>2017</u>	<u>2016</u>
Direct premiums written in Hawaii – licensed companies*	\$12,510,598,000	\$11,672,891,000
Surplus lines premiums written in Hawaii	\$255,858,000	\$252,947,000
Foreign risk retention group premiums written in Hawaii	\$7,704,000	\$7,357,000
Premium tax returns processed	9,600+	9,500+
Premium taxes and levies collected**	\$180,664,000	\$165,285,000
Total Hawaii investments***	\$8,993,923,000	\$8,624,452,000

\* Includes annuities, fraternal benefit societies, mutual benefit societies, health maintenance organizations, and dental insurers that are not subject to premium taxes. Annuities and premiums for fraternal benefit societies, mutual benefit societies, health maintenance organizations, and dental insurers in 2017 and 2016 were \$7,346,419,000 and \$6,904,831,000, respectively.

\*\* Net of premium tax credits.

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

Active Company Licenses and Registrations	Companies Active as of December 31, 2017	Change During 2017		Companies Active as of December 31, 2016
		Admitted	Withdrew or Merged	
Type of License				
Life	367	5	3	365
Health****	21	1		20
Fraternal benefit societies	7			7
Health maintenance orgs.	4	1		3
Mutual benefit societies	5		1	6
Property and casualty	624	8	3	619
Title	14	1		13
Dental	1			1
<u>Licenses authorized in Hawaii</u>	<u>1,043</u>	<u>16</u>	<u>7</u>	<u>1,034</u>
Foreign risk retention groups (registered)	56	4	5	57

Purchasing groups (registered)	222	11	9	220
<u>Total active licenses and registrations</u>	<u>1,321</u>	<u>31</u>	<u>21</u>	<u>1,311</u>

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

### Health Insurance Branch

- (1) For FY 2018, the branch received 103 complaints and written inquiries, with the resolution of complaints saving consumers \$65,323.
- (2) For FY 2018, the branch reviewed 112 rate and policy form filings, resulting in consumers saving \$47.4 million.
- (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 FY 2018, the branch received 7 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. The branch has 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 2018, the branch received 297 referrals from insurance companies, various agencies, and the public. Of those accepted for prosecution, criminal indictments were obtained against 39 individuals who submitted fraudulent claims totaling \$760,000 for the FY.
- (2) The branch obtained restitution orders totaling \$100,570, with \$44,515 payable to the Crime Victim Compensation Fund, \$4,000 in fines to the State, and \$890 paid to the General Fund. There were also probation service fees in the amount of \$4,875 and miscellaneous fees of \$3,270.

### Rate and Policy Analysis Branch

- (1) During FY 2018, the number of filings reviewed remained steady as compared to FY 2017.
- (2) Review of property and casualty rate filings saved consumers over \$12.5 million.

**CRF FINANCIAL SUMMARY**

The following is the INS' CRF financial summary for FY 2017-18:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$6,858,531	\$1,896,290	\$8,754,821	\$10,300,449

**CONCLUSION**

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

**OFFICE OF ADMINISTRATIVE HEARINGS (OAH)**

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. The OAH's primary CRF caseload includes cases involving:

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

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

- (1) Procurement cases from all agencies and divisions of the State, its four counties, and UH 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.

Another integral part of the OAH's responsibilities is its administration of the Medical Inquiry and Conciliation Panel (MICP) and the Design Claim Conciliation Panel (DCCP). The MICP 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 should a party decide to pursue the matter in court. An annual report is separately produced regarding MICP and DCCP activities.

The following is the OAH's contact information:

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

Phone: (808) 586-2828

Fax: (808) 586-3097

## **COMPOSITION**

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

## **GOALS AND OBJECTIVES**

The following are the OAH's goals and objectives:

- (1) Conduct contested case hearings and issue consistent and well-reasoned, recommended decisions in a fair and impartial manner and as expeditiously as possible.
  - The OAH has implemented 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 the 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.
  - The OAH makes available online all procurement protest decisions shortly after it notifies the parties of the decisions. Since January 2009, the OAH has posted on its website all decisions in other areas.
  - Through new software, the OAH redacts personal information protected by privacy laws from decisions and makes decisions ADA-compliant.
  - The OAH routinely publishes all decisions shortly after they are issued to foster greater awareness of state laws, encourage voluntary resolution of disputes, and maintain consistency in rendering decisions.

**ACCOMPLISHMENTS**

The following table summarizes CRF-related activities the OAH conducted in FY 2018:

<b>Type of Proceeding Conducted</b>	<b>Number</b>
Pre-hearing conferences	99
Status conferences	110
Motions	12
Hearings	82

The following table summarizes the number of cases and relative percentage of CRF-related activities the OAH conducted in FY 2018.

<b>DCCA Divisions Referring Matters to the OAH</b>	<b>Cases Filed</b>	<b>%</b>
Insurance Division (denial of personal injury protection benefits and enforcement actions)	214	59%
Regulated Industries Complaints Office (petitions for discipline and appeals from citations for unlicensed activities)	59	16%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, and violations of securities laws)	34	9%
Professional and Vocational Licensing (license denials)	17	5%
Hawaii Employees' Retirement System (retirement benefit denials)	22	6%
Procurement Administrative Reviews (protest denials)	13	4%
Other CRF-related hearings	1	1%

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

Additional accomplishments in 2018 include:

- OAH hearings officers advised various agencies of the Department of Health, Department of Education, and Department of Labor and Industrial Relations, as well as the Campaign Spending Commission and the State and City and County of Honolulu Ethics Commissions, on the subject of administrative hearings.
- OAH completed updating the *Hawaii Procurement Code Desk Reference*, a reference manual that the OAH originally prepared in 1994 and that digests all OAH decisions issued under HRS chapter 103D.

