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# **Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Commerce and Consumer Affairs**

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A Report to the  
Governor  
and the  
Legislature of  
the State of  
Hawai'i

Report No. 15-12  
November 2015



**THE AUDITOR**  
STATE OF HAWAII

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## Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawai'i State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. Financial audits attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
2. Management audits, which are also referred to as performance audits, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called program audits, when they focus on whether programs are attaining the objectives and results expected of them, and operations audits, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.
3. Sunset evaluations evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.
4. Sunrise analyses are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.
5. Health insurance analyses examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.
6. Analyses of proposed special funds and existing trust and revolving funds determine if proposals to establish these funds are existing funds meet legislative criteria.
7. Procurement compliance audits and other procurement-related monitoring assist the Legislature in overseeing government procurement practices.
8. Fiscal accountability reports analyze expenditures by the state Department of Education in various areas.
9. Special studies respond to requests from both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawai'i's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.



### THE AUDITOR

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**We noted approximately \$166 million were used in FY2012 from the Hawai'i Hurricane Relief Fund did not serve the purpose for which the trust fund was originally established.**

Response

Prior Audits

# Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Commerce and Consumer Affairs

Report No. 15-12, November 2015

*Thirty-eight special funds, trust funds, and trust accounts were reviewed*

## One fund did not meet criteria

Our review of special funds, trust funds, and trust accounts of the Department of Commerce and Consumer Affairs (DCCA) found one trust fund did not meet the definition of a trust fund.

Section 23-12, Hawai'i Revised Statutes (HRS), requires the Auditor to review all existing special, revolving, and trust funds every five years. Reviews are scheduled so that each department's funds will be reviewed once every five years. This is our fifth review of the trust funds and trust accounts of DCCA. It is our first review of DCCA special funds, since enactment of Act 130, Session Law of Hawai'i 2013, amended Section 23-12, HRS, to include reviews of all special funds statewide.

Special funds are used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes. Revolving funds, such as loan funds, are often established with an appropriation of seed money from the general fund, and must demonstrate the capacity to be self-sustaining. Trust funds, such as a pension fund, invoke the State's fiduciary responsibility to care for and use the assets held for benefit for those with a vested interest in the assets. Trust accounts are typically separate holding or clearing accounts and are often used as accounting devices for crediting or charging state agencies or projects for payroll and other costs.

We used criteria developed by the Legislature as well as criteria developed by our office from a review of public finance and accounting literature. For each fund, we present a five-year financial summary, the purpose of the fund, and conclusions about its use. We did not audit the financial data which is provided for informational purposes. We do not present conclusions about the effectiveness of the program or its management, or whether the program should be continued.

## Hawai'i Hurricane Relief Fund not used for established purpose

In our review, we noted funds of approximately \$166 million were used in FY2012 from the Hawai'i Hurricane Relief Fund and did not serve the purpose for which the trust fund was originally established. The purpose of the trust fund is to monitor the availability of property insurance in the state and make such insurance reasonably available to consumers in the state when necessary.

Approximately \$111 million was used to balance the State's budget for FY2011 and to maintain programs at levels determined to be essential for education, public health, and public welfare. The balance of \$55 million was used to restore instructional days to meet the educational needs of Hawai'i's children.

## Reporting shortfall

We also noted inconsistent adherence by DCCA when filing statutorily required reports for non-general funds and for administratively created funds and accounts. Accurate and complete reporting, as well as timely closing of funds, will greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility.

## Agency response

We transmitted a draft of this review to DCCA. DCCA agreed with our review for the most part and will take appropriate action to ensure compliance with reporting requirements. DCCA disagreed with our conclusion to reclassify the trust fund; however, we stand by our conclusion. We agreed with DCCA and removed the Trust Clearing Account from Exhibit 3.1, which lists DCCA's trust accounts not reported to the Legislature.

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# **Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Commerce and Consumer Affairs**

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Hawai'i

Submitted by

**THE AUDITOR**  
STATE OF HAWAI'I

Report No. 15-12  
November 2015

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## Foreword

This is a report of our review of special funds, revolving funds, trust funds, and trust accounts used by the Department of Commerce and Consumer Affairs.

Section 23-12, Hawai'i Revised Statutes (HRS), requires the State Auditor to review all existing special, revolving, and trust funds and accounts, once every five years. This is our fifth review of the revolving funds, trust funds, and trust accounts of the Department of Commerce and Consumer Affairs. It is our first review of its special funds, since Act 130, Session Laws of Hawai'i 2013, amended Section 23-12, HRS, to include reviews of all special funds statewide.

We wish to express our appreciation for the cooperation and assistance extended to us by the officials and staff of the Department of Commerce and Consumer Affairs.

Jan K. Yamane  
Acting Auditor

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# Chapter 1

## Introduction

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This review encompasses the special funds, revolving funds, trust funds, and trust accounts of the Department of Commerce and Consumer Affairs (DCCA). Section 23-12, *Review of special, revolving, and trust funds*, Hawai‘i Revised Statutes (HRS), requires the State Auditor to review all special, revolving, and trust funds administered by each state department every five years.

This is our fifth periodic review of DCCA’s revolving funds, trust funds, and trust accounts. Our first review, conducted in 1995 (Report No. 95-32), included 19 revolving funds, trust funds, and trust accounts. Our second review, conducted in 2001 (Report No. 01-07), included 22 such funds; and our third, conducted in 2005 (Report No. 05-08), included 24. Our last review, conducted in 2010 (Report No. 10-09), analyzed 21 funds and accounts. This is our first review of DCCA’s special funds and accounts since Act 130, Session Laws of Hawai‘i (SLH) 2013, amended Section 23-12, HRS, to also require reviews of special funds at all agencies.

In this report, we reviewed a total of 38 funds and accounts, including 16 special funds, 15 trust funds, and 7 trust accounts.

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## Background

Through Act 240, SLH 1990, the Legislature required the Auditor to review all special and revolving funds and to recommend whether they be continued, modified, or repealed. The Legislature was concerned with the proliferation of these types of funds because moneys deposited into and spent from such funds are not subject to the level of legislative scrutiny as those in the State’s general fund.

The review required by Act 240 was completed and presented in five separate reports issued in 1991 and 1992. We reviewed 166 special and revolving funds and recommended that 70 be repealed, discontinued, or allowed to sunset. We also found that many held cash balances far in excess of program needs and recommended that unneeded cash be transferred to the general fund.

Regular reviews of revolving and trust funds were later required by Act 280, SLH 1993. Codified as Section 23-12, HRS, the act expanded the scope of Act 240, SLH 1990, by requiring the Auditor to review all revolving and trust funds administered by the State once every five years. The law was again broadened in 2013 through Act 130, to

include a review of all special funds once every five years and to add the departments of Defense and Transportation to the list of agencies reviewed.

Section 23-12, HRS, now specifies that five-yearly reviews must include:

1. An evaluation of the original intent and purpose of each fund, both as expressed by the Legislature and as understood by the expending agency;
2. The degree to which each fund achieves its stated and claimed purposes;
3. An evaluation of the fund's performance standards as established by the agency; and
4. A summary statement reflecting total fund transactions in the preceding five fiscal years, including the fund balance at the beginning of each fiscal year, total deposits and withdrawals, amount of interest earned, total expenditures made from the fund, and the ending fund balance for each fiscal year.

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## **Description of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts**

### ***Special funds***

Section 37-62, HRS, defines a special fund as one that is “dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds.” According to the State of Hawai‘i’s *Accounting Manual*, special funds are funds used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes. Examples of special funds include the Captive Insurance Administrative Fund, which is funded through fees and premium taxes and supports the State’s Captive Insurance Program, and the Wireless Enhanced 911 Fund. The Wireless Enhanced 911 Fund receives surcharges from wireless phone users for the upgrade of the 911 emergency system.

### ***Revolving funds***

Section 37-62, HRS, defines a revolving fund as one “from which is paid the cost of goods and services rendered or furnished to or by a state agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds.” Revolving funds are often established with an appropriation of seed money from the general fund. Activities commonly financed through revolving funds include loan programs, which are initially established by general fund seed moneys and are then replenished through the repayment of loans. An example of a revolving fund is the State Motor Pool Revolving Fund, which is used to purchase and maintain the State’s fleet of motor vehicles and is replenished by charges to state agencies for the use of the vehicles.

**Trust funds**

Section 37-62, HRS, defines a trust fund as one in which “designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes.” Trust funds invoke a fiduciary responsibility of state government to care for and use the assets held only for those designated to benefit from the funds. A pension fund is an example of a trust fund. Contributions and payments are to be held for the beneficiaries of the pension fund. Another example is tenants’ security deposits, which are held in trust for the future benefit of tenants and landlords. Until forfeited or returned, deposits are the property of the tenants and should be accounted for accordingly.