## **CONCLUSION**

The OAH will continue working closely with all CRF-related boards, commissions, programs, and divisions to ensure cases are processed as expeditiously as possible and all participating entities and the public have access to the 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. The OCP reviews, investigates, and conducts enforcement actions against unfair or deceptive trade practices in consumer transactions. The OCP also provides consumer education and promotes awareness of important consumer protection issues through its programs, media releases, and educational materials.

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

The OCP received more than 500 consumer complaints in FY 2018. The actual number of OCP complaints varies from year to year depending on circumstances. Many factors influence the number of complaints to the OCP in any given year, such as the number of victims impacted by a business' illegal conduct. During the past several years, the OCP averaged approximately 1,000 consumer complaints per year.

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

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

The following is the OCP's contact information:

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

Wailuku office address:     1063 Lower Main Street  
  Suite C-216  
  Wailuku, Maui 96793  
  (808) 243-4648

Hilo office address:         Bank of Hawaii Building  
  120 Pauahi Street  
  Suite 212  
  Hilo, Hawaii 96720  
  (808) 933-8845

## COMPOSITION

The OCP has four sections:

The **Consumer Resource Center (phone: 808-587-4272)** performs intake of complaints for the OCP. The center is staffed by intake investigators at the Regulated Industries Complaints Office who answer consumers' questions, distribute OCP complaint forms to consumers, receive written consumer complaints, and forward cases to the OCP for review, closure, or further investigation. In FY 2018, the center resolved approximately 1,074 OCP complaint inquiries without a formal complaint. In addition, a section of the center answers phone requests for prior complaint history. If circumstances permit, consumers can also visit the OCP's Honolulu office to view hard copies of case files. Prior to the release of any file, the OCP reviews its contents to ensure legally protected private information is not disclosed.

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

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

and on its website. The OCP also publishes the Hawaii Residential Landlord-Tenant Handbook, of which thousands are distributed each year.

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

The OCP also provides the following services:

### **Consumer Education**

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

### **Neighbor Island Assistance Requests**

The OCP offers assistance to neighbor island residents in DCCA-related matters and other areas. *See* Table 5 for statistics on OCP's Neighbor Island Assistance in FY 2018.

## **GOALS AND OBJECTIVES**

Over the next five years, the OCP expects to fulfill its statutory mandate of fostering a fair and safe marketplace for consumers and businesses. 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 the 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, the OCP has educated tens of thousands of citizens by speaking to business leaders, attorneys, and consumers regarding consumer protection issues and the OCP's role in enforcing Hawaii's consumer protection laws.

Most recently, the OCP has 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 2018, the OCP responded to more than 70,000 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's Information Requests.

### **(2) Legislation**

The OCP testified and provided input on numerous measures related to consumer protection during the Regular Session of 2018, including bills relating to the Residential Landlord-Tenant Code, post-secondary education, refunds, disclosures, unclaimed personal electronic devices, security freezes, video games, towing, health clubs, counterfeit airbags, and motor vehicle rentals.

### **(3) Cases**

The OCP handled many significant cases in FY 2018 that involved nearly every area of consumer protection. These cases involved alleged violations of Hawaii's consumer protection laws governing mortgage rescue fraud, data breaches, gift certificates, door-to-door sales, wire transfers, refunds and exchanges, advertising, and unfair or deceptive trade practices, including complex multistate enforcement actions based on unfair or deceptive marketing practices by pharmaceutical companies.

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

## **CRF FINANCIAL SUMMARY**

The following is the OCP's CRF financial summary for FY 2017-2018:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,570,884	\$280,471	\$1,851,355	\$4,046,701

## **CONCLUSION**

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

**Table 1: Laws Enforced by OCP**

HRS section 127A-30	Rental or sale of essential commodities during a state of emergency; prohibition against price increases
HRS section 290-11	Vehicles left unattended on private and public property; sale or disposition of abandoned vehicles
HRS chapter 437D	Motor Vehicle Rental Industry Act
HRS chapter 446	Debt Adjusting
HRS chapter 446E	Unaccredited Degree Granting Institutions
HRS chapter 476	Credit Sales <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. The 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> The OCP also has enforcement power over certain Lemon Law agreements under HRS section 481I-4 and has filed lawsuits under HRS section 486-119 (Hawaii-made products; Hawaii-processed products). Also, HRS chapter 514E sets forth a comprehensive regulatory scheme for time-share development, sales, and maintenance and establishes 13 specific types of conduct that constitute *per se* violations of HRS section 480-2. Under HRS section 490:2A-104, Uniform Commercial Code leases are explicitly subject to state consumer protection statutes and case law.

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

**Table 2: OCP's Information Requests**

<b>REQUEST AND INQUIRIES</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
Requests for prior complaint history	8,603	6,238	5,959
Website inquiry general information	34,048	34,386	35,229
Website inquiry landlord/tenant information	16,488	19,098	13,980
Requests for landlord/tenant information	10,441	10,853	10,577
Complaint inquiries	14,180	9,920	8,333
Requests for records review	2	12	0
<b>TOTAL</b>	<b>83,762</b>	<b>80,507</b>	<b>74,078</b>

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

<b>DISPOSITIONS</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
Complaint withdrawn	4	4	1
Legal action and referrals to Legal Section	214	85	135
Advisory contact	15	6	3
Civil dispute/personal matter	51	43	36
Monetary threshold	0	0	4
Complainant uncooperative	16	12	7
Consumer complaint resolved	24	23	24
Respondent died or bankrupt	15	10	11
Business vs. business	17	18	10
No jurisdiction	16	8	4
Refer to investigation	220	128	143
Other	20	4	1
Warning letter	19	8	0
Insufficient evidence	93	80	34
Transferred to other government agency	175	191	118
No violation	20	27	25
Information only/inquiry	51	88	77
<b>TOTAL</b>	<b>970</b>	<b>802</b>	<b>633</b>

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

<b>SUBJECT</b>	<b>FY 2016</b> (rank/total)	<b>FY 2017</b> (rank/total)	<b>FY 2018</b> (rank/total)
Internet crime complaints (NWC3)			#6.28
Internet transactions (PC/software/server)	#4.73	#9.25	#4.37
Exercise/health Club (exercise, devices, clubs, foods)		#4.42	
Scams	#6.46	#7.29	#3.50
Real estate	#8.37	#5.34	
Loans/mortgage-related services			
Appliances (purchase/repair)	#5.52	#7.29	#9.20
Travel/vacation	#1.84	#2.78	#2.74
Identity theft/security breach	#7.39	#6.30	#5.34
Transportation (sale/repair/rent/tow/parking)	#2.83	#1.84	#1.127
Gift certificate	#10.33		
Service agreements/warranties/insurance	#9.34		
Food/drink service	#3.61		#9.20
Investment/financial		#3.49	#8.21
Education (Trade, vocational, home study, unaccredited degree granting institution)		#8.27	#7.25
Medical (hospital, clinic, convalescence, equipment, service company, laboratory)		#10.23	#9.20
Professional services (attorney, accountant, bookkeeper, Regulated Industries Complaints Office)		#10.23	#9.20
Utilities (electric, telephone, cable)		#10.23	#10.19

**Table 5: OCP's Neighbor Island Assistance in FY 2018**

<b>DIVISION</b>	<b>HILO</b>	<b>MAUI</b>	<b>TOTAL</b>
Division of Financial Institutions	1	1	2
Business Registration	8	2	10
Cable Television	1	1	2
Insurance Division	5	3	8
Division of Consumer Advocacy	2	0	2
Professional and Vocational Licensing	5	3	8
Regulated Industries Complaints Office	57	22	79
Non-departmental related	39	11	50
Other DCCA divisions	4	0	4
<b>TOTAL</b>	<b>122</b>	<b>32</b>	<b>154</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 51 different professions and vocations. Twenty-five licensing regulatory boards and commissions are administratively attached to the DCCA/PVL, as well as 26 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 51 professions and vocations. Additionally, the 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.

The PVL continues exploring ways to enhance public accessibility to licensing information, the licensing process, and its licensee roster. The PVL's website provides licensing information for all 51 licensing areas, fillable license applications, publications, links to the HRS and 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 the PVL. It is a useful tool for those interested in the number of licensees, as organized by their professions and geographic locations.

The PVL also maintains License Search and List Builder websites that are fully interactive. The License Search website enables the public to obtain basic information about businesses and individuals that hold professional and vocational licenses issued by the 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 website 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 websites occur within 30 minutes of the update to the PVL licensing database. Feedback received on these websites indicates the websites benefit a wide range of users, including consumers, licensees, employers, and government agencies, both in Hawaii and out-of-state. Links to other DCCA websites provide easy access to additional useful consumer information, such as a licensee's complaints history. The website address for the PVL's online services is [cca.hawaii.gov/pvl/e\\_services](http://cca.hawaii.gov/pvl/e_services).

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 the PVL, but renewals are largely submitted online. Online renewals are also available by visiting [pvl.hawaii.gov/mypvl](http://pvl.hawaii.gov/mypvl).

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

The following is the PVL's contact information:

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

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

## COMPOSITION

The PVL is divided into four branches:

The **Licensing Branch (phone: 808-586-3000)** is comprised of the Applications Section and the Records Section. The Applications Section reviews and processes applications for licensure, issues licenses, and maintains records of licensing applications. The Applications Section, on behalf of the boards, commissions, and programs, conducts highly intensive reviews of all initial licensing applications, determines the status of those applications, and, in some instances, makes the final determination to either issue or defer issuance of licenses. The Applications Section also performs customer service duties by answering the PVL's main public call-in line, which answered approximately 199,676 calls in FY 2018, or approximately 16,640 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 phone inquiries. Both sections of the Licensing Branch use the PVL's computerized licensing database to obtain immediate information about applicants and licensees. Inquirers may request information on whether a person or entity is licensed, the original date of licensure, the status of licensure, the expiration date of the license, Hawaii disciplinary sanctions imposed on the licensee, and, if applicable, whether mandatory insurance (e.g., workers compensation, liability insurance) is current and in effect.

The **Administration Branch (phone: 808-586-2690)** has a staff attorney, supervising executive officer, executive officers, program specialists, and secretaries. The branch handles board affairs such as coordinating, preparing, facilitating, and recording board meetings; ensuring board compliance with applicable laws that guide and direct its conduct; and implementing board decisions on applications, policies and procedures, and disciplinary actions. The branch also responds to requests for interpreting licensing laws and rules, oversees licensing and examination activities, and guides and assists with regulatory compliance issues. The same activities are done for the 26 programs (absent the necessity of board meetings) on behalf of the DCCA Director. The Administration Branch also performs substantial coordination and facilitation activities with other state, county, and federal agencies involved with licensing and regulatory issues.