**Trust accounts**

The Department of Accounting and General Services defines a trust account as a separate holding or clearing account for state agencies. Trust accounts also serve as accounting devices to credit or charge agencies or projects for payroll or other costs.

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## **Criteria for Reviewing Special Funds, Revolving Funds, Trust Funds, and Trust Accounts**

**Special and revolving fund criteria**

In 2002, the Legislature set the requirements for establishing and continuing special and revolving funds. Sections 37-52.3 and 37-52.4, HRS, now state that special and revolving funds may only be established by statute. The criteria used to review special and revolving funds are the extent to which each fund:

- Serves a need, as demonstrated by the purpose of the program to be supported by the fund; the scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and an explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries, or a clear link between the program and the sources of revenue—as opposed to serving primarily as a means to provide the program or users with an automatic means of support, removed from the normal budget and appropriation process;
- Provides an appropriate means of financing for the program or activity, that is used only when essential to the successful operation of the program or activity; and
- Demonstrates the capacity to be financially self-sustaining.

### ***Trust fund and trust account criteria***

Unlike the requirements for special and revolving funds, the law is silent on whether a trust fund or trust account can be established other than by statute. The criteria used to review trust funds and trust accounts are the extent to which each fund or account:

- Continues to serve the purpose for which it was originally created;
- Provides the benefits or services originally intended to beneficiaries;
- Requires no general fund appropriation; and
- Meets the definition of a trust fund or trust account, respectively.

The first two criteria are derived from the objectives of Section 23-12, HRS, which ask for an evaluation of the original intent of each fund and the degree to which each fund achieves its stated purpose. The third criterion assesses whether a fund relies on general fund appropriations. If general fund appropriations are needed to finance its activities (as opposed to providing seed moneys only), classification as a trust fund may not be warranted. The fourth criterion assesses whether a fund is held by the State only for the benefit of those with a vested interest in the assets.

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### **Objectives of the Review**

1. Identify and review all special funds, revolving funds, trust funds, and trust accounts of the Department of Commerce and Consumer Affairs (DCCA).
2. For each special fund, revolving fund, trust fund, and trust account, determine the original intent and purpose, per statute and as understood by the agency, and determine the degree to which each fund or account achieves its stated and claimed purposes.
3. Evaluate fund performance standards established by the agencies.
4. Provide a five-year (FY2011–FY2015) unaudited financial summary for each fund or account reviewed.

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### **Scope and Methodology**

We reviewed all special funds, revolving funds, trust funds, and trust accounts directly administered by DCCA during the five-year period under review (FY2011–FY2015). Funds and accounts included those established by statute as well as by administrative authority.

We researched statutes, session laws, and legislative history. We reviewed applicable administrative rules, policies and procedures, financial audit reports, agency financial reports, performance standards established by the agency, and other documents as appropriate.

According to the Senate Ways and Means Committee, there is no master list of non-general funds. To identify funds subject to this review, we used a variety of sources, including our prior reviews, accounting reports from the Department of Accounting and General Services, non-general fund reports filed by DCCA, legislative budget briefing documents, and other documents. To gain an understanding of fund operations, we interviewed key fiscal and program personnel as necessary.

We obtained a summary statement for each fund that reflects total fund transactions in the preceding five fiscal years (July 1, 2011 to June 30, 2015), including fund balances at the beginning of each fiscal year, total revenues, amount of interest earned, total expenditures, transfers, and ending fund balances for each fiscal year. We requested explanations for discrepancies between ending balances for FY2010 reported in our last DCCA review, Report No. 10-09, and opening balances reported for FY2011.

Procedures were performed on each fund using relevant criteria as stated above. We reviewed fund information for consistency with the intent of each fund's use and to ascertain the relationship between charges on users and expenditures. We reviewed and compared fund balances to financial activity and projected program needs and standards. We reviewed information provided by DCCA on performance standards established for the funds or accounts and performed other procedures as necessary. We did not audit DCCA's financial data, which are provided for informational purposes only.

Where appropriate, we relied on our prior reports, including Report Nos. 95-32, *Review of Revolving and Trust Funds of the Judiciary and the Departments of Commerce and Consumer Affairs, Hawaiian Home Lands, Health, and Human Services*; 01-07, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Judiciary and the Departments of Commerce and Consumer Affairs, Hawaiian Home Lands, Health, and Human Services*; 05-08, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Judiciary and the Departments of Commerce and Consumer Affairs, Hawaiian Home Lands, Health and Human Services*; 10-09, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Judiciary and the Departments of Commerce and Consumer Affairs, Hawaiian Home Lands, Health, and Human Services*; and 12-04, *Study of the Transfer of Non-general Funds to the General Fund*.

Our review was conducted from May 2015 to August 2015 and followed standard office procedures according to the Office of the Auditor's *Manual of Guides*. Recommendations were made where applicable.

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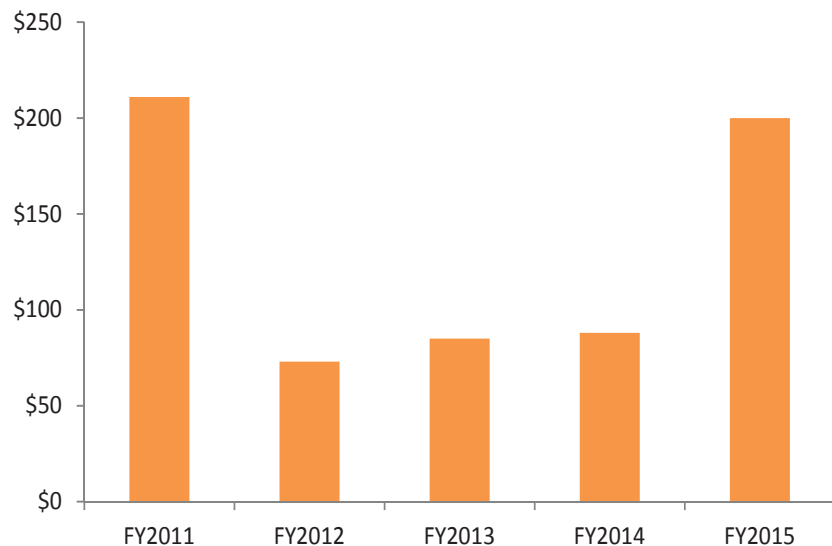
# Chapter 2

## Department of Commerce and Consumer Affairs

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This chapter presents the results of our review of 16 special funds and 22 trust funds and accounts of the Department of Commerce and Consumer Affairs (DCCA). Fund fiscal year-end balances amounted to at least \$73 million during the period reviewed. Exhibit 2.1 displays the totals for these fund balances at the end of each fiscal year.

**Exhibit 2.1**  
**Cash Balances for DCCA Non-General Funds, FY2011–FY2015**  
**(in millions)**



Source: Office of the Auditor

Substantial amounts are also collected, expended, and transferred by the funds and accounts annually. As shown in Exhibit 2.2, DCCA special funds and trust funds and accounts collected more than \$162 million and spent or transferred more than \$50 million in FY2015. Exhibit 2.2 presents totals for the combined revenue and interest, expense and transfers, and ending fund balances for the different fund types for FY2015.

## Exhibit 2.2

### DCCA Fund and Account Totals by Type, FY2015

Fund Type	Revenue and Interest	Expenses and Transfers	Year-End Cash Balance
Special Funds	\$48,451,000	\$43,561,000	\$61,015,000
Trust Funds and Trust Accounts	114,431,000	6,774,000	139,285,000
<b>Total</b>	<b>\$162,882,000</b>	<b>\$50,335,000</b>	<b>\$200,300,000</b>

Source: Office of the Auditor

For each fund or account we present a five-year financial summary, the purpose of the fund or account, and conclusions about its use and whether it meets the criteria for continuance of a special fund or the definition of a trust fund or account. We also include information about fund transfers. We do not assess the effectiveness of programs and their management. However, in our review of special funds, we do conclude on a fund's necessity based on the purpose and scope of the program it supports, and whether the program can be implemented successfully under the general fund appropriation process. Funds and accounts are presented in alphabetical order. Financial data were obtained from the State's financial accounting and management information system and reviewed by DCCA.

Exhibit 2.3 shows a DCCA fund that does not meet criteria for continuance and should be repealed or reclassified.