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

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

All branches within the PVL work collectively toward efficient and expedient processing of applications, licenses, and renewals to ensure the public has choices among competent and licensed practitioners. In FY 2018, 91.56% or 59,348 licensees renewed their licenses online, as compared to 91.4% or 57,434 licensees who renewed online in FY 2016. The PVL encourages licensees to use its online renewal system, which helps them save valuable time and effort. The continued success of this system is attributed to the user-friendliness and efficiency of the PVL's online processing, which reduces the processing of renewals from 14 to 21 business days to three to five business days.

For a statistical summary of key PVL activities, see:

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

## **GOALS AND OBJECTIVES**

(1) The 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) The PVL is striving to replace its antiquated Application/Licensee Integrated Automated System (ALIAS) database. A Statement of Work was entered in June 2018, encompassing Phase 1 of the project, which includes a new automated system. Phase 1 will focus on planning, analysis, data migration assessment/strategy, and design tasks and may also include build-and-deploy tasks, if appropriate. The new database will be relied upon to process license applications, renewals, change transactions received via walk-in visits, by mail, or online, and check on the status of applications. It will also be configured to issue licenses, wall certificates, pocket cards, and other required documentation.

(3) The PVL continues its scanning and imaging project that converts existing licensing document files into electronic format. The conversion of the documents into electronic format protects and preserves historical documentation from damage or destruction. The conversion also has allowed staff to retrieve and review documents in a more expeditious manner at their desks, thereby eliminating the time delay that comes with physically retrieving files. This subsequently provides for more effective and timely service to PVL clients. The PVL continues to have new documents scanned on a regular basis. The division is also moving to incorporate a documents management system to more easily manage scanned documents enabling its filing to appropriate licensing files.

(4) The newest consumer services afforded PVL users is (1) the ability for applicants to check the status of their applications online; and (2) enabling licensees to change their addresses 24 hours a day, 365 days a year via the online MyPVL dashboard. The division's goal with these services is to provide better consumer services and to also reduce phone inquiries and staff time. In addition, the PVL is nearing completion of a service that will allow licensees to print license pocket identification cards and wall certificates online.

(5) Services on the PVL website continue to be upgraded and enhanced to be user-friendly and provide more information, applications, publications and links to other PVL sites.

(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 staff access to the documents. 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 the PVL's operations.

(8) The Real Estate Branch (REB) will continue improving the offering and delivery of real estate pre-licensing and CE courses. Rulemaking continues for HAR chapter 99 for real estate brokers and salespersons and for HAR chapter 119 for condominiums. Proposals to repeal the voluminous HAR chapter 99 and replace it with three separate shorter chapters (99.1, 99.2, and 99.3) to facilitate future rulemaking are being implemented. The REB will initiate the renewal process for all real estate licensees through the end of 2018. For the condominium program, the REB solicited and collected suggestions from stakeholders in the condominium community and has developed a working document that will be proceeding through the formal rulemaking process to implement HRS chapter 514B. Additionally, the REB continued its outreach to stakeholders who may be affected by the repeal of HRS chapter 514A. The REB will further work to enhance online public access to condominium projects and Association of Unit Owners registrations and will further develop its communication efforts with unit owners, developers, boards, associations, and the public. The Program of Work for the REC and REB also includes developing and implementing a new registration program for condominium projects. For a comprehensive report on the REB's and REC's FY 2018 goals and objectives, please refer to [cca.hawaii.gov/reb/reports/](http://cca.hawaii.gov/reb/reports/) to view their annual report for FY ending June 30, 2018.

## **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 87.92% for FY 2017 and 91.56% for FY 2018.

The webpage for the PVL's License Search online system was viewed 2,566,082 times in FY 2018. 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.

The 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. The PVL received 5,486 submittals online in FY 2018, as compared to 2,533 submittals in FY 2017.

The 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 hours a day, 365 days a year. This initiative has proven incredibly successful, with 130,683 registered accounts with 153,025 linked PVL licenses as of FY 2018.

In FY 2018, the PVL received 2,845 guard employee (GDE) license applications, with 1,982 of those applications submitted online, or 69.67% of those applications received via the PVL's Initial Online GDE Application Submittal System.

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

In anticipation of hurricane season in Hawaii, the PVL secures updated lists of licensed contractors and other professions and vocations, should this information need to be retrieved quickly in an emergency situation.

The PVL Working Group was resurrected in 2017 to identify issues that hindered the Licensing Branch's efforts to provide the best customer service to its applicants and licensees and to discuss potential changes to the application processes to continue to improve the PVL's services to consumers.

In November 2017, the PVL implemented a new online Application Status Search feature that enables new applicants or existing licensees to search for their application status. The new online feature was highly requested by the public, and individuals and businesses can now monitor the status of their applications in real-time. The PVL Search complements the division's "MyPVL" online service, which allows licensees to access their PVL licensing and online renewal information via a single online user account 24 hours a day, 365 days a year.

The Licensing Branch received approximately 19,302 new applications and issued 14,400 licenses in FY 2018. In addition, approximately 223,724 license-related changes were processed by staff, such as address changes, name changes, and broker changes. One of the goals of the Licensing Branch was to address the problematic issue of incoming telephone calls on its 808-586-3000 telephone number. The Licensing Branch answered 199,676 calls in FY 2018, or approximately 16,640 calls per month. To address complaints from members of the public (applicants and licensees) that they are unable to get through the main telephone line, the Licensing Branch is establishing a call center that it hopes to fully staff.

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 the Executive Officers and the 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 the PVL's objectives of improving and expanding the division's online services, the 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>.

The REB continued educating the condominium community by presenting its ongoing "Condorama" series in the State Capitol Auditorium in November 2017, with assistance from procured vendor Community Associations Institute Hawaii. This condominium educational seminar was free-of-charge to the public and featured a panel of speakers on topics including association contracts, communications at association meetings, and condominium insurance. Condorama is 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 the REB and REC in FY 2018, please refer to <http://cca.hawaii.gov/reb/reports/> to view their annual report for FY ending June 30, 2018.

### **(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 the 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 the PVL's CRF financial summary for FY 2017-2018:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,893,181	\$2,202,983	\$7,096,164	\$9,426,050

## **CONCLUSION**

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

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

**Table 1: PVL Statistical Overview**

	<b>FY 2017</b>	<b>FY 2018</b>
Applications received	20,309	19,302
Applicants licensed	14,923	14,408
Licenses renewed	67,179	70,139
Permits issued	1,533	1,064
Changes processed	248,306	223,724
Calls received by Licensing Branch	132,000	199,676
Current licensees	155,887	158,520
<b>Total licensee population (all statuses, i.e., current, forfeited, delinquent)</b>	<b>429,379</b>	<b>443,237</b>

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

<b>Boards and Commissions (shown by asterisks) and Programs</b>	<b>FY 2017</b>	<b>FY 2018</b>
Accountants*	3,675	3,921
Activity desks	954	902
Acupuncturists*	754	742
Appraisal management companies - license effective 1/1/2018		50
Athletic trainers	164	195
Barbering and cosmetology*		
Barbers	1,492	1,432
Barber shops	209	209
Beauty operators*	9,179	8,787
Beauty instructors	120	117
Beauty schools	10	10
Beauty shops	1,403	1,294
Behavior analysts	185	206
Boxing (all categories)*	15	22
Cemeteries and pre-need funeral authorities	22	23
Chiropractors*	642	614
Collection agencies	582	629
Contractors*	12,804	13,271
Dentists*	1,553	1,516
Community service dentists	31	22
Dental hygienists	1,147	1,100
Community service dental hygienists	3	3
Dispensing opticians	188	202
Electricians (all categories)*	3,785	3,611

## Professional and Vocational Licensing Division (PVL)

Plumbers (all categories)*	1,268	1,322
Electrologists	16	16
Elevator mechanics*	223	226
Employment agencies	67	76
Engineers, architects, surveyors, and landscape architects:*		
Engineers	7,046	7,421
Architects	2,488	2,635
Surveyors	213	215
Landscape architects	148	155
Hearing aid dealers and fitters	133	121
Marriage and family therapists	446	492
Massage therapists*	8,144	8,603
Massage establishments	866	977
Medical and osteopathy*		
Physicians	9,332	8,983
Podiatrists	85	85
Osteopaths	899	971
Physician assistants	424	414
Emergency medical technicians	857	787
Mobile intensive care technicians	542	543
Mental health counselors	407	418
Mixed martial arts	207	134
Motor vehicle dealers*	261	277
Motor vehicle dealer branches	34	40
Motor vehicle distributors	33	36
Motor vehicle manufacturers	44	49
Motor vehicle salespersons	1,672	1,686
Motor vehicle others (auction, broker, consultant)	9	11
Motor vehicle repair dealers*	749	675
Motor vehicle mechanics	1,624	1,454
Naturopaths*	152	125
Nursing*		
Registered nurses (RN)	28,313	26,466
Licensed practical nurses (LPN)	3,045	2,548
Advanced practice registered nurses (APRN)	1,572	1,575
Nurse aides	7,962	7,855
Nursing home administrators	171	179
Occupational therapists	612	745
Occupational therapist assistants	129	163
Optometrists*	431	419
Pest control operators*	182	185
Pest control field representatives	208	236

## Professional and Vocational Licensing Division (PVL)

Pharmacists*	2,810	2,763
Pharmacies	288	278
Wholesale prescription drug distributors	59	55
Miscellaneous permits	712	672
Physical therapists	1,628	1,826
Physical therapist assistants	312	370
Port pilots	8	9
Deputy port pilots		1
Private detective agencies*	36	38
Private detectives	110	112
Guard agencies	77	84
Guards	99	104
Guard employees	12,062	14,694
Psychologists*	1,213	1,259
Real estate appraisers	559	534
Real estate brokers*	6,378	6,650
Real estate salespersons	11,769	13,035
Real estate branch offices	103	108
Condominium hotel operators	31	31
Respiratory therapists	754	627
Social workers	2,073	2,260
Speech pathologists*	724	624
Audiologists	93	85
Travel agents	1,198	1,068
Uniform athlete agents	7	7
Veterinarians*	577	617
<b>TOTAL</b>	<b>163,611</b>	<b>166,107</b>

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

License Types	FY 2015	FY 2016	FY 2017	FY 2018
Accountants		2,479 (98.3%)		2,533 (98.4%)
Accountancy firm permits to practice		319 (86.9%)		588 (94.8%)
Activity desks		235 (90%)		282 (96.6%)
Acupuncturists	618 (96.41%)		647 (94.59%)	
Architects		2,178 (96.8%)		2,237 (97.3%)