## Exhibit 2.3

### DCCA Fund Not Meeting Criteria

Fund Name	Fund Type	FY2015 Ending Balance (rounded)	No longer serves original purpose	No clear nexus between benefits sought and user charges or a clear link between the program and revenue sources	Program can operate under general fund appropriation process	Inappropriate financing mechanism	Not financially self- sustaining	Does not serve a need	Does not meet trust fund or account definition
Commissioner's Education and Training Fund	Trust	\$1,146,000							✓

Source: Office of the Auditor



**Cable Television  
(trust fund)****Administratively  
established****Financial Data for Fiscal Years 2014–2015 (in thousands)**

	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$0	\$0
Revenues	0	2,000
Interest	0	0
Expenditures	0	0
Transfers (net)	0	(2,000)
<b>Ending Balance</b>	<b>\$0</b>	<b>\$0</b>
Encumbrances	\$0	\$0

This fund was terminated in FY2015 as it no longer serves the purpose for which it was established. Created in 2014, the fund was used as a funding mechanism for the Hawai‘i Public Television Foundation dba PBS Hawai‘i. Pursuant to Act 122, SLH 2014, \$2 million was transferred to the fund and then transferred to an account under the Department of Labor and Industrial Relations to administer the plans, design, and construction of a new building for PBS Hawai‘i.

**Captive Insurance  
Administrative Fund  
(special fund)****Section 431:19-101.8,  
HRS****Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$5,152	\$3,140	\$3,812	\$4,118	\$4,747
Revenues	1,704	2,125	1,880	2,133	2,499
Interest	83	18	9	10	18
Expenditures	(1,299)	(1,471)	(1,583)	(1,514)	(1,915)
Transfers (net)	(2,500)	0	0	0	0
<b>Ending Balance</b>	<b>\$3,140</b>	<b>\$3,812</b>	<b>\$4,118</b>	<b>\$4,747</b>	<b>\$5,349</b>
Encumbrances	\$42	\$52	\$9	\$124	\$27

Created in 1997, this fund continues to serve the purpose for which it was created and meets the criteria for a special fund. The fund is used to support the Captive Insurance Program, whose purpose is to carry out the insurance commissioner’s duties and obligations established under Chapter 431, Article 19, HRS. Revenues come from premium taxes, application fees, annual license fees, and examination fees from

captive insurance companies licensed in the state. Expenditures consist of administrative costs, including salaries and fringe benefits, travel, promotional activities, third-party service providers, and machinery and equipment. Transfers to the general fund in FY2011 were composed of excess amounts over the required fund balance.

***Captive Insurance  
Companies LOC  
Escrow  
(trust account)***

***Administratively  
established***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$1*	\$1	\$1	\$1	\$1
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$1</b>	<b>\$1</b>	<b>\$1</b>	<b>\$1</b>	<b>\$1</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

\*FY2011 beginning balance does not agree to FY2010 ending balance in Report No. 10-09 due to rounding.

This account continues to serve the purpose for which it was created and meets the criteria for a trust account. Created in 2001, the account is used to deposit letters of credit (LOC) held in favor of the insurance commissioner. The commissioner may draw on the LOC when a captive insurance company is in an adverse financial condition, is dissolving, or has its license revoked or suspended. The LOC is used to cover liabilities of a captive insurance company, including claims, creditors, fees, and fines.

**Commissioner's  
Education and Training  
Fund  
(trust fund)**

**Section 431:2-214, HRS**

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$667	\$778	\$899	\$983	\$1,080
Revenues	149	186	139	166	143
Interest	11	4	3	3	5
Expenditures	(49)	(69)	(58)	(72)	(82)
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$778</b>	<b>\$899</b>	<b>\$983</b>	<b>\$1,080</b>	<b>\$1,146</b>
Encumbrances	\$8	\$2	\$3	\$9	\$46

This fund continues to serve the purpose for which it was created, but it functions as, and meets the criteria for, a special fund and should be reclassified as such. Created in 1987, the fund is used to account for receipts and expenditures used to educate and train the department's Insurance Division personnel and to pay for consumer education and information expenses. Revenues come from fees paid by insurance companies for premium rate and form filings. Expenditures include travel expenses, reasonable living expenses, per diem compensation, publications, and any fees or charges necessary to attend educational and training conferences, workshops, seminars, and similar events.

**Compliance Resolution  
Fund—Business  
Registration  
(special fund)**

**Section 26-9, HRS**

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$9,311	\$6,210	\$9,033	\$11,201	\$11,871
Revenues	5,824	8,752	8,572	7,290	6,267
Interest	156	41	26	31	48
Expenditures	(8,120)	(4,932)	(5,242)	(5,433)	(5,593)
Transfers (net)	(961)	(1,038)	(1,188)	(1,218)	(1,109)
<b>Ending Balance</b>	<b>\$6,210</b>	<b>\$9,033</b>	<b>\$11,201</b>	<b>\$11,871</b>	<b>\$11,484</b>
Encumbrances	\$49	\$279	\$138	\$181	\$149

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1993, the fund is used to support the operations of the Business Registration Division.

The division's activities include processing business and trademark registrations and maintaining registry records, as well as regulating the securities and franchise industry and educating the public about investments. Revenues come from fees from business registrations, licenses, penalties, and other services. Expenditures consist of personnel and operational costs associated with the division, including training, outreach materials, and development of new technology to provide users with access to information contained in the various registries that the division maintains. For fiscal years 2011–2015, transfers-out were made to cover the department's general administrative overhead costs.

***Compliance Resolution  
Fund—Cable  
Television  
(special fund)***

***Section 26-9, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$2,271	\$3,170	\$3,337	\$3,477	\$4,076
Revenues	1,892	1,960	2,037	2,093	2,756
Interest	35	16	9	10	17
Expenditures	(760)	(1,525)	(1,524)	(1,069)	(1,168)
Transfers (net)	(268)	(284)	(382)	(435)	(391)
<b>Ending Balance</b>	<b>\$3,170</b>	<b>\$3,337</b>	<b>\$3,477</b>	<b>\$4,076</b>	<b>\$5,290</b>
Encumbrances	\$255	\$273	\$396	\$709	\$513

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1999, the fund is used to account for the revenues, fees, and fines collected by the department for the cable television systems and broadband services, as stated in Chapter 440G, HRS. Revenues come from annual fees paid by cable television operators. Expenditures consist of the operating and administrative expenses of the department director that are necessary to administer the cable television systems and broadband services. For fiscal years 2011–2015, transfers-out were made to cover the department's general administrative overhead costs.

***Compliance Resolution  
Fund—Financial  
Services Regulation  
(special fund)***

***Section 26-9, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$4,057	\$4,119	\$5,043	\$5,277	\$6,416
Revenues	2,617	3,329	3,613	4,335	4,922
Interest	53	20	11	12	24
Expenditures	(2,181)	(2,414)	(2,785)	(2,588)	(2,932)
Transfers (net)	(427)	(11)	(605)	(620)	(570)
<b>Ending Balance</b>	<b>\$4,119</b>	<b>\$5,043</b>	<b>\$5,277</b>	<b>\$6,416</b>	<b>\$7,860</b>
Encumbrances	\$73	\$126	\$16	\$14	\$17

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1999, the fund is used to provide support to the Division of Financial Institutions. The division ensures the safety and soundness of state-chartered and state-licensed financial institutions and ensures regulatory compliance by state-licensed financial institutions, escrow depositories, money transmitters, and mortgage servicers through fair administration of applicable statutes and rules in order to protect the rights and funds of depositors, borrowers, consumers, and other members of the public. Revenues come from fees, assessments, and penalties paid by financial institutions, mortgage loan originators and servicers, escrow depositories, and money transmitters. In addition, \$2 million in franchise taxes are deposited to the fund annually from banks, building and loan associations, development companies, and other financial and loan companies. Expenditures consist of operational costs of the division, including salaries, benefits, equipment, supplies, and furniture. For fiscal years 2011–2015, transfers-out were made to cover the department’s general administrative overhead costs. In FY2012, the Compliance Resolution Fund—Regulatory Systems for Mortgage Loan Originators was closed and the remaining balance of \$517,000 was transferred to this fund.

***Compliance Resolution  
Fund—General  
Support, Protection of  
the Consumer  
(special fund)***

***Section 26-9, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$2,823	\$2,675	\$1,987	\$2,613	\$3,090
Revenues	416	411	470	587	501
Interest	50	13	7	8	13
Expenditures	(4,951)	(5,401)	(5,978)	(6,332)	(6,543)
Transfers (net)	4,337	4,289	6,127	6,214	5,812
<b>Ending Balance</b>	<b>\$2,675</b>	<b>\$1,987</b>	<b>\$2,613</b>	<b>\$3,090</b>	<b>\$2,873</b>
Encumbrances	\$91	\$308	\$204	\$198	\$381

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1999, the fund is used to provide support to the general policy and administrative leadership in supervising and coordinating various department activities. Activities include protecting the interests of consumers, depositors, and investors throughout the state; setting standards and enforcing all laws, rules, and regulations governing the licensing and operations of trades, businesses, and professions; registering and supervising the conduct of such trades, businesses, and professions; and administering the attached boards and commissions. Revenues come through administrative fees from claims filed with the Medical Inquiry and Conciliation Panel and publication and copying fees. Expenditures consist of personnel, administrative, and operating costs of the department. Transfers to the fund come from administrative overhead fee assessments charged to each special fund within the department. In FY2012, there were also transfers of \$400,000 to the Mortgage Foreclosure Dispute Resolution Fund, which were used as initial seed moneys.

***Compliance Resolution  
Fund—Insurance  
Regulation Fund  
(special fund)***

***Section 26-9, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$5,635	\$3,735	\$4,180	\$4,122	\$3,910
Revenues	5,835	8,008	8,046	8,604	8,562
Interest	104	16	10	10	14
Expenditures	(6,546)	(6,176)	(6,514)	(7,190)	(7,371)
Transfers (net)	(1,293)	(1,403)	(1,600)	(1,636)	(1,579)
<b>Ending Balance</b>	<b>\$3,735</b>	<b>\$4,180</b>	<b>\$4,122</b>	<b>\$3,910</b>	<b>\$3,536</b>
Encumbrances	\$803	\$992	\$597	\$1,363	\$956

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1999 as the Insurance Regulation Fund, and later merged with the Compliance Resolution Fund in 2002, the fund is used to provide support to the Insurance Division. The division ensures that business and individual consumers are provided with insurance services that meet acceptable standards of quality, equity, and dependability at fair rates through established and enforced service standards and fair administration of the insurance code. Revenues come from assessments, fees, fines, penalties, and reimbursements collected by or on behalf of the division under Title 24, HRS. Expenditures consist of personnel and administrative costs incurred by the division. For fiscal years 2011–2015, transfers-out were made to cover the department's general administrative overhead costs.

***Compliance Resolution  
Fund—Office of  
Consumer Protection—  
Unfair/Deceptive  
Practice  
(special fund)***

***Section 26-9, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$685	\$530	\$1,776	\$5,587	\$4,640
Revenues	1,631	1,873	5,271	81	2,308
Interest	18	5	8	15	23
Expenditures	(2,450)	(1,360)	(1,720)	(1,493)	(1,745)
Transfers (net)	646	728	252	450	469
<b>Ending Balance</b>	<b>\$530</b>	<b>\$1,776</b>	<b>\$5,587</b>	<b>\$4,640</b>	<b>\$5,695</b>
Encumbrances	\$41	\$91	\$12	\$46	\$14

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1999, the fund is used to support operations of the Office of Consumer Protection (OCP). OCP relies solely on the fund to carry out its statutory responsibilities in protecting Hawai'i consumers through investigations, civil enforcement actions, and consumer education programs. Revenues come from penalties or fines assessed as a result of OCP actions; penalties, fines, or recovery of costs or attorney fees in actions for violations of Chapters 480 and 487, HRS, as well as other consumer protection statutes; various service fees and charges; and settlements and awards from various multistate cases that OCP participates in with other states. Expenditures consist of operating expenses incurred by OCP offices on O'ahu, Maui, and Hawai'i Island. In fiscal years 2011–2015, transfers-in were made from other subaccounts of the Compliance Resolution Fund to pay for administrative overhead fees.

***Compliance Resolution  
Fund—Post-Secondary  
Education Authorization  
Special Subaccount  
(special fund)***

***Section 305J-19, HRS***

**Financial Data for Fiscal Years 2013–2015 (in thousands)**

	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$0	\$0	\$431
Revenues	0	180	56
Interest	0	1	2
Expenditures	0	(78)	(109)
Transfers (net)	0	328	(43)
<b>Ending Balance</b>	<b>\$0</b>	<b>\$431</b>	<b>\$337</b>
Encumbrances	\$0	\$0	\$3

This fund serves the purpose for which it was created but has a limited financial history from which to determine if it has the capacity to be financially self-sustaining. However, the fund received general funds for start-up and program implementation costs and will likely receive another infusion of general funds in the near future. Created in 2013, the fund is used to support the Post-Secondary Education Authorization Program. The purpose of the program is to establish a framework for authorizing private, post-secondary educational institutions within the state, including authorizing accredited, degree-granting post-secondary educational institutions that meet the criteria under law and establishing a process to review and appropriately act on complaints concerning authorized institutions. Revenues come from authorization and complaint administration fees paid by public educational institutions.



Expenditures consist primarily of personnel costs for the program's operations. In FY2014, transfers-in of \$400,000 were made from the general fund for start-up and program implementation costs. In fiscal years 2014–2015, transfers-out of \$72,000 and \$43,000, respectively were made to pay for administrative overhead fees.

***Compliance Resolution  
Fund—Professional,  
Vocational, and  
Personal Services  
(special fund)***

***Section 26-9, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$5,617	\$5,086	\$5,570	\$4,893	\$5,581
Revenues	4,388	5,654	5,238	6,717	6,011
Interest	38	26	14	12	22
Expenditures	(4,167)	(4,326)	(4,857)	(4,937)	(5,963)
Transfers (net)	(790)	(870)	(1,072)	(1,104)	(1,012)
<b>Ending Balance</b>	<b>\$5,086</b>	<b>\$5,570</b>	<b>\$4,893</b>	<b>\$5,581</b>	<b>\$4,639</b>
Encumbrances	\$108	\$322	\$70	\$444	\$141

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1993, the fund is used to support operations of the Professional and Vocational Licensing Division (PVL). PVL ensures that individuals are provided with professional, vocational, and personal services meeting acceptable standards of quality, equity, and dependability by establishing and enforcing appropriate service standards, regulating activities for protection, and ensuring the welfare and safety of participants and the general public. Revenues come from fees charged to applicants, licensees, and the public for services provided. Expenditures consist of personnel and other operating expenditures that support PVL. For fiscal years 2011–2015, transfers-out were made to cover the department's general administrative overhead costs.

**Compliance Resolution  
Fund—Public Utilities  
Commission (PUC)  
Special Fund—  
Consumer Advocacy  
(special fund)**

**Sections 26-9(o)  
and 269-33, HRS**

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$3,572	\$3,395	\$4,275	\$4,695	\$5,400
Revenues	2,357	3,004	2,703	3,079	3,918
Interest	66	21	12	14	25
Expenditures	(2,281)	(1,719)	(1,759)	(1,835)	(2,290)
Transfers (net)	(319)	(426)	(536)	(553)	(629)
<b>Ending Balance</b>	<b>\$3,395</b>	<b>\$4,275</b>	<b>\$4,695</b>	<b>\$5,400</b>	<b>\$6,424</b>
Encumbrances	\$770	\$1,051	\$844	\$1,252	\$1,883

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1994, the fund is used to support the operations of the department's Division of Consumer Advocacy. The division represents the interests of regulated utility and transportation services consumers before the Hawai'i Public Utilities Commission, Federal Communications Commission, and other local and federal agencies. Revenues come from the Public Utilities Commission Special Fund, which allocates up to 30 percent of its balance to the division by placing moneys in the fund. Public Utilities Commission Special Fund revenues come from fees paid by regulated companies, which are allowed to recover up to half of the fees through customer surcharges. Expenditures consist of personnel and operational costs, and consultant fees whose services supplement the division's analysis of various filings. For fiscal years 2011–2015, transfers-out were made to cover the department's general administrative overhead costs.

**Compliance Resolution  
Fund—Regulated  
Industries Complaints  
Office  
(special fund)**

**Section 26-9, HRS**

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$6,209	\$6,323	\$5,928	\$5,850	\$5,497
Revenues	5,563	4,910	5,748	5,561	7,212
Interest	104	31	15	13	23
Expenditures	(4,753)	(4,468)	(4,844)	(4,898)	(5,025)
Transfers (net)	(800)	(868)	(997)	(1,029)	(952)
<b>Ending Balance</b>	<b>\$6,323</b>	<b>\$5,928</b>	<b>\$5,850</b>	<b>\$5,497</b>	<b>\$6,755</b>
Encumbrances	\$48	\$285	\$35	\$31	\$38

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1993, the fund is used to support the Regulated Industries Complaint Office (RICO). RICO assists the public through education, complaints processing, and enforcement of professional licensing laws. RICO also administers the State Certified Arbitration Program for “lemon” motor vehicle claims. Revenues come from fees assessed from licensees regulated by the department, fines, interest income, and photocopy charges. Expenditures consist of personnel and operational costs of RICO, including rents, court fees, and postage. For fiscal years 2011–2015, transfers-out were made to cover the department’s general administrative overhead costs.