## Professional and Vocational Licensing Division (PVL)

Audiologists		74 (100%)		78 (100%)
Barbers		939 (76.1%)		1,016 (77.3%)
Barber shops		124 (84.4%)		143 (78.6%)
Behavior analysts				7,129 (91.1%)
Beauty operators		6,568 (86.4%)		92 (89.3%)
Beauty instructors		86 (89.6%)		983 (89.4%)
Beauty shops		929 (85.5%)		164 (98.2%)
Chiropractors		518 (94.5%)		542 (96.3%)
Contractors	6,291 (62.62%)		6,797 (61.36%)	
Community service dentists		21 (95.5%)		19 (100%)
Dental hygienists		952 (94.6%)		994 (95.9%)
Dentists		1,342 (94.8%)		1,381 (96.2%)
Dispensing opticians		163 (92.61%)		157 (94.01%)
Electrologists	15 (88.24%)		12 (85.71%)	
Electricians			3,002 (90.37%)	
Elevator mechanics		202 (95.73%)		194 (94.63%)
Emergency medical technicians (basic)		387 (55.8%)		523 (73.04%)
Emergency medical technicians (paramedic)		367 (77.4%)		418 (84.3%)
Guards		74 (92.5%)		71 (85.54%)
Guard agencies		54 (87.1%)		48 (76.19%)
Guard employees		7,585 (89.55%)		8,284 (92%)

## Professional and Vocational Licensing Division (PVL)

Hearing aid dealers and fitters		103 (95.4%)		106 (95.5%)
Landscape architects		140 (97.9%)		135 (97.83%)
Land surveyors		200 (96.62%)		190 (98.45%)
Marriage and family therapists			384 (94.58%)	
Massage establishments		604 (92.92%)		649 (90.14%)
Massage therapists		6,449 (93.4%)		6,637 (91.42%)
Mental health counselors			328 (93.71%)	
Motor vehicle auctions		4 (100%)		4 (100%)
Motor vehicle brokers		1 (100%)		0
Motor vehicle branches		32 (96.97%)		34 (97.14%)
Motor vehicle consumer consultants		4 (100%)		4 (100%)
Motor vehicle dealers		213 (90.25%)		224 (87.16%)
Motor vehicle salespersons		1,274 (94.3%)		1,294 (95.36%)
Motor vehicle distributors		27 (100%)		31 (100%)
Motor vehicle manufacturers		35 (100%)		40 (97.56%)
Motor vehicle repair dealers	473 (91.67%)		486 (82.37%)	
Motor vehicle repair registered mechanics	290 (89.23%)		267 (82.41%)	
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		149 (94.9%)		143 (95.33%)

## Professional and Vocational Licensing Division (PVL)

Occupational therapists	487 (95.68%)		497 (95.39%)	
Optometrists		378 (97.9%)		381 (97.4%)
Osteopaths		612 (84.41%)		659 (85.92%)
Pest control field representatives		140 (87.5%)		155 (92.81%)
Pest control operators (inactive status only)		6 (60%)		3 (37.5%)
Pharmacists		2,447 (96.2%)		2,596 (96.4%)
Pharmacies		241 (87.3%)		251 (92.3%)
Pharmacy – miscellaneous permits		493 (82.7%)		501 (83.1%)
Pharmacy – wholesale prescription drug distributors		37 (71.2%)		41 (82%)
Physical therapists	1,350 (96.64%)		1,393 (98.38%)	
Physical therapist assistants			210 (78.65%)	
Physicians		7,255 (90.6%)		6,829 (83.1%)
Plumbers	967 (93.79%)			1,097 (90.24%)
Podiatrists		69 (89.6%)		63 (79.7%)
Private detectives		92 (92.93%)		85 (88.54%)
Private detective agencies		32 (96.97%)		30 (88.24%)
Professional engineers		6,264 (97.83%)		6,522 (97.85%)
Psychologists		1,036 (94.78%)		1,093 (94.63%)
Real estate branch offices	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%)	

## Professional and Vocational Licensing Division (PVL)

Respiratory therapists			500 (95.42%)	
Social workers		743 (90.06%)		
Speech pathologists		548 (97.7%)		553 (97.5%)
Travel agencies		721 (91.7%)		692 (91.7%)
Uniform athlete agents		5 (83.33%)		3 (100%)
Veterinarians		464 (94.89%)		534 (96.39%)
<b>TOTAL</b>	<b>47,763 (87.5%)</b>	<b>57,434 (91.4%)</b>	<b>54,720 (87.92%)</b>	<b>59,348 (91.56%)</b>

Table 4: Total Number of Email Inquiries

Boards and Programs	FY 2015	FY 2016	FY 2017	FY 2018
Accountancy	896	1,319	1,036	1,656
Activity desk	137	41	158	125
Acupuncture	189	135	305	194
Appraisal management company – license effective 1/1/2018				402
Athletic trainer	25	100	114	92
Barbering and cosmetology	1,465	1,386	1,797	2,011
Boxing	28	50	67	83
Behavior analyst	-	8	82	85
Cemetery and pre-need funeral authority	80	62	78	55
Chiropractor	202	290	375	427
Collection agency	545	519	803	529
Contractor	2,339	1,832	4,257	3,226
Dentist and dental hygienist	90	51	37	454
Dispensing optician	64	61	66	59
Electrician and plumber	510	631	471	655
Electrologist	4	3	6	5
Elevator mechanic	10	55	55	81
Employment agency	22	9	48	60
Engineer, architect, surveyor, and landscape architect	850	407	904	1,152
Exam Branch	108	438	447	1,166
Hearing aid dealer and fitter	40	93	50	110
Marriage and family therapist	248	232	355	366