***Compliance Resolution  
Fund—Regulatory  
Systems for Mortgage  
Loan Originators  
(special fund)***

***Sections 26-9(o)  
and 454F-23, HRS***

**Financial Data for Fiscal Years 2011–2012 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>
Beginning Balance	\$157	\$518
Revenues	757	0
Interest	3	0
Expenditures	(276)	(1)
Transfers (net)	(123)	(517)
<b>Ending Balance</b>	<b>\$518</b>	<b>\$0</b>
Encumbrances	\$11	\$0

This fund was closed in FY2012. Created in 2009, the fund was used to support implementation of the federal Secure and Fair Enforcement (SAFE) for Mortgage Licensing Act of 2008, which requires states to license mortgage loan originators. Revenues came from license fees and penalties paid by mortgage loan originators. Expenditures consisted of staff salaries and benefits, furniture and equipment, and supplies used to support SAFE activities. In FY2011, transfers-out were made to pay for administrative overhead fees. In FY2012, the remaining balance of the fund was transferred to the Compliance Resolution Fund—Financial Services Regulation.

**Condominium  
Education Trust Fund  
(trust fund)**

**Section 514B-71, HRS**

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$506	\$679	\$413	\$870	\$785
Revenues	539	89	832	306	1,515
Interest	0	0	0	0	0
Expenditures	(367)	(358)	(375)	(391)	(411)
Transfers (net)	1	3	0	0	0
<b>Ending Balance</b>	<b>\$679</b>	<b>\$413</b>	<b>\$870</b>	<b>\$785</b>	<b>\$1,889</b>
Encumbrances	\$20	\$27	\$8	\$23	\$8

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 2005, the fund is used by the Real Estate Commission for education and research purposes, which include: financing and promoting of education and research in condominium management, condominium product registration, and real estate; improving the administration of associations; and finding expeditious and inexpensive procedures for resolving association disputes. Revenues come from condominium associations' and developers' required contributions. Transfers-in were made from the Condominium Management Education Fund, which was repealed and closed per Act 129, SLH 2009.

**Condominium  
Management  
Education Fund  
(trust fund)**

**Section 514A-131, HRS  
(repealed)**

**Financial Data for Fiscal Years 2011–2012 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>
Beginning Balance	\$1	\$3
Revenues	3	0
Interest	0	0
Expenditures	0	0
Transfers (net)	(1)	(3)
<b>Ending Balance</b>	<b>\$3</b>	<b>\$0</b>
Encumbrances	\$0	\$0

This fund was repealed through Act 129, SLH 2009 and the remaining balance of the fund was transferred to the Condominium Education Trust Fund in FY2012. Created in 1989, the fund was used to finance

and promote the Real Estate Commission's education and research in condominium management and registration, and to improve the administration of condominium associations. The fund received assessments from condominium associations and condominium developers. Condominium associations, board of directors, and apartment owners benefitted from the fund's comprehensive education and research program.

***Contractors Education  
Fund  
(trust fund)***

***Section 444-29, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$374	\$425	\$431	\$464	\$462
Revenues	37	5	37	5	36
Interest	21	7	3	4	5
Expenditures	(7)	(6)	(7)	(11)	(2)
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$425</b>	<b>\$431</b>	<b>\$464</b>	<b>\$462</b>	<b>\$501</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 1973, the fund is used to educate the public about the benefits of using licensed contractors as well as educate licensees, board members, and staff. Revenues consist of contractor license fees and interest from moneys contractors have paid into the Contractors Recovery Fund and from the Contractors Education Fund. New contractor licensees are assessed a \$10 fee and current licensees are assessed a \$5 renewal fee. Expenditures consist of dues, registration fees, and travel expenses, in addition to publication of educational materials and personnel costs.

**Contractors Recovery Fund**  
(trust fund)

**Section 444-26, HRS**

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$803	\$846	\$754	\$772	\$746
Revenues	156	79	141	79	139
Interest	0	0	0	0	0
Expenditures	(113)	(171)	(123)	(105)	(47)
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$846</b>	<b>\$754</b>	<b>\$772</b>	<b>\$746</b>	<b>\$838</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 1973, the fund is used to recover damages for any person injured by an act, representation, transaction, or conduct of a duly licensed contractor that violates the Hawai'i Revised Statutes or Hawai'i Administrative Rules. Revenues come from contractors paying a non-refundable fee of \$150 upon licensure and \$10 upon license renewal. Additional payments, not to exceed \$500, are assessed from contractors when the fund balance is less than \$250,000. Expenditures consist of payments to consumers, who have prevailed against a contractor, and attorney and consultant fees.

**Drivers Education Fund**  
(special fund)

**Section 431:10C-115, HRS**

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$1,138	\$59	\$92	\$150	\$227
Revenues	2,815	2,875	2,898	2,923	3,044
Interest	13	3	1	1	1
Expenditures	(2,507)	(2,845)	(2,841)	(2,847)	(2,838)
Transfers (net)	(1,400)	0	0	0	0
<b>Ending Balance</b>	<b>\$59</b>	<b>\$92</b>	<b>\$150</b>	<b>\$227</b>	<b>\$434</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1987, the fund is used to provide funding for driver education and traffic safety education

programs operated by the Department of Education and funding for the driver education program operated by the Judiciary. Revenues consist of a \$3 underwriter's fee levied upon each motor vehicle insured by insurers and self-insurers annually. For every vehicle fee, \$1 is allocated to the Judiciary's Drivers Education Program and \$2 to the Department of Education's Drivers Education and Traffic Safety Education programs. The transfer-out made to the general fund in FY2011 was composed of excess fund balances.

***Hawai'i Hurricane  
Relief Fund  
(trust fund)***

***Sections 431P-2  
and 431P-16, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$156,753*	\$164,761	\$21,145	\$21,079	\$20,794
Revenues	13,409	22,189	0	0	1,540
Interest	23,090	4,004	400	319	0
Expenditures	(811)	(178)	(66)	(285)	(1,189)
Transfers (net)	(27,680)	(169,631)	(400)	(319)	105,500
<b>Ending Balance</b>	<b>\$164,761</b>	<b>\$21,145</b>	<b>\$21,079</b>	<b>\$20,794</b>	<b>\$126,645</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

\*FY2011 beginning balance does not agree to FY2010 ending balance in Report No. 10-09 due to timing differences in recording accounting transactions.

As we note in Chapter 3, \$178 million was transferred from the fund in FY2012 pursuant to Act 143, SLH 2010, and Act 62, SLH 2011, an action contrary to the established purpose of this trust fund.

Created in 1993, the fund is used to provide hurricane property insurance policies in Hawai'i in the event the private insurance market does not make such policies readily available to consumers. Due to increased availability of hurricane property insurance coverage from the private sector, the fund ceased writing hurricane property insurance policies effective December 1, 2000. Interest income earned is transferred to the general fund. In addition, \$2 million was transferred to the Loss Mitigation Grant Fund and \$2.5 million to the Department of Defense for disaster preparedness activities pursuant to Act 115, SLH 2006.

**Insurance Division  
Restitution  
(trust account)**

**Administratively  
established**

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$0	\$0	\$0	\$0	\$0
Revenues	50	0	0	0	0
Interest	0	0	0	0	0
Expenditures	(50)	0	0	0	0
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account continues to serve the purpose for which it was created and meets the criteria for a trust account. Created in 2011, the account is used to manage restitution payments to individuals harmed by a regulated entity. Revenues come from penalties assessed by the insurance commissioner to regulated entities. Although there has been minimal activity throughout this review period, the account remains open because the insurance commissioner has the authority to assess and collect restitution payments in the future.

**Loss Mitigation Grant  
Fund  
(special fund)**

**Section 431:22-102,  
HRS (repealed)**

**Financial Data for Fiscal Years 2011–2012 (in thousands)**

	FY2011	FY2012
Beginning Balance	\$3,401	\$260
Revenues	0	0
Interest	59	0
Expenditures	(3,200)	0
Transfers (net)	0	(260)
<b>Ending Balance</b>	<b>\$260</b>	<b>\$0</b>
Encumbrances	\$0	\$0

This fund was repealed by Act 124, SLH 2011. The fund was closed in FY2012 and the remaining balance was transferred to the general fund. Created in 2002, the fund was used to support the Loss Mitigation Grant Program, which assisted residents with installing wind-resistive devices. The fund was used to make loss mitigation grants and to pay



for administrative and operational costs, including personnel costs and marketing costs, associated with the program.

***Mortgage Foreclosure  
Dispute Resolution  
Fund  
(special fund)***

***Section 667-86, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$0	\$0	\$261	\$121	\$238
Revenues	0	1	4	34	99
Interest	0	1	1	1	6
Expenditures	0	(141)	(145)	(118)	(6)
Transfers (net)	0	400	0	200	0
<b>Ending Balance</b>	<b>\$0</b>	<b>\$261</b>	<b>\$121</b>	<b>\$238</b>	<b>\$337</b>
Encumbrances	\$0	\$7	\$10	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 2011, the fund is used to provide for the implementation and operation of the Mortgage Foreclosure Dispute Resolution Program. The program provides owner-occupants the opportunity to negotiate an agreement that avoids foreclosure or mitigates damages in cases where foreclosure is unavoidable. Revenues come from fees collected in the course of the non-judicial foreclosure process and filing fees from foreclosure notices. Expenditures consist of personnel and operating costs of the program, including postage and telephone expenses. In FY2012, the fund received \$400,000 in seed money from the Compliance Resolution Fund. In FY2014, the fund received transfers of \$200,000 from the Multi-State Mortgage Services Agreement Fund for mediation requests related to non-judicial foreclosures.

***Mortgage Loan  
Recovery Fund  
(trust fund)***

***Section 454F-41, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$0	\$285	\$494	\$803	\$1,125
Revenues	285	209	309	322	305
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$285</b>	<b>\$494</b>	<b>\$803</b>	<b>\$1,125</b>	<b>\$1,430</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 2010, the fund is used for recovery by any person aggrieved by an act, representation, transaction, or conduct of a licensee involving fraud, misrepresentation, or deceit by order of the circuit court or district court of the county where the violation occurred. Revenues come from fees paid by licensees during the license application and renewal process. The fund pays up to \$25,000 per transaction, including court costs and fees and reasonable attorney fees as determined by the court.

***Motorcycle and Motor  
Scooter Operators  
Education Fund  
(special fund)***

***Section 431:10G-107,  
HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$0	\$1	\$0	\$0	\$0
Revenues	53	55	59	53	62
Interest	0	0	0	0	0
Expenditures	(52)	(56)	(59)	(53)	(62)
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$1</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1989, the fund is used to provide funding for the Driver Education Program, which is operated by the Department of Transportation. Revenues consist of a

\$2 underwriters' fee levied upon each motorcycle and motor scooter insured by insurers and self-insurers annually.

***Multi-State Mortgage  
Services Agreement  
Fund  
(trust account)***

***Administratively  
established***

**Financial Data for Fiscal Years 2012–2015 (in thousands)**

	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$0	\$0	\$2,078	\$1,380
Revenues	0	2,250	0	251
Interest	0	0	0	0
Expenditures	0	(172)	(498)	(618)
Transfers (net)	0	0	(200)	0
<b>Ending Balance</b>	<b>\$0</b>	<b>\$2,078</b>	<b>\$1,380</b>	<b>\$1,013</b>
Encumbrances	\$0	\$95	\$157	\$135

This account continues to serve the purpose for which it was created and meets the criteria for a trust account. Created in 2012, the account is used to track revenues and expenditures of the Foreclosure Assistance Program's Memorandum of Agreement with the Department of the Attorney General. The grant program assists distressed homeowners in Hawai'i through housing and financial counseling, public education, mediation, dispute resolution, and enforcement of laws and agreements protecting the rights of homeowners and lessees. Revenues are a one-time funding of \$2 million established by the agreement and \$250,000 from the Conference of State Bank Supervisors. In FY2014, \$200,000 was transferred to the Mortgage Foreclosure Dispute Resolution Fund to fund mediation requests related to non-judicial foreclosures.

***Patients'  
Compensation Fund  
(trust fund)***

***Section 671-31, HRS  
(repealed)***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$4,325	\$173	\$179	\$179	\$9
Revenues	0	791	0	0	0
Interest	76	5	0	0	0
Expenditures	(4,228)	(790)	0	(170)	(9)
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$173</b>	<b>\$179</b>	<b>\$179</b>	<b>\$9</b>	<b>\$0</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund was repealed through Act 232, SLH 1984. Pursuant to that act, the director of commerce and consumer affairs continued to administer the fund in the same manner as before its repeal until its moneys were exhausted. The fund was closed in FY2015, as all known claims against the fund have been paid. Created in 1976, the fund was used to provide doctors with medical malpractice insurance coverage in excess of \$100,000. The fund provided doctors with higher coverage limits when private malpractice insurance was difficult to obtain. Participating doctors paid a surcharge on their underlying premiums into the fund. The insurance commissioner was authorized to pay judgment awards or settlements from the funds that were in excess of \$100,000 for participating doctors.

***Premium Taxes Paid  
Pending Appeal  
Account  
(trust account)***

***Administratively  
established***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$1,400	\$156	\$156	\$1,314	\$2,265
Revenues	156	0	1,158	951	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers (net)	(1,400)	0	0	0	0
<b>Ending Balance</b>	<b>\$156</b>	<b>\$156</b>	<b>\$1,314</b>	<b>\$2,265</b>	<b>\$2,265</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account continues to serve the purpose for which it was created and meets the criteria for a trust account. Created in 1983, the account is used to hold all premium tax payments made under protest by foreign and alien insurance companies. Current activity in the fund is from insurers paying their premium taxes and protesting their tax payments for various reasons, such as a protested tax penalty, disallowed tax credit claim, or a contested tax payment. If a suit is not filed within 30 days after deposit of the protested tax payment, the payment is transferred to the general fund. Since its inception, there have been four protests, which were settled in 1993, 1997, and 2004. However, in FY2011, \$1.4 million was transferred to the general fund for the withdrawal of an appeal by Farmer's Insurance Hawai'i.

***Real Estate Appraisers  
(trust account)***

***Administratively  
established***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$5	\$5	\$5	\$5	\$6
Revenues	2	26	2	39	2
Interest	0	0	0	0	0
Expenditures	(2)	(26)	(2)	(38)	(3)
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$5</b>	<b>\$5</b>	<b>\$5</b>	<b>\$6</b>	<b>\$5</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account continues to serve the purpose for which it was created and meets the criteria for a trust account. Created in 1991, the account holds certified real estate appraisers' annual registry fees as mandated by the Federal Financial Institutions Examination Council (FFIEC). States are required to collect a \$40 annual fee from certified real estate appraisers and transfer it to the FFIEC. Federal law also requires that a federal registry of all real estate appraisers be established. Only appraisers on the registry are authorized to perform property appraisals involving federal transactions such as the U.S. Department of Housing and Urban Development and Veterans' Administration loans. Failure of a state to collect and transfer registry fees is a violation of federal law and results in the removal of that state's licensed/certified appraisers from the federal registry.

***Real Estate Education  
Fund  
(trust fund)***

***Section 467-11 and  
467-19, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$1,260	\$1,003	\$669	\$903	\$488
Revenues	105	72	745	78	772
Interest	1	1	0	0	0
Expenditures	(363)	(407)	(511)	(493)	(506)
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$1,003</b>	<b>\$669</b>	<b>\$903</b>	<b>\$488</b>	<b>\$754</b>
Encumbrances	\$14	\$34	\$113	\$93	\$28

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 1967, the fund is used to advance real estate education and research. Revenues come from contributions made by licensees at the issuance of a new license and each renewal. The fund also receives all interest from the investment of the Real Estate Recovery Fund. Expenditures support a comprehensive education and research program for the benefit of both licensees and the public.

***Real Estate Recovery  
Fund  
(trust fund)***

***Section 467-16, HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$846	\$766	\$757	\$719	\$701
Revenues	52	52	58	65	74
Interest	0	0	0	0	0
Expenditures	(132)	(61)	(96)	(83)	(64)
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$766</b>	<b>\$757</b>	<b>\$719</b>	<b>\$701</b>	<b>\$711</b>
Encumbrances	\$0	\$3	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 1967, the fund is used to compensate persons aggrieved by fraud, misrepresentation, or deceit by a real estate licensee. Revenues come from a one-time contribution of \$50 made by each new real estate licensee. Expenditures consist of payments for claims, legal services, and audits, as well as processing, administration, and research and development costs.

***Restitution Fund  
(trust fund)***

***Section 487-14(d), HRS***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$142	\$140	\$143	\$148	\$108
Revenues	16	6	5	18	6
Interest	0	0	0	0	0
Expenditures	(18)	(3)	0	(58)	(30)
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$140</b>	<b>\$143</b>	<b>\$148</b>	<b>\$108</b>	<b>\$84</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 1991, the fund is used to administer moneys received or recovered by the Office of Consumer Protection. Defendants in civil proceedings who are required by an agreement or court order to pay a specified sum to consumers deposit their restitution into the fund. The fund then pays individual consumers who are owed restitution.