**Annual Compliance Resolution Fund Report**

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

Massage therapy	1,352	1,267	1,777	1,400
Medical and osteopathy	4,035	4,184	5,988	6,957
Mental health counselor	402	398	646	447
Mixed martial arts	680	637	419	209
Motor vehicle industry	274	809	653	432
Motor vehicle repair	198	86	102	213
Naturopathy	150	134	141	381
Nurse aide	44	40	55	149
Nursing	4,081	3,558	7,074	6,837
Nursing home administrator	41	19	49	73
Occupational therapist	234	209	425	208
Optometry	211	341	327	277
Pest control	396	595	494	368
Pharmacy and pharmacist	1,919	1,766	2,238	2,247
Physical therapy	1,320	1,306	1,961	1,022
Private detective and guard	702	1,315	1,038	1,099
Psychology	639	904	1,188	824
Professional and Vocational Licensing (PVL)	8,254	12,475	25,423	22,226
Real estate	5,183	4,261	4,847	5,810
Real estate appraiser	790	518	362	666
Respiratory therapist	86	89	182	155
Social worker	518	915	1,009	860
Speech pathology and audiology	295	296	336	262
Subdivision	39	27	105	61
Time share	592	182	430	453
Travel agency	65	128	150	150
Uniform athlete agent	0	1	0	6
Veterinary	247	285	455	372
Veterinary technician – license effective 7/1/2018				51
<b>TOTAL</b>	<b>40,599</b>	<b>44,467</b>	<b>69,385</b>	<b>67,208</b>

## 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, 51 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 education about various issues relating to licensing and consumer protection. RICO also administers the State Certified Arbitration Program 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 by consumer complaints.

### **COMPOSITION**

The main RICO office is in Honolulu. The division also operates four neighbor island offices in Hilo, Kailua-Kona, Wailuku, and Lihue. The following is RICO's primary 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

RICO is comprised of intake investigators, field investigators, attorneys, and support staff. Approximately one-fifth of RICO's full-time positions are in its 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 the OCP. The 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.

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

As part of the complaint filing process, RICO encourages consumers to try to resolve problems before filing a complaint and provides a self-help letter template. 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 5,215 complaint inquiries were resolved in FY 2018 without a formal complaint being filed. An estimated additional 1,074 OCP complaint inquiries were resolved without a formal complaint.

Intake investigators 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 2018, 2,864 matters were processed. This includes complaints filed by consumers, reports of unlicensed activity, and cases generated by the RICO office.

### **Accomplishments of CRC**

RICO relies on information from consumers to monitor conduct in the industry and to watch for unlicensed activity. In 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. RICO continues to see good response in reporting by licensees using the short-form report.

RICO intake investigators also investigate cases as part of RICO’s Early Case Resolution Program, which seeks to address certain types of cases, including failing to complete CE and advertising violations by licensees. 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 continues to increase the number of cases being resolved by RICO’s Legal Section.

Intake investigators also operate the RICO Unlicensed Activity Tip Team, which reviews incoming tip information and develops possible cases for field investigators. Based on tip information developed, the Team conducts investigations of unlicensed advertising, which

includes obtaining information about advertisements and postings from publishers and internet providers.

### **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 51 different boards, commissions, and programs, investigators evaluate a diverse population of licensees with a wide range of possible violations. In FY 2018, the unit completed 1,319 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 the 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 2018, neighbor island staff responded to 2,182 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 2018, early settlement offers were made in several matters, resulting in fewer cases requiring formal hearings and streamlined case processing times.

The unit has two full-time Unlicensed Task Force Teams working primarily on unlicensed cases. Both teams are available to respond to tip information about unlicensed jobs and are available to travel to neighbor islands to assist RICO's neighbor island offices with sweep-and-sting operations.

### **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 commence with the filing of a Petition for Disciplinary Action. Hearings are heard by a hearings officer from the OAH in accordance with Hawaii's Administrative Procedures Act, HRS chapter 91. After a formal hearing is conducted, a 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 2018, 161 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 2018, RICO investigators issued 103 citations for unlicensed activity and for certain licensed activity in the areas of massage

therapy and beauty culture. Staff attorneys may also petition Circuit Court for a permanent injunction prohibiting future unlicensed activity and civil fines. An additional 96 actions alleging unlicensed activity were filed in FY 2018. 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, assessing \$1,330,244.26 in fines or civil penalties. The division's prosecutions resulted in the revocation of forty-four licenses and suspension in an additional 29 cases.

**Table 1: Complaints Filed With RICO**

	FY 2016	FY 2017	FY 2018
Accountants	15	27	7
Activity desks	19	2	7
Acupuncturists	1	9	5
Athletic trainers	2	1	0
Barbers and cosmetologists	139	259	176
Behavior analysts (effective 1/1/2016)	0	1	0
Boxing	0	0	0
Cemeteries and pre-need funeral authorities	8	7	3
Chiropractors	8	11	3
Collection agencies	9	13	24
Contractors	480	460	296
Dentists and dental hygienists	63	49	27
Dispensing opticians	4	3	0
Electricians and plumbers	25	41	13
Electrologists	0	0	0
Elevator mechanics	0	2	0
Employment agencies	0	4	0
Engineers, architects, surveyors, and landscape architects	37	29	22
Hearing aid dealers and fitters	1	0	3
Marriage and family therapists	2	1	3
Massage therapists	59	174	82