***Service Contract  
Provider's Financial  
Security Deposit  
(trust account)***

***Administratively  
established***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$25	\$42	\$42	\$42	\$42
Revenues	17	0	0	0	25
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$42</b>	<b>\$42</b>	<b>\$42</b>	<b>\$42</b>	<b>\$67</b>
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account continues to serve the purpose for which it was created and meets the criteria for a trust account. Created in 2003, the account is used to hold financial security cash deposits made by service providers for all service contracts. Service contract providers are required to register with the insurance commissioner before conducting business in the state. The registration of a service contract provider includes proof of its compliance with the financial responsibility requirements.

**State Certified Motor  
Vehicle Arbitration  
Fund  
(trust fund)**

**Section 481I-4(e), HRS**

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$140	\$136	\$131	\$130	\$124
Revenues	2	1	2	1	4
Interest	0	0	0	0	0
Expenditures	(6)	(6)	(3)	(7)	(3)
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$136</b>	<b>\$131</b>	<b>\$130</b>	<b>\$124</b>	<b>\$125</b>
Encumbrances	\$0	\$1	\$1	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 1996, the fund is used to administer costs and fees associated with the state-certified arbitration program. Revenues come from an initial filing fee of \$200 from manufacturers and \$50 from consumers who initiate arbitration cases. Expenditures consist of compensation for independent arbitrators, verified costs, training expenses, and costs associated with educating consumers, manufacturers, and third parties. Every arbitrator's final decision in favor of a consumer includes the return of the \$50 filing fee to the consumer.

**Travel Agency  
Education Fund  
(trust fund)**

**Chapter 468K, HRS  
(repealed)**

**Financial Data for Fiscal Years 2011–2012 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>
Beginning Balance	\$21	\$21
Revenues	0	0
Interest	0	0
Expenditures	0	0
Transfers (net)	0	(21)
<b>Ending Balance</b>	<b>\$21</b>	<b>\$0</b>
Encumbrances	\$0	\$0

This fund was repealed through Act 124, SLH 2011, and closed in FY2012. All remaining funds were transferred to the general fund. Created in 1980, the fund was used to inform licensees and the public about the travel agency law.



***Travel Agency  
Recovery Fund  
(trust fund)***

***Chapter 468K, HRS  
(repealed)***

**Financial Data for Fiscal Year 2011 (in thousands)**

	<b>FY2011</b>
Beginning Balance	\$0
Revenues	0
Interest	0
Expenditures	0
Transfers (net)	0
<b>Ending Balance</b>	<b>\$0</b>
Encumbrances	\$0

This fund was repealed through Act 124, SLH 2011, and closed in FY2011. Created in 1980, the fund was used to inform licensees and the public about the travel agency law and to pay customers' claims against insolvent travel agencies.

***Trust Clearing Account  
(trust account)***

***Administratively  
established***

**Financial Data for Fiscal Years 2011–2015 (in thousands)**

	<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
Beginning Balance	\$1,368	\$1,913	\$1,753	\$1,992	\$1,512
Revenues	1,702	1,679	1,842	1,971	2,109
Interest	0	0	0	0	0
Expenditures	(1,157)	(1,839)	(1,603)	(2,451)	(1,811)
Transfers (net)	0	0	0	0	0
<b>Ending Balance</b>	<b>\$1,913</b>	<b>\$1,753</b>	<b>\$1,992</b>	<b>\$1,512</b>	<b>\$1,810</b>
Encumbrances	\$1	\$11	\$13	\$9	\$1

This account continues to serve the purpose for which it was created and meets the criteria for a trust account. Created in 1976, the account temporarily holds deposits primarily received from the Medical Injury and Conciliation Panels (MICP); deposits related to subdivisions, time shares, and condominiums; and temporary deposits from motor vehicle insurers of the Hawai'i Joint Underwriting Plan (HJUP). Revenues come from registration, application, and filing fees paid by parties involved in MICP claims, condominium and timeshare developers, subdividers, and motor vehicle insurers. Expenditures consist of MICP panel costs

and administrative fees; consultant fees for review of subdivisions, timeshares, and condominiums related documents; and operational costs for the HJUP.

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# Chapter 3

## Use of Fund Contrary to Original Intent, Funds Not Reported

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As we reported in our *Study of the Transfer of Non-general Funds to the General Fund*, Report No. 12-04, special and revolving and other types of non-general funds collectively represent about half of the State's operating budget—moneys that are not subject to the same level of legislative scrutiny as are general fund moneys. Accurate and complete reporting of all non-general funds as required by law would greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility.

During our review of the special funds and trust funds and accounts of the Department of Commerce and Consumer Affairs (DCCA), we noted inconsistent adherence to statutory requirements and reporting of financial transactions and balances.

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### Hawai'i Hurricane Relief Fund Not Used for Established Purpose

In our review, we noted funds used in FY2012 from the Hawai'i Hurricane Relief Fund did not serve the purpose for which the trust fund was originally established. The purpose of the trust fund as provided in Section 431P-4, Hawai'i Revised Statutes (HRS), is to monitor the availability of property insurance in the state and make such insurance reasonably available to consumers in the state when necessary.

Pursuant to Act 143, SLH 2010, the Hawai'i Hurricane Relief Fund transferred \$67 million to the Department of Education to restore instructional days lost through the collective bargaining decision made between the governor, Board of Education, Department of Education, and the Hawai'i State Teachers Association to institute furlough days for the 2010–2011 school year. The 2010 Legislature made the educational needs of Hawai'i's children a top priority and therefore appropriated these funds to restore instructional days. Funds appropriated by Act 143 that were not expended at the close of the 2010–2011 school year should have been returned to the Hawai'i Hurricane Relief Fund. Approximately \$12.4 million of the \$67 million appropriation was returned.

As recommended by the governor and authorized through Act 62, SLH 2011, the 2011 Legislature appropriated a \$111 million from the Hawai'i Hurricane Relief Fund to the general fund to balance the State's budget for FY2011 and to maintain programs at levels determined to be essential for education, public health, and public welfare. Pursuant

to Act 62, SLH 2011, and Act 266, SLH 2013, the general fund must deposit general excise tax revenues of \$111 million to repay the Hawai'i Hurricane Relief Fund and an additional \$50 million to further accelerate recapitalization of these fiscal reserves. As of June 30, 2015, the general fund had made payments totaling \$105.5 million and the remaining balance of \$55.5 million will be transferred in FY2016.

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## **DCCA Did Not Report One Fund As Required by Law**

Section 37-47, HRS, requires departments to submit to the Legislature an annual report of each non-general fund account. These reports, often referred to as non-general fund reports, must include:

1. The name of the fund and a cite to the law authorizing the fund;
2. The intended purpose of the fund;
3. Current program activities that the fund supports;
4. The balance of the fund at the beginning of the current fiscal year;
5. The total amount of expenditures and other outlays from the fund account for the previous fiscal year;
6. The total amount of revenue deposited to the account for the previous fiscal year;
7. A detailed list of all transfers from the fund;
8. The amount of moneys encumbered in the account as of the beginning of the fiscal year;
9. The amount of funds in the account that are required for bond conveyance or other related bond obligations;
10. The amount of moneys in the account derived from bond proceeds; and
11. The amount of moneys in the fund held in certificates of deposit, escrow accounts, or other investments.

We noted that one of the 38 funds and trust accounts we reviewed was not reported to the Legislature in non-general fund report filings. At the end of FY2015, this account had a zero balance, as shown in Exhibit 3.1.

**Exhibit 3.1****DCCA's Trust Account Not Reported to the Legislature**

<b>Fund Name</b>	<b>Fund Type</b>	<b>FY2015 Ending Balance (rounded)</b>
Insurance Division Restitution	Trust Account	\$0
<b>Total</b>		<b>\$0</b>

Source: Office of the Auditor

Fund reports are one of the primary means through which legislative money committees track non-general funds. The reports are used to monitor fund balances and identify excess moneys for possible transfer to the general fund. According to the Senate Ways and Means Committee, there is no master list of non-general funds. The Department of Budget and Finance compiles a report of all non-general fund accounts and submits it to the Legislature prior to the start of each legislative session. All departments must complete and submit Form 37-47, *Report on Non-General Fund Information*, to the Department of Budget and Finance for each of their non-general funds. DCCA was unaware that the reporting requirement applied to funds with a zero-balance and indicated that it would report on such funds in the future.

## **DCCA Is Not Reporting Administratively Created Funds**

Section 37-52.5, HRS, requires (excluding the Judiciary) any department that administratively establishes a new fund or account to submit a report to the Legislature. The report, which must be filed within 30 working days of a fund's creation, must include a justification for the fund or account and identification of its sources of revenue. The law also requires each department, at least 20 days prior to the convening of each regular legislative session, to submit a report listing all administratively established funds or accounts along with a statement of their revenues, expenditures, encumbrances, and ending balances for each fund or account.

We noted DCCA did not submit a report to the Legislature for all administratively created trust fund and trust accounts. At the end of FY2015, these trust fund and trust accounts had a balance of almost \$5.2 million, as shown in Exhibit 3.2.

**Exhibit 3.2**  
**DCCA's Administratively Created Fund and Trust Accounts**  
**Not Reported to the Legislature**

<b>Fund Name</b>	<b>Fund Type</b>	<b>FY2015 Ending Balance (rounded)</b>
Cable Television	Trust	\$0
Captive Insurance Companies LOC Escrow	Trust Account	1,000
Insurance Division Restitution	Trust Account	0
Multi-State Mortgage Services Agreement Fund	Trust Account	1,013,000
Premium Taxes Paid Pending Appeal Account	Trust Account	2,265,000
Real Estate Appraisers	Trust Account	5,000
Service Contract Provider's Financial Security Deposit	Trust Account	67,000
Trust Clearing Account	Trust Account	1,810,000
<b>Total</b>		<b>\$5,161,000</b>

Source: Office of the Auditor

Shortly after passage of Section 37-52.5, HRS, the state comptroller issued Memorandum No. 2002-35 in October 2002 alerting agency heads as well as departmental administrative and fiscal officers of this reporting requirement. The memorandum noted that departments and agencies are responsible for meeting the requirements as of July 1, 2002. However, DCCA told us it has not filed these reports. These informational gaps hinder the Legislature's ability to monitor non-general funds.

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## Response of the Affected Agency

### Comments on Agency Response

On October 8, 2015, we transmitted a draft of this review to the Department of Commerce and Consumer Affairs (DCCA). A copy of the transmittal letter is included as Attachment 1. DCCA's response is included as Attachment 2.

DCCA disagreed with our conclusion to reclassify the Commissioner's Education and Training Fund from a trust fund to a special fund. However, after reviewing DCCA's response, we maintain our analysis is appropriate because the fund does not meet the definition of a trust fund under Section 37-62, Hawai'i Revised Statutes (HRS). We stand by our conclusion since it is not a fund in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, nor was it created or established by a gift, grant, contributions, devise or bequest that limits the use of the fund to designated objects or purposes. DCCA agreed with most of our observations and will take appropriate action to ensure compliance with the reporting requirements for administratively created funds. Finally, we agreed with DCCA that the Trust Clearing Account was reported in accordance with Section 37-47, HRS, and therefore removed it from Exhibit 3.1, which lists DCCA's trust accounts not reported to the Legislature.

STATE OF HAWAII  
OFFICE OF THE AUDITOR  
465 S. King Street, Room 500  
Honolulu, Hawai'i 96813-2917



JAN K. YAMANE  
Acting State Auditor

(808) 587-0800  
FAX: (808) 587-0830

October 8, 2015

**COPY**

via EMAIL: [Kay.M.Okimoto@dcca.hawaii.gov](mailto:Kay.M.Okimoto@dcca.hawaii.gov)

The Honorable Catherine P. Awakuni Colón  
Director  
Department of Commerce and Consumer Affairs  
King Kalākaua Building  
335 Merchant Street  
Honolulu, Hawai'i 96813

Dear Ms. Colón:

Attached for your information is a .pdf copy of our confidential draft report no. 4, *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Commerce and Consumer Affairs*. We ask that you telephone us by Monday, October 12, 2015, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit your hard copy response to our office no later than 12 p.m., Monday, October 19, 2015.

The Governor and presiding officers of the two houses of the Legislature have also been provided .pdf copies of this confidential draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Jan K. Yamane  
Acting State Auditor

Attachment





DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
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CATHERINE P. AWAKUNI COLÓN  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

RECEIVED

October 19, 2015

2015 OCT 19 AM 10:05

OFC. OF THE AUDITOR  
STATE OF HAWAII

Ms. Jan K. Yamane  
Acting State Auditor  
Office of the Auditor  
465 S. King Street, Room 500  
Honolulu, Hawaii 96813-2917

Dear Ms. Yamane:

Thank you for the opportunity to comment on the Draft Report No. 4 entitled, *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Commerce and Consumer Affairs*. We have reviewed the report and respectfully provide the following comments:

**Commissioner's Education and Training Fund ("CETF")**

**Auditor's comment:** The fund continues to serve the purpose for which it was created, but it functions as, and meets the criteria for, a special fund and should be reclassified as such.

**DCCA response:** The Department of Commerce and Consumer Affairs ("DCCA") does not agree with the Auditor's comment that this fund should be reclassified. The DCCA Insurance Division is charged with, among other things, ensuring that Hawaii's citizens have insurance that is appropriate for their needs, fairly priced, and that Hawaii's insurance industry is safe and sound. CETF's purpose is to provide for specialized education and training of Insurance Division personnel, as well as consumer education. CETF is codified at Hawaii Revised Statutes ("HRS") § 431:2-214 as follows:

**"§431:2-214 The commissioner's education and training fund.** (a) The commissioner may establish a separate fund designated as the commissioner's education and training fund.

(b) This fund may be used to compensate or reimburse staff and personnel of the insurance division for education and training. Upon approval by the commissioner, staff and personnel may be compensated or reimbursed for:

- (1) Actual travel expenses in amounts customary for these expenses;
- (2) A reasonable living expense allowance at a rate customary for these expenses;
- (3) Per diem compensation at a customary rate; and
- (4) Any fees or charges necessary to attend educational and training conferences, workshops, seminars, and any other event of this nature.

(c) Any person receiving reimbursement or compensation from the commissioner's education and training fund shall submit to the commissioner, for approval, a detailed account of all expenses and compensation necessarily incurred on account of any education and training for the insurance division.

(d) The commissioner's education and training fund may be used to pay the cost of consumer education and information, including publication of information, brochures, and consumer guides and costs related to conferences, workshops, seminars, and any other event of this nature which the commissioner sponsors or in which the commissioner or insurance division staff participates.”

The legislative history for HRS § 431:2-214 clearly states that one of the reasons for establishing the CETF was for education and training of Insurance Division personnel, as reflected in the committee reports for SB No. 361. (See Senate Journal 1987, SCRep. 19, SCRep. 224, SCRep. 718). It is clear that the fund was not established as an accounting mechanism, nor a mere pass through for funds. Rather, CETF was specifically established for the education and training of Insurance Division employees, as well as for the benefit of individuals specifically interested in insurance topics.

The CETF should remain a trust fund, as the Insurance Division staff and Hawaii's insurance consumers, as CETF beneficiaries, have an interest in education and training in order to perform their duties competently and to make informed customer choices, respectively.

#### **Hawai'i Hurricane Relief Fund (“HHRF”)**

Auditor's comment: Funds used in FY2012 from HHRF did not serve the purpose for which the trust fund was originally established.

DCCA response: As the Auditor notes in the draft report, funds were transferred from the HHRF pursuant to Act 143, Session Laws of Hawaii (“SLH”) 2010 and Act 62, SLH 2011. The impact of these transfers is graphically illustrated in Exhibit 2.1 of the report, which shows DCCA's cash balances for non-general funds fluctuating sharply between FY2011 and FY2015.



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DCCA acknowledges the efforts of the legislature in effectuating the repayment of these funds through the payment on June 30, 2015 of \$105.5 million and another \$55.5 million to be transferred to HHRF in FY2016. These repayments are helping to restore DCCA's cash balances to the levels that were in place before the general fund transfers.

### **Observations on DCCA Reporting and Accounting for Funds**

Auditor comment: DCCA did not report the Insurance Restitution Account and the Trust Clearing Account as required by law.

DCCA Response: Regarding the Trust Clearing Account, DCCA does not agree with this finding. The Trust Clearing Account was included in the DCCA's Report on Non-general Fund Information submitted to the 2015 Legislature.

Regarding the Insurance Division Restitution Trust account, this account was not previously reported as a result of DCCA's oversight based on its zero balance. The DCCA will take corrective action by including all appropriate accounts in future Non-General Fund Reports, in accordance with Section 37-47, HRS.

Auditor comment: DCCA is not reporting administratively created funds.

DCCA Response: The DCCA was not aware of the filing requirement but will take appropriate corrective action in the future to comply with Section 37-52.5, HRS.

Again, we appreciate the opportunity to comment on the draft report. Should you or your staff have additional questions regarding the subject of this draft report, please feel free to contact me at 586-2850.

Sincerely,



CATHERINE P. AWAKUNI COLÓN  
Director