## Regulated Industries Complaints Office (RICO)

Medical (including osteopathy)	236	188	97
Mental health counselors	1	1	0
Mortgage brokers and solicitors	3	1	1
Motor vehicle industry	60	72	62
Motor vehicle repair	87	48	0
Naturopaths	1	4	1
Nursing	86	83	35
Nursing home administrators	2	5	9
Occupational therapists	2	4	1
Optometrists	0	1	1
Pest control	13	13	17
Pharmacy	129	90	40
Physical therapists	2	10	0
Pilotage	1	0	0
Private detectives and guards	60	102	15
Psychologists	13	11	5
Real estate appraisers	9	7	1
Real estate (including condominiums)	312	512	252
Respiratory therapists	0	1	0
Social workers	4	21	3
Speech pathologists and audiologists	1	0	1
Subdivision	0	0	0
Time share	5	2	2
Travel agencies	27	27	6
Mixed martial arts	1	1	0
Uniform athlete agents	0	0	0
Veterinarians	5	9	5
Veterinary technicians (effective 7/1/2018)	-	-	0
<b>TOTAL</b>	<b>1,932*</b>	<b>2,306</b>	<b>1,224<sup>12</sup></b>

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

<sup>12</sup> In FY 2018, a total of 2,864 matters were processed. This includes complaints filed by consumers, reports of unlicensed activity, and cases generated by the RICO office.

**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 a number of home shows, senior fairs, and industry group presentations and reached an estimated 61,862 consumers and licensees throughout the State in FY 2018. 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," a door hanger with helpful tips on how to handle unwanted solicitations. In FY 2018, RICO distributed 32,534 printed brochures. These brochures are also available on the RICO website.

Consumer education and outreach efforts are coordinated by the CRC, which also operates RICO's call center, the Licensing and Business Information Section (LBIS). By calling 587-4272 (587-4CRC), consumers can get basic business registration information, find out whether a business or individual is licensed, and obtain information about complaints filed with RICO and the OCP. The call center is widely used by consumers, businesses, licensees, and credentialing organizations. In FY 2018, the LBIS answered 10,608 calls and conducted an estimated 33,378 searches. Staff is available Mondays through Friday, from 7:45 a.m. to 4:30 p.m. Neighbor island residents can call 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 2018, the [businesscheck.hawaii.gov](http://www.businesscheck.hawaii.gov) website was viewed 191,767 times via the RICO website.

**State Certified Arbitration Program (SCAP)**

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

In FY 2018, 16 cases were initiated, with eight decisions issued in favor of consumers, and four decisions issued in favor of manufacturers. SCAP also works with manufacturers and consumers to resolve issues, and in FY 2018, three cases were settled after filing. A total of \$195,645.00 in consumer refunds and bank loan payoffs were issued in FY 2018.

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

One consumer commented that without SCAP's help, "I don't believe we could have come to a settlement agreement with the manufacturer [-] our deepest appreciation . . . ." While each year only a small percentage of cars sold in the State are declared lemons, all new car buyers benefit from Hawaii's Lemon Law, which creates incentives for manufacturers to deliver cars that are free from defect and to address ongoing problems through efficient repair and voluntary recall.

SCAP operates under the direction of a lemon law administrator, 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 current lemon law legislation, recalls, flood damage vehicles, class action lawsuits, and technological advancements, including the ongoing development of automated vehicles in the marketplace. More information, including an educational video about the SCAP process, is available on the RICO website at [cca.hawaii.gov/rico/lemon-law](http://cca.hawaii.gov/rico/lemon-law).

## **GOALS AND OBJECTIVES**

### **Replacement of the RICO Complaints Management System (CMS).**

RICO relies on legacy software CMS to track cases and complaints as they move through the various sections of the RICO process. RICO also relies on this software to record information about legal actions taken by RICO and to generate reports on case and complaint processing activity. The system has been in place since the early 1980s, and much of RICO's primary focus is on replacement that is underway. The division has spent much of the last two years reviewing its business processes and working with the developer to build efficiencies. RICO believes incorporation of new technology is critical and will actively move RICO further toward its goal of efficient and effective enforcement. Phase 2 of the replacement project will include online complaint and tip filing for consumers and licensees.

## **CRF FINANCIAL SUMMARY**

The following is RICO's CRF financial summary for FY 2018:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,315,709	\$681,044	\$5,996,753	\$8,296,443

## **CONCLUSION**

With responsibility for the enforcement of the licensing laws of over 51 boards, commissions, and programs, RICO continues to receive many inquiries, complaints, and other requests for assistance. Occupational licensing has grown dramatically over the years, with licensed workers now comprising more than 25% of the working American population.<sup>13</sup> From 1995 to present, the number of licensees grew from 86,000 to 166,107. During that same timeframe, the number of RICO employees has stayed roughly the same. Simply put, RICO staff has been required to do more with less. Despite growing complexities, new areas of enforcement, and steadily increasing number of licensees, a comparison of numbers from 2013 to 2018 shows prosecutions have increased by 35%, resulting in a 32% increase in limitations in practice and a 45% increase in fines imposed and collected. Through hard work, strategic initiatives, and a commitment to continual improvement, the division is continuing its efforts to provide a fair and safe marketplace for the consumers, businesses, and professionals it serves.

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<sup>13</sup> U.S. Department of Treasury Office of Economic Policy, Council of Economic Advisers and Department of Labor. Occupational Licensing: A Framework for Policymakers (Washington, D.C.: The White House, 2015), 7, [https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing\\_report\\_final\\_nonembargo.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf).