2012 Annual
Compliance Resolution Fund Report
to the Legislature

DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS

STATE OF HAWAII

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INTRODUCTION

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OVERVIEW

The Department of Commerce and Consumer Affairs (DCCA) submits its Annual Compliance Resolution Fund Report as mandated by section 26-9(o) of the Hawaii Revised Statutes. The report describes the use of the Compliance Resolution Fund (CRF) by presenting individual overviews of the functions and activities of the various DCCA programs funded by the CRF, and provides a financial summary of the expenditures made from the fund including personnel and operating expenses, as well as revenues received. In addition, the report addresses the department's compliance with the reporting requirements contained in Act 100 (1999) regarding the statement of goals, objectives and policies.

The CRF, in existence since July 1, 1996, evolved into the primary funding source for the various DCCA programs as the department moved its operations away from support by general tax revenues to funding by fees and charges generated by its various programs. Pursuant to section 26-9(o), Hawaii Revised Statutes, fees shall be assessed and deposited into the CRF for the issuance of a license, permit, certificate, or registration, subsequent renewals, together with all other fines, income, and penalties collected or reimbursement of costs or attorneys' fees assessed as a result of actions brought by the department. The director may use the moneys in the fund to employ and train hearings officers, investigators, attorneys, accountants, and other necessary personnel for CRF funded operations, and the fund shall defray all other administrative costs, including costs of operating the supporting offices of DCCA. Any other activity related to compliance resolution may also be funded by the CRF. "Compliance resolution" means a determination of whether:

(1) Any licensee or applicant under any chapter subject to the jurisdiction of the department of commerce and consumer affairs has complied with that chapter;
(2) Any person subject to chapter 485A, has complied with that chapter;
(3) Any person submitting any filing required by chapter 514E or section 485A-202(a) (26) has complied with chapter 514E or section 485A-202(a) (26);
(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 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.

By Fiscal Year 1998-1999, five DCCA programs were part of the CRF: Business Registration Division, Professional and Vocational Licensing Division, Regulated Industries Complaint Office, Office of Consumer Protection, and the Director's Office with its supporting offices of Administrative Services, Information Systems and Communications (ISCO), and Administrative Hearings.[1] Act 129 SLH 1999,

[1] The Director's Office provides general policy and administrative leadership in supervising and coordinating the various department activities. Personnel management services are provided by the Director's Office, while Administrative Services provides programs with centralized budgeting, accounting, as well as centralized clerical services. Information Systems and Communications provides system and technical computer support services for the various DCCA programs. Administrative Hearings conducts formal administrative hearings for the department programs and various attached boards and commissions,

effective July 1, 1999, expanded the CRF to include the Division of Consumer Advocacy, Division of Financial Institutions, and the Cable Television Division. Act 39, SLH 2002, effective July 1, 2002 merged the Insurance Regulation Fund, the primary funding source for the Insurance Division, into the CRF. Except for trust and special funds with dedicated purposes[2], the CRF provides the sole source of funding for DCCA since calendar year end 2003.

GOALS and OBJECTIVES

The Department's goals and objectives are reflected in the sum of those stated by each of its divisions throughout this report. The Central Administrative Office has various functional areas which have adopted the following objectives, goals and measures:

Functional Area	Objective	Goal	Measure
Director's Office	Balance the department's revenues and expenditures in light of department's self-funded status.	Bring department's beginning year cash reserves to 9 months of budget ceiling plus overhead.	Degree of cash reserve reduction until department reaches 9 month goal.
	Timely and complete responses to customer inquiries and complaints.	95% of all initial non-rhetorical customer inquiries / complaints properly addressed (or acknowledged) within 5 business days.	Percentage of inquiries / complaints sent to the Director's Office addressed (or acknowledged) within 5 business days.
Personnel Office	Accurately process personnel transactions in timely manner.	100% processing of actions within time frame allotted to complete the transaction.	Percentage of personnel transactions processed properly and timely.
Fiscal Office	Review and timely process all departmental expenditures. Provide	100% timely processing of payments.	Percentage of late payments processed.

provides oversight of the Mortgage Dispute Resolution program, administers the Medical Claims and the Design Professional Conciliation Panels, hears appeals of the State procurement code, and conducts due process hearings for DOE under the Individuals with Disability Education Act (IDEA).

2 The Professional and Vocational Licensing Division has the following trust funds: Real Estate Recovery, Real Estate Education, Condominium Education, Contractor's Recovery, Contractor's Education, Real Estate Appraisers, all of which are managed and controlled by the respective licensing boards. The Insurance Division has the following trust funds: Insurance Commissioner's Education and Training, Loss Mitigation Fund, Patient's Compensation, Premium Taxes Paid, Service Contract Providers, Captive Insurance Companies LOC; and the following special funds: Driver's Education, and Captive Insurance. The Regulated Industries Complaint's Office has the Motor Vehicle Arbitration trust fund, the Office of Consumer Protection has a Restitution trust fund and the Division of Financial Institutions has the Mortgage Loan Recovery trust fund. Additionally, the Hawaii Hurricane Relief Fund Board is administratively attached to DCCA, and its Board of Directors (rather than the director of DCCA) manages and controls the fund. These funds are not included in the CRF.

	timely and accurate cashiering services for all payments and collections made to the department.		
Budget Office	Provide technical support services to operating programs in the areas of budget preparation, budget execution and management analysis.	Timely, accurate and sound guidance to the Director and operating programs of the Department.	Percentage of departmental budgetary tasks completed by the due date.
Office Services	Provide central clerical support to divisions regarding mail, duplication projects and word processing.	Timely processing of work requests for typing and photo-copying services. Timely address and answer all division concerns.	Percentage of requisitions completed in a timely manner.
	Timely and complete response to division inquiries and complaints.	Timely address and answer division concerns.	Percentage of concerns addressed (or acknowledged if time does not permit) within 5 business days.
ISCO	Find, acquire, implement and maintain information technology that improves the divisions' operations and allows them to provide better customer service.	Reduce travel costs. Reduce electrical costs. Reduce paper usage.	Reduce travel costs by 10%. Reduce electrical costs by 10%. Reduce paper usage by 30%.

ACCOMPLISHMENTS

The overall CRF financial summary for FY 12[3] is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
$25,142,364	$9,402,215	$34,544,579	$38,089,746

[3] The CRF financial summary relating to ADMIN (Director's Office, Personnel, Administrative Hearings, Fiscal and Administrative Services Offices and ISCO) for FY 11-12 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
$3,435,467	$2,598,400	$6,033,867	$423,891

The department's financial strategy requires generally that revenue-generating divisions secure revenues to cover division expenses, and contribute equitably to overhead costs, while ensuring that anticipated major improvements are addressed and a portion of next year's operating expenses is available. This ensures solvency of the fund and continuation of mandatory services to the public. From the onset of the CRF, the department's primary fiscal goal has been to implement this strategy and, as a result, we have been very conservative in our spending and adjusted our expenses so as to be consistent with projected revenues. Accordingly, the department's financial planning has taken into account current fiscal year expenses, and planning for future major projects and expenditures.

In the Information Technology (IT) area, there were many major accomplishments this year: 1) the update of the Insurance Division's custom application to include Equivalent Classes; 2) the update of the Insurance Division's custom application to include NIPR License Renewals and Amendments; 3) enhancements to ISCO's Request For Action (RFA) System; 4) enhancements to ISCO's Computer Account Request (CAR) System; 5) enhancements to DCCA's Conference Room Reservation System; 6) Business Process Analysis provided for PVL-Records and ASO-Cashiers, DCCA's ACH process, Legislation Document Processing, and the Insurance Health Exchange RFP; 6) complete re-write of RICO's online complaint history report using Microsoft ASP.Net – split RICO and OCP complaints into two separate reports; 7) assisted OAH with the Mortgage Foreclosure Dispute Resolution Program; 8) 2012 enhancements to DCCA's Legislative Bill Tracking System; 9) adjustments and enhancements to DCCA leave approval and accounting system for supplemental time-off; 10) built new ASP.Net OAH Online Decisions search and display of Legal Outcomes PDF documents; 11) enhancements of the DCCA web site to increase search box size and make room for additional buttons, added dynamic calendars for all divisions and redesigned the site map; 12) added Public Notices to MFDR website; and 13) finally a new Broadband web site. To bring projects such as these to fruition, ISCO works collaboratively with DCCA business staff along with the State's central I.T. group (ICSD) and the State's Web Portal Manager.

Although not as visible to our external customers, ISCO continues to enhance its infrastructure to provide DCCA's business staff with efficient and secure computer tools to get their work done. Included in these infrastructure enhancements are: 1) Virtualization of servers, removed 15 physical servers and replaced with 3; 2) SAN Replacement; 3) the replacement of 105 obsolete PCs; 4) the replacement of 3 obsolete printers; 5) OAH Scanner and Redaction Software procured and deployed; 6) Westlaw server built and updated as well as upgrades to numerous other systems (Ironport, VMWare View, Lotus Notes and conference room WiFi).

Projects underway at this time include: 1) the upgrade of Knowledge-Worker user interfaces for DCCA's core custom business applications; 2) the creation of an on-line service to allow the registration of real estate condominium projects and AOAO organizations; 3) working with the Insurance Division's Health branch to provide premium rate reporting; 4) the introduction of electronic signatures to replace wet signatures for electronic purchase orders; 5) DCA I.T. Assimilation; 6) evaluation of Business Process Management Suites for BPR, Workflow, Document Management, Digital Archival and Dynamic Case Management as an enterprise solution; 7) IVR replacement; 8) acquiring Managed Services for Oracle database and application server technology; 9) on-going database replication for 24/7 availability online for web applications; 10) configuring SharePoint and SQL Server environments for future development; 11) Cisco switch refresh; 12) MS Office upgrade; and 13) implementation of disk backup system with DR.

CONCLUSION

The department looks forward to continuing to fulfill its mission to regulate business fairly and reasonably, while protecting consumers from fraud and unfair business practices. We have adopted the motto “Upholding fairness in the marketplace” to remind us of our responsibilities. We will endeavor to provide our customers with the best value for their money by continuing our efforts to find more efficient ways of providing our services that are also convenient for our customers, such as making more services available online.

ADMIN will continue to provide administrative support to the department’s divisions so that they can concentrate on their respective specific substantive responsibilities. ADMIN will also continue to make a concerted effort to expand and improve the use and operation of information technology as a means to improve efficiency and effectiveness of our programs. We will continue our efforts to ensure that inquiries and complaints are responded to in a reasonable amount of time, and that our expenditures are aligned with our revenues. ADMIN will continue to work with DCCA divisions to identify improvements in operations and delivery of services to licensees, the public, and businesses throughout the State.

BUSINESS REGISTRATION DIVISION (BREG)

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OVERVIEW

The Business Registration Division (BREG) has three primary functions: (1) ministerial registration including the processing and maintaining for public access registrations of corporations, general and limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies, trade names, trademarks, service marks and publicity rights; (2) point-of-service assistance to the public to help them through the registration process necessary to start up a business in the State in the areas of business, tax and employment; and (3) substantive regulatory oversight of the securities industry in the State in the following areas: (a) registration of broker-dealers, securities sales agents, investment advisers, investment adviser representatives, investment companies and securities and franchise offerings for sale in the State; (b) field examinations of broker-dealers and investment advisers in the State; (c) review of securities and franchise offerings for sale in the State; and (d) the enforcement of the Uniform Securities Act.

Composition

The division's main office is located at 335 Merchant Street, Honolulu, HI 96813 on the second floor. It also has three Business Action Center (BAC) offices: 1130 North Nimitz Highway, Second Level, Suite A-220, Honolulu, HI 96817; 70 E. Kaahumanu Avenue, Unit 8-9, Kahului, HI 96732; and 100 Pauahi Street, Suite 109, Hilo, Hawaii 96720.

In order to carry out the division's primary missions, the division is divided into four branches: (1) the Documents Registration Branch that includes the Business Action Center offices, (2) the Securities Compliance Branch that includes the Investor Education Program, (3) the Securities Enforcement Branch, and (4) the Office Services Branch which supports all of the other branches. The division's staff includes attorneys, investigators, securities examiners, securities registration staff, business center specialists, investor education specialists, business registration assistants, clerk-typists, legal secretaries, licensing clerical staff, clerical support staff and administrative staff.

The **Documents Registration Branch** maintains the business registry for corporations, limited liability companies, general partnerships, limited partnerships, limited liability limited partnerships and limited liability partnerships conducting business activities in the State. In addition, the registry contains trade names, trademarks, service marks and publicity rights. This branch consists of the Documents Information Section, the Documents Processing Section and the Records Section. It also includes the Business Action Center.

The **Business Action Center (BAC),** as part of the Documents Registration Branch, operates business action center offices on Oahu, Maui and the Big Island that provide point-of-service information and assistance to the public primarily to facilitate, coordinate and simplify the application process with the State for business and employer registration and tax licensing purposes. The BAC accepts BREG filings and fees and also 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, e-mail, mail, fax, and

Live Chat (an instant messaging system which allows customers on the Hawaii Business Express website to obtain real-time assistance from a customer service representative).

The **Securities Compliance Branch** handles the registration activities for the securities industry operating in the State. This includes the registration of securities broker-dealers, securities sales agents, investment advisers, investment adviser representatives, investment companies, securities offerings, and the filing of franchise offering circulars in the State. The branch is also responsible for conducting field examinations of broker-dealers and investment advisers in the State. The division's Investor Education Program that provides investor education and financial literacy outreach to the public is also part of the Securities Compliance Branch.

The **Securities Enforcement Branch** enforces State laws governing the securities industry under the Uniform Securities Act, by investigating and taking legal action against those persons and/or firms, both registered and unregistered, who violate these laws or evade them. The branch has also worked in conjunction with other government agencies such as the Securities Exchange Commission, the US Commodity Futures Trading Commission, the Office of Consumer Protection and the Insurance Division in DCCA, the Honolulu Police Department's White Collar Crime Unit, the State Attorney General's Offices, the U.S. Bankruptcy Trustee, and other federal and state securities and law enforcement agencies.

GOALS, OBJECTIVES AND ACCOMPLISHMENTS - Documents Registration Branch

The Documents Registration Branch is supervised by one branch supervisor and three section supervisors. It provides an invaluable service to the business community in assuring that the information on file is readily available, accessible, and current in order to support commercial activities in the State. Without the availability of this information to the business community, commercial activity in the State would be substantially impaired, since businesses depend on the information on record to support the extension of trade credit, commercial leases, real estate transactions and the delivery of financial services.

The Documents Registration Branch processed over **200,000** documents during fiscal year 2012, and maintains the public registry of over **158,000** 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. Information is also retained for business entities that have been dissolved or cancelled. Minimal information must be kept for these inactive files for the purposes of research, litigation, real estate transactions, and general business use.

The Documents Registration Branch maintains **9** databases, with over **5** million records per database and has one of the most popular online services in the state with over **6.5** million unique hits a year.

It is the goal of the Documents Registration Branch to be one of the fastest, most efficient, customer-oriented business registries in the nation. To accomplish this goal, the branch has the following objectives: (1) review and implement policies and procedures designed to achieve a level of efficiency in processing document filings and information requests in a timely manner consistent with industry best practices; (2) continue to modernize the business laws so that they track as closely as possible the most current versions of the best uniform or model laws; (3) enhance the information systems to improve retrieval, processing and recording of public filing information while protecting the integrity of the data system, and (4) develop more online services that are useful to many.

As part of an effort to make the Documents Registration Branch as convenient as possible for the public, we have been working to advance our computerized information systems so the public can access our services in the fastest and best ways, and we can process and record documents with enhanced speed and accuracy. Recent system upgrades include modifying internet interfaces to be more user-friendly, developing interfaces for tablets and mobile phones, and back office scanning and processing upgrades.

The branch is one of the first business registries in the country with the technological and legal infrastructure in place to allow both online incorporation and annual filings, and it continues to be one of the most efficient and technologically advanced registries.

The branch continues to lead in innovation. This year, the branch launched two of the first mobile applications in the country for business registration and the first Hawaii state government mobile applications for tablet and smart phone technology. The applications utilize interfaces customized for touch screen technology and smaller phone screens, including large buttons and customized displays. Visit www.business.ehawaii.gov.

The applications provide enhanced mobile device access for some of the most popular online services of the state including:

- Searching for filing information on registered businesses,
- Buying and instantly downloading filed documents,
- Buying Certificates of Good Standing,
- Filing annual business report renewals.

2012 AWARDS FOR MOBILE APP

The mobile apps have been recognized as best in class for innovation and service to the public, winning the following recognition:

- "Best Government Mobile Website" by the Web Marketing Association,
- "IACA 2012 Merit Award for Outstanding Innovation,"
- State of Hawaii "Excellence in Technology Award" in the category of Digital Government: Government to Business,
- Finalist: National Association of State Chief Information Officers (NASCIO) 2012 Recognition Awards,
- Honorable Mention: "Digital Government Achievement Award"

This year, the branch also continued to improve the documents online project that allows the public to purchase filed documents instantly online. About **10,989** documents were ordered online this past year. We have made an estimated **1,363,946** documents immediately available online as of this past fiscal year, almost double from last year's **700,000**. This saves the public time and money and increases convenient public access to the registry documents, especially to businesses on the neighbor islands. The branch is continuing to increase instant document purchases and upgrade the interface of its website which can be found at www.BusinessRegistrations.com.

This year, our "go green" effort to increase our online adoption rate for annual report filings is at about **78%** of the total filings as of the second quarter of calendar year 2012. The effort continues to save the Division over **600** pounds of paper and nearly **$45,000** in postage a year. The increased online filing rate also reduces paper, postage and other costs for the consumer, helps keep our community green and reduces the division's manual handling, thereby allowing faster automated processing.

In addition to annual filings, the branch currently accepts a total of **30** other online filings. We are working to add more online filings in the upcoming year. All forms that the branch generates are now available online for the public to download. The branch also maintains its Hawaii Business Express website that allows customers to fill out one application via a single internet process which covers three different state filings: registration of their business entity with the Department of Commerce and Consumer Affairs, obtaining a general excise tax number from the Department of Taxation and obtaining an identification number from the Department of Labor and Industrial Relations.

The technological innovations and the work of the staff have also kept the processing times down to an average of 4 days and annual backlogs as low as 0 days.

Business Action Center

The BAC is supervised by a business center specialist who is responsible for five business registration assistants and three offices. The BAC operates permanent business centers on Oahu and Kahului, Maui and a temporary office in Hilo. These offices offer point-of-service assistance and information to help facilitate, coordinate and simplify the application process for those who wish to register with the State in the areas of business, tax and employment. Customers interested in starting a business receive one-on-one assistance with completing necessary tax license and business and employer registration applications. Customers can also submit applications in person and receive certain temporary tax licenses and pay fees.

With the popularity of online registration increasing through Hawaii Business Express (HBE), the BAC also provides the support for "Live Chat," HBE's instant messaging system accessible to online filers who have registration questions. BAC also provides e-mail, fax and phone support for HBE or any other filers. The BAC encourages online filing by referring customers to the HBE website and providing designated terminals in the offices for customer use. Online filing reduces the number of paper filings over-the-counter at BAC while also increasing processing efficiency.

In addition, BAC acts as a clearinghouse of information for broader business-related matters. In the case of other industry-specific licenses and permits, the BAC provides application forms and references for additional information from the respective state, federal or county agencies. The BAC also provides general business start-up information and refers prospective business owners to a broad spectrum of public and private nonprofit organizations that assist new and existing businesses, and to business seminars and other training or entrepreneurial education programs.

The goal of the BAC is to be the most responsive and helpful point-of-service business center for business registration and licensing assistance to as many businesses in Hawaii as possible. The BAC objectives for the fiscal year ending June 30, 2013, will be to: (1) continue to develop relationships with the business community; (2) continue exploring more efficient ways to accept filings from the BAC sites on Maui and Hilo; (3) continue seeking ways to reach communities in need of business registration assistance and to market BAC's services; and (4) continue working closely with other state agencies (including cross-training) to help increase compliance with new laws.

In FY12, the BAC branch assisted over 20,300 customers over the counter or via phone, e-mail, fax, or Live Chat. In particular, Live-Chat assistance continues to be popular with over 600 chats per quarter in FY12.

In FY12, the BAC strengthened its partnership with SCORE's Counselor's to America's Small Business program, where volunteer mentors now meet with BAC customers once a month at the Oahu office (the BAC now manages the appointment scheduling). SCORE is a nonprofit organization partially funded by the U.S. Small Business Administration. It provides business counseling and mentoring services free of charge. These partnerships allow unique opportunities for small business owners to speak with experts on a one-on-one basis.

In addition, the BAC participated in workshops and counseling sessions throughout Hawaii, many of which were with the military. The BAC regularly provides outreach services to Kapiolani Community College, the University of Hawaii William S. Richardson Law School, and military bases. It also participated in approximately **28** job and business fairs, workshops, and seminars in partnership with the Department of Transportation, the U.S. Small Business Administration, Enterprise Honolulu, and others, reaching an estimated **1,000** attendees. In FY12, the BAC served on the executive committees of two successful business fairs at Kapiolani Community College and Leeward Community College, which featured a variety of business classes. The BAC also expanded outreach activities to other groups such as the Wounded Warrior Program for injured veterans returning from war-time service. In FY13, we plan to seek out other programs for returning veterans who wish to transition out of service and into entrepreneurial opportunities.

The BAC continues to host the Hawaii State Bar Association volunteer lawyers project where HSBA attorneys come to the BAC's Oahu office and offer free legal services to BAC customers each Thursday. This is one of BAC's most popular programs and BAC hopes to continue to offer this service and recruit more attorneys to volunteer.

GOALS, OBJECTIVES AND ACCOMPLSIHMENTS - Securities Compliance Branch

The Securities Compliance Branch of the division is supervised by a specialist who is responsible for the work of six examiners, five licensing clerical staff, and two secretaries. The branch currently has approximately **91,000** securities salespersons and **1,317** broker/dealer firms registered to sell securities. In addition, the branch has **62** state registered investment advisory firms and an estimated **1,765** registered investment adviser representatives on record. The branch also processed an estimated **721** franchise offering circular filings, conducted 21 exams and received approximately **3,348** Reg D notice filings for the private placement of securities and over **6,700** mutual fund notice filings in FY12.

The goal of the Securities Compliance Branch and Securities Enforcement Branch is to be an effective state securities regulatory agency that is responsive, appropriately aggressive and efficient. To accomplish this goal, the Securities Compliance Branch's objectives are to: (1) implement an ongoing comprehensive training program, (2) implement a regular field examination cycle for registered broker/dealers and state registered investment advisers, and (3) develop valuable investor education programs and materials that are responsive to the public's needs and current with the financial problems investors face, and to reach communities throughout Hawaii with practical and helpful information.

With respect to investor education, in particular, we are currently in the process of (1) implementing rules and laws to take advantage of the new Dodd-Frank Wall Street Consumer Protection Act in order to apply for up to $500,000 in federal funds for state investor education efforts; (2) continuing our partnerships with nonprofit and state agencies to expand outreach throughout Hawaii to Native Hawaiians, the military, labor unions, seniors and keiki; (3) developing our program to leverage social media and other multimedia technology to reach our audience in a current and relevant manner.

The staff is beginning training on the new provisions of the Dodd-Frank Wall Street Consumer Protection Act (the "Act") and the Commissioner has worked throughout the year to make sure the State of Hawaii's interests are included in national positions on the final implementation of the act. One of the most significant changes in the Act for the states is that it expands jurisdiction of state regulators to investment advisers with assets under management of up to $100 million, thus increasing the states' examination and registration services to include larger and more complex firms. In FY12, we made significant outreach efforts to mid-sized firms that had to switch to State regulation under the new $100 million cap and the branch completed the registration transition in a timely manner by the September 2012 deadline. We have also worked to accommodate the new demands on the branch and to get staff up to speed on the additional complexities. The Act also places limitations on notice filings for securities violators. In addition, the Commissioner has worked with North American Securities Administrators Association (NASAA) to advocate for a fiduciary standard for broker dealers to match that of investment advisers, an effort that garnered the support of Senator Akaka.

Staff continues to efficiently manage the volume of applications and renewals received each year and the number of pending applications for broker-dealers, sales agents, investment advisers and their representatives remains very low. The field examination program continues to provide examinations of broker-dealers and state-registered investment advisers in Hawaii. Examinations of broker-dealers and investment advisers located on all islands throughout the State are being conducted on a continuing basis to provide onsite review of compliance with Hawaii law.

The branch is also continuing its comprehensive training program for professional development of its securities examiners staff with an additional emphasis on the new requirements included in the Act. Currently, the branch is supporting training to have examiners get certified as Certified Regulatory and Compliance Professionals from the FINRA Institute at Wharton. The branch currently has two certified examiners and one additional staff member preparing to be certified.

Investor education continues to be an essential component of securities regulation, and we continue to expand our outreach to audiences through various community events across the state. The branch completed **49** investor protection presentations in FY12, and participated in **48** community events statewide, through which we reached an estimated **63,658** consumers in Hawaii in FY12.

Recently, the branch has begun a new and cautiously exciting effort to start to reach the public through carefully monitored Twitter and Facebook accounts. Follow us on Twitter @HISecurities and connect with us on Facebook.com/HISecurities.

The branch maintains a strong statewide outreach program in five target areas: 1) Seniors, 2) Working Families/Union Members, 3) Youths, 4) Military, and 5) Hawaiian & Other Ethnic Communities. Our educational presentations include information to help consumers detect and prevent securities fraud and to report complaints to our offices. Educating the public is an important part of our efforts to fight fraud, as knowledgeable investors are able to make better investment decisions and report fraud to us.

In the past, the branch also partnered extensively with the Hawaii Council on Economic Education (HCEE) to support financial literacy and investor education for our students via an interactive educational tool called the Stock Market Simulation (SMS). The SMS program trains teachers on how the US financial market works and how to make wise investment decisions, and the teachers are then able to go back to their classrooms and pass on the knowledge to their students. Over the past 7 years, this program has reached nearly **941** teachers and **35,938** students. We will be implementing this program in FY13.

The branch maintains nearly **90** handouts, brochures, booklets, games, puzzles, CDs, DVDs, guides and mini-guides covering a wide range of investor education topics from how to select an investment professional to how to avoid scams and fraud. We also have seven investor protection presentations and special large print handouts that have been notably popular with our seniors.

GOALS, OBJECTIVES AND ACCOMPLISHMENTS - Securities Enforcement Branch

The Securities Enforcement Branch of the division is supervised by a Senior Enforcement Attorney who is responsible for the regulatory enforcement activities of four attorneys, one supervising investigator, six investigators, and five clerical staff. The difficult nature and complexity of the cases being handled by the branch is increasing every year. Cases involving multiple respondents, multiple complainants, and multiple bank accounts are occurring with much greater frequency requiring extensive financial analysis and internet fraud is growing and becoming increasingly difficult to chase.

The Commissioner has worked with NASAA to help analyze and draft federal legislation regarding the controversial topic of Crowdfunding in light of the recent federal law. We expect the expansion of internet offerings to appear and are concerned with the significant deregulation that will accompany the current laws. To that end, our staff is preparing. The branch continues with the implementation of a comprehensive training program and this year, we have looked to train with Google and other powerful internet and software tools to be sure we are able to follow the fraud where it is happening online. The program consists of: (1) in-house training with panels of regulatory enforcement and legal experts from other regulatory and law enforcement agencies, academia, and industry, and (2) outside training classes and conferences.

As previously discussed, the goal of the Securities Compliance Branch and Securities Enforcement Branch is to be an effective, efficient, responsive and appropriately aggressive state securities regulatory agency. To that end, the Securities Enforcement Branch's objectives are to: (1) investigate and prosecute state securities violations under the Uniform Securities Act; (2) intake complaints from the public and respond quickly and appropriately; (3) reduce case backlog; (4) inform consumers of enforcement matters and investment scams through participating in investor education; (5) develop and implement internal procedures that will improve the timely and effective resolution of cases, improving the branch's overall effectiveness; (6) attend and develop training to keep professional staff current on emerging investigative techniques, legal analysis and trends in securities fraud and other securities violations; (7) draft and assist in securities legislation; and (8) work with the media to raise public awareness.

As a result of the enforcement work of the branch in FY12, the division issued three (**3**) preliminary orders to cease and desist with penalty recommendations of **$425,000**; obtained five (**5**) final orders, and issued nine (**9**) consent agreements or orders, imposing **$2,721,491.80** in penalties. During the past fiscal year, the branch collected **$415,991.92** in fines and penalties.

The securities enforcement branch has been involved in the litigation and settlements of major banks over the freezing of the auction rate securities markets, a market estimated to be over $300 billion. Hawaii has assisted NASAA in the multi-state actions. Resolutions are pending.

CRF FINANCIAL SUMMARY

The CRF financial summary relating to BREG for FY 11-12 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
$4,201,767	$963,805	$5,165,572	$8,793,157

CONCLUSION

The Business Registration Division 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 the essential government services involving the business registry, business action center, securities law enforcement, securities registration and investor education outreach. The demand for the division's services has necessitated improved information systems to handle the workload, more sophisticated online support, increased training to improve the quality of regulatory oversight, increased personnel and constant attention and commitment to the changing, increasingly complex needs for service. In addition, the division has worked extensively with NASAA to assist in the national regulatory reform effort and to promote and advocate positions that best support Hawaii's consumers.

CABLE TELEVISION DIVISION (CATV)

website: www.hawaii.gov/dcca/catv
e-mail address: cabletv@dcca.hawaii.gov

OVERVIEW

The Cable Television Division (CATV) supports the Director in the regulation of cable television operators. CATV's primary function is to determine whether the initial issuance, renewal, or transfer of a cable franchise is in the public's best interest. This determination is made only after careful consideration by CATV of the public need for the proposed service, the adequacy, efficiency, and reliability of service, and the technical, financial, and operational ability of the franchisee.

After the issuance of a franchise, CATV's role in protecting the public interest continues. CATV acts to enforce the franchisee's obligations under the franchise order and to ensure compliance with State rules and regulations relating to cable operators' practices and procedures. CATV continues to monitor the franchisee to ensure that the cable operating system is reliable and responsive to the public. Such reliability and responsiveness to the public's interest may be indicated by operators providing the widest possible diversity of information sources and services and enhancing communication capabilities for its communities by supporting public television, public, educational and governmental access and the interconnection of public facilities.

CATV is cognizant of the increasing importance of cable service to the people of Hawaii. With advanced technology, cable systems are becoming more than strictly a source of entertainment, and increasingly serve as a means of providing informational and educational programming. Therefore, the Division recognizes that the extension of cable service to all communities within the franchised areas should remain a high priority.

Included within the responsibility of overseeing all franchised wireline cable operators within the State, and as an integral part of the cable regulatory scheme, CATV responds to public inquiries, concerns, and complaints. CATV staff is trained to assist, provide answers, refer the complaint to the appropriate cable operator in the franchised area, or otherwise inform the general public of complaint-filing procedures. It is the division's mission to ensure that all complaints and concerns are researched and appropriately resolved. In furtherance of this goal, CATV will continue to monitor how customer service concerns are being addressed and to examine the degree of customer satisfaction by reviewing surveys and reports. The division will continue to encourage operators to develop new, improved, or more effective utilization of cable communications services and facilities that enhance customer based services to the people of Hawaii.

In addition to overseeing system operators, CATV is also responsible for the expansion of the State's Institutional Network ("INET") in a manner that is efficient and effective for the State. The INET provides broadband telecommunications capabilities among government and educational organizations and is constructed for two-way operation as part of the State's current cable television network. The recent growth in information processing, storage, and retrieval by the State illustrates the increasing need for high transmission capacity with a more flexible network configuration which may be achieved through the INET.

In its franchise agreements with cable operators, the State requires that cable operators set aside a number of channels for public, educational and governmental ("PEG") access and provide a percentage of gross revenues for PEG use. The State has contracted oversight of the access channels to non-profit entities located in each of the four counties.

In 2010, the Hawaii State Legislature passed Act 199 (the "Act") which added broadband and telework responsibilities to CATV's responsibilities. Pursuant to the Act, DCCA/CATV convened a work group to discuss procedures for streamlined permitting functions applicable to the development of broadband technology, and the broadband assistance and advisory council to advise the department on broadband development and promotion related matters. CATV requested and received increased financial and personnel resources for FY 2011 as authorized by Act 199. As a result, two new staff members were hired as program specialists to focus on the broadband-related duties of the department. DCCA/CATV broadband related activities have included drafting of legislation related to broadband development, meeting with government agencies, the Legislature, service providers and other stakeholders to address issues related to the advancement of broadband; and participating in FCC proceedings related to reforms affecting funding for telecommunications and broadband.

Composition

The staff of CATV currently consists of an administrator, a staff attorney, three program specialists (1 cable television specialist and 2 broadband specialists), and a secretary. The office is located on the first floor of the King Kalakaua Building at 335 Merchant Street. Mailing address: P.O. Box 541, Honolulu, HI 96809; phone number: 586-2620; internet website: www.hawaii.gov/dcca/catv.

GOALS and OBJECTIVES

CATV's goals and objectives are as follows:

1) Ensure consistent cable television regulatory policies and practices
   - Conduct regularly scheduled franchise fee and PEG reviews
   - Designate access organizations to provide PEG access services
   - Collaborate and assist in the INET deployment process
   - Convene regular Cable Advisory Committee meetings

2) Monitor and participate in federal telecommunications legislation and rulemaking
   - Work with Hawaii's congressional delegation on applicable federal legislation
   - Participate in relevant FCC proceedings on DBS, 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
   - Monitor other relevant government programs to identify potential funding for State broadband-related activities.
   - Monitor federal issues that may have an impact on Hawaii cable television subscribers and broadband consumers

3) Advocate for equivalent enhanced services for the State
   - Ensure that DirecTV and Dish Network comply with the FCC's order regarding service to Hawaii
   - Monitor development and deployment of new advanced services

- Ensure that Hawaii receives equivalent service to the mainland U.S.

4) Bridge the broadband availability gap by advancing broadband infrastructure deployment and supporting competitive marketplace
   - Work with federal, state and county agencies, broadband providers and other stakeholders to identify physical gaps in broadband availability
   - Develop a roadmap to bridge gaps for unserved and underserved areas, and identify and pursue methods of funding broadband infrastructure to service these areas
   - Streamline government permitting and approval processes
   - Develop equitable process for shared use of government assets

5) Support and facilitate broadband adoption initiatives and programs to drive use of high speed broadband
   - Support and develop 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

ACCOMPLISHMENTS

Institutional Network ("INET") - CATV continues its leadership role in the development, expansion and enhancement of the INET. Working with OIMT, and its INET Partners [(1) the Information, Communications and Services Division ("ICSD") of the Department of Accounting and General Services, (2) UH and (3) the Department of Education ("DOE")], CATV continued its leadership role in the upgrade and expansion of the INET, under existing cable television franchises, in the deployment of broadband infrastructure for education and government applications. The interconnection of the islands of Oahu, Maui, Kauai and Hawaii via submarine fiber provides the INET Partners with seamless, broadband networking capabilities between these islands. Additionally, as part of the franchise agreements, some of the connections of INET sites provided "free of charge" by the cable operator were Aloha Stadium, Kau Rural Health Center and the Kohala Conference Center.

One of the most significant INET projects is the UH BTOP project to connect all the public schools and libraries throughout the State. All of these connections are being treated as INET connections that are required to be done at cost through the various cable franchise agreements. This allows the UH to leverage the federal funds that they received, so that all these connections could be done with the funding from the ARRA grant. In addition to this, the required matching funds of $4M was provided by franchise fees that were dedicated to INET and broadband activities.

As of the end of FY12 (June 30, 2012), TWE held approximately $4.6M in an interest-bearing account on behalf of the DCCA for INET purposes and broadband activities. These funds are a part of franchise fees that are collected from Oahu cable television subscribers.

Oceanic Time Warner Cable of Hawaii ("Oceanic") – Hawaii Island Franchise Renewal – On July 20, 2011, Oceanic submitted an application to renew its cable franchises for the island of Hawaii. CATV along with its consultant held numerous meetings with various stakeholders and groups seeking comments on the renewal of this franchise. In addition, CATV held four public meetings to ensure that the public had ample opportunity to provide input into the renewal process. CATV and Oceanic are presently negotiating a new franchise agreement, and CATV expects this process to conclude by year end 2012.

Oceanic Time Warner Cable of Hawaii ("Oceanic") – Maui Franchise Renewal – On June 2, 2011, Oceanic notified CATV of its intent to renew its two cable franchises for Maui. CATV has started the process by holding Community Assessment meetings in Kaunakakai, Lahaina and Kahului. After Oceanic's formal application is received, CATV will hold public hearings throughout Maui County to obtain input on the application. Following that, CATV will start negotiations with Oceanic and expects to complete the process by the end of 2013.

Time Warner Cable ("TWC") Internal Reorganization – On March 19, 2012, CATV received notification that TWC was in the process of an internal reorganization. Time Warner Entertainment ("TWE"), the entity that currently held all of the Oceanic cable television franchises in the State, would be dissolved, and all assets and staff would be transferred to a new entity, Oceanic Time Warner Cable, LLC ("OTWC"). Because this reorganization would result in a transfer of cable television franchises, CATV was required to hold hearings in all cable franchise areas in the State to get public input, and verify the new entity's financial and technical ability to operate the existing cable television franchises Statewide.

Direct Broadcast Satellite (DBS) Service - CATV continues to be the State's advocate for DBS service and other non-wireline services that would benefit Hawaii residents. Although DBS is regulated on the federal level by the Federal Communications Commission ("FCC"), CATV recognizes the importance of this service not only as a competitor to cable television service but also as a provider of unique services that Hawaii's residents should have access to. CATV continues its advocacy with the FCC as well as with Hawaii's congressional delegation on matters related to these services.

Franchise fee reviews and refunds - CATV has contracted with a certified public accounting firm to conduct annual reviews of the franchise fee payment process in each of the different franchise areas. Based on the results of reviews of the franchise fee calculation, collection, and payment process for all franchise areas, DCCA ordered refunds to cable subscribers over the past 8 years, totaling approximately $1.4 million. CATV-DCCA is continuing these annual reviews to ensure that the franchise fee collection process is being conducted accurately.

Federal Legislation and FCC Rulemaking - CATV continues to monitor developments in Congress and at the FCC related to telecommunications, cable television and broadband, and has actively participated in 2012 in FCC's proposed rulemaking proceedings related to the USF and Intercarrier Compensation ("ICC"). DCCA/CATV has filed position statements in the USF/ICC dockets on behalf of the State and has met and worked with Hawaii's congressional delegation and the FCC.

With respect to cable related matters, DCCA/CATV has actively participated in Petitions for Special Relief, filed by Time Warner Entertainment, before the FCC. These petitions are requesting that the cable franchise areas on Oahu, East Hawaii, and West Hawaii be subject to Effective Competition and exempt these franchise areas from any rate regulation. DCCA/CATV has responded to these petitions and at the time of this report, the FCC has not yet reached a decision.

Designation of PEG Organizations to Provide PEG Services - On April 27, 2011, Governor Abercrombie signed into law Act 19 (SLH 2011) which authorizes the Director of DCCA to designate access organizations to oversee the development, operation, supervision, management, production and broadcasting of programs of public, educational or government access facilities provided that the designations shall be exempt from chapter 103D (State Procurement Code). CATV is responsible for reviewing the applications and negotiations required for this designation process. Since Act 19 was signed into law, ‘Olelo Community Media (“’Olelo”) was the first access organization to submit an application. Since then, a public hearing was conducted, and CATV is continuing to move forward in the designation process with ‘Olelo.

Broadband – Act 199 (SLH 2010) - Act 199 directed DCCA to facilitate development and deployment of broadband services to facilitate access to competitively priced broadband services, and to promote use of such services. Under Act 199, DCCA/CATV convened the Broadband Assistance Advisory Council. Meetings of the Council and working groups have been held to work on various broadband-related issues and activities, including broadband adoption, streamlining of permitting processes for broadband infrastructure deployment, economic issues, and providing stakeholder input on a State Broadband Strategic Plan as well as broadband related legislation.

American Recovery and Reinvestment Act - Broadband Mapping and Planning Projects – DCCA/CATV was awarded $4.3M in ARRA funds to be expended over a 5 year period ending December 2014. DCCA/CATV has partnered with the University of Hawaii ("UH") in carrying out the grant projects, which include the following projects: (1) Broadband Data Collection and Mapping; (2) Broadband Planning; (3) Broadband Capacity Building; and (4) Technical Assistance. Activities under these grants include data collection to develop and maintain Hawaii’s broadband map to identify available broadband services throughout the State; planning activities for broadband advancement as critical infrastructure; execution of plans developed to fill identified gaps in broadband service throughout the State and to reduce barriers to broadband access; and implementation of programs to increase broadband services and digital literacy. A statewide map of broadband availability has been created, and continues to be refined. DCCA/CATV is in the final stages of development of a State Broadband Strategic Plan to guide activities in broadband infrastructure development, adoption, and applications for economic development.

The Hawaii Broadband Map Speed Test lets residents of the State voluntarily contribute information about their wired or wireless broadband connection speeds (downstream and upstream speeds) with approximate location information. This information gives the DCCA the ability to identify areas that may be underserved when compared to current definitions of broadband. The FCC, for example, defines Basic Broadband as speeds of at least 4 Mbps downstream and 1 Mbps upstream. The speed test can be found at the internet website: www.hibroadbandmap.org/speed-test/

Broadband – Act 259 (SLH 2011) – DCCA/CATV assisted and supported the Administration in the passage of Act 259. The Act requires broadband providers to supply DCCA/CATV with more detailed information on where service cannot be provided across the State, and on pricing for various tiers of service. The information obtained will assist in DCCA/CATV’s efforts in mapping broadband availability, expediting the deployment of broadband infrastructure, and ensuring access to services at reasonable costs statewide.

The CRF financial summary relating to CATV for FY-12 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
$543,089	$1,128,167	$1,671,256	$1,975,771

CONCLUSION

The past year was remarkable for CATV because of the implementation of legislation affecting its activities, the multiple cable franchise renewals at issue, the rapid development of advanced technology by cable companies and its implications, the many federal cable and telecommunications regulations and programs undergoing reform, and the many broadband-related activities of the division and the department. Advancements in technology, such as the continued enhancement of the fiber to node architecture, and the start of the migration of analog channels to the digital tier, provided increased bandwidth capacity for broadband, new interactive and digital services, and an increase in available content. Through its many regulatory activities and its additional responsibilities to facilitate deployment of broadband, CATV strives to ensure fairness to the public in the provision of improved cable television services, to provide valuable institutional network benefits to state and county agencies, and to provide ubiquitous access to reasonably priced broadband services to residents statewide, during a time of rapid advancements in telecommunications, without impairing the system operators.

DIVISION OF CONSUMER ADVOCACY (DCA)

website: www.hawaii.gov/dcca/dca/
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OVERVIEW

The Director of the Department of Commerce and Consumer Affairs, through 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 Federal Communications Commission ("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. After analyzing the information, the DCA generally submits either written statements of position or testimonies explaining its analyses, findings, and recommendations to the PUC. Oral testimonies by DCA analysts, subject to utility company cross-examination, are required when an evidentiary hearing before the PUC is scheduled to resolve differences among the parties to a proceeding.

By statute (Hawaii Revised Statutes § 269-52), the Director of the Department of Commerce and Consumer Affairs is the Consumer Advocate, but may employ and delegate the duties of the Consumer Advocate to an executive administrator, and the DCA shall provide administrative and functional support to the Director or his/her agent.

COMPOSITION

The DCA consists of 14 employees, ranging from an administrator, a secretary, a utilities/transportation officer, a utilities/transportation specialist, an education specialist, rate analysts, researchers, engineers, attorneys, and clerical support. The DCA is located on the third floor of the King Kalakaua Building, 335 Merchant Street. Its contact information is as follows: mailing address, P.O. Box 541, Honolulu, HI 96809; phone number, 586-2800; internet address, www.hawaii.gov/dcca/dca/.

The majority of the DCA's professional staff is comprised of the Rate Analysis Branch, the Engineering Branch, the Research Branch, and the Legal Branch.

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 data base files, formatting draft documents prepared by the technical staff and attorneys for filing with regulatory agencies and utility companies, and maintaining the office library.

Not counting the Legal Branch, the DCA is authorized to have up to nine exempt positions, under Hawaii Revised Statutes ("HRS") § 269-52(1). Pursuant to Act 130, Session Laws of Hawaii ("SLH") 2010, funding was provided to restore four of the exempt positions, as well as four of the civil service positions that were abolished by the 2009 Legislature. The DCA also has a staff level position – the Public Utilities/Transportation Specialist – that assists the Public Utilities/Transportation Officer in managing the overall workload pertaining to matters filed before the regulatory agencies, such as the PUC and FCC. In addition to providing analysis on docketed filings, the Education Specialist is responsible for consumer education and outreach, which is accomplished by attending various community events throughout the State to gain public input about specific issues affecting consumers and to provide information on utility services. The Education Specialist is also responsible for updating and maintaining the DCA's web site and publishing a quarterly newsletter.

Given the DCA's historical difficulty in attracting and retaining staff, in 2008, the DCA received authorization to reorganize, tailoring the position descriptions to be better aligned with the position duties and work of the DCA. Since the restoration of the eight positions in FY2010, the DCA has completed revising the necessary position descriptions that would allow the DCA to recruit for these positions.

GOALS AND OBJECTIVES

The DCA's goals and objectives can be categorized generally in 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

Ensuring that Hawaii's consumers receive fairly priced rates for safe and reliable services, while ensuring customer and environmental protections and renewable resource use, is the DCA's responsibility and primary goal. This goal generally involves balancing various competing interests.

Planned Approach/Methods

The DCA has and will continue to achieve this goal by advocating for consumers of regulated utility and transportation services wherever their interests are at stake. Typically, this occurs before the PUC, but may also be before other federal, State or local agencies and legislative bodies.

A majority of the DCA's resources will continue to be focused on PUC proceedings. These proceedings often may affect the rates and the reliability of utility and transportation systems and services. The DCA's participation in PUC proceedings will typically involve some or all of the following:

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

The DCA also will remain flexible and willing to work with parties to proceedings to negotiate and settle proceedings or particular issues when they are in the consumers' best interest.

Measures

To measure the DCA's performance in advocating consumer interests, the DCA will continue to track various categories of information. Among others, the DCA monitors consumer savings due to its participation in PUC proceedings, the percentage of PUC decisions that agree with the DCA's recommendations, the number of service quality investigations it participates in, and the number of filings before the PUC reviewed by the DCA.

Only some of the significant impacts that the DCA's participation may have upon consumers are easily measured. Those impacts that are not easily measured will generally be discussed below in the DCA's explanation of its policy advancement objectives.

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 of the major objectives that the DCA will pursue are the advancement of Federal and State broadband initiatives, as well as continued efforts to promote and facilitate Hawaii's transition away from imported fossil fuels towards an indigenous clean energy industry. As part of these advancement efforts, the DCA will be possible modifications to existing regulatory frameworks that may be inhibiting progress.

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 then provides the PUC with a recommendation that it believes is in the best interest of consumers; and
- Evidentiary or panel hearings are held by the PUC to take evidence provided orally by DCA witnesses or consultants hired by DCA to provide expert testimonies on specific technical issues.

Specific ongoing investigative dockets are discussed later in this report.

The DCA has monitored, and will continue to monitor, Congressional activity in the energy and telecommunications areas. The DCA will continue to maintain contact with Hawaii's Congressional delegation, particularly those members sitting on committees that deal with energy and telecommunications, and will continue to provide input where appropriate.

The DCA will also continue to be actively involved and advocate for Hawaii consumers, through its membership in the National Association of State Utility Consumer Advocates ("NASUCA"). NASUCA is active before the FCC, Congress, and the federal courts in advancing consumer interests on national issues that impact consumers locally.

The DCA will also remain actively involved with the State Legislature, which sets policy at the State level. The DCA advises legislators through testimonies that detailed consumer benefits or detriments of specific proposals the legislators were considering. The DCA has attempted to take a more proactive approach by working with legislators and policy groups on the development of proposals, while maintaining a consistent policy position as advocated by the Governor's office.

Measures

Measuring the performance of the DCA's efforts to promote policy objectives is inexact. While the DCA tracks the percentage of its positions with which the PUC ultimately agrees, the measure does not capture the efforts throughout proceedings to educate and work with other parties to come to agreement on issues. The DCA can develop similar measures (e.g., whether its recommendations are ultimately agreed with by those setting the policy) for the State and federal agency and legislative bodies, but similar challenges with the imprecise nature of the measurement is likely to result.

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. In addition, consumers need to be aware that many of the benefits proposed under Hawaii's Clean Energy Initiative will not be immediately apparent in their bills. Thus, education of reasonable expectations is necessary to avoid misinformation from occurring.

Planned Approach/Methods

The DCA can accomplish its goal of positively affecting the habits of consumers on a statewide basis through the use of its web site and public outreach activities. The DCA established the following action plan to accomplish its goals and objectives:

1. Update and improve its website with consumer-friendly and useful content;
2. 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;
3. Improve communications with consumers and the public through expanded distribution and publication of its newsletter; and
4. Hold informational seminars or use public service announcements to highlight different utility issues and topics.

Measures

To measure the DCA's performance and progress of its education and outreach activities, it will track the number of people reached through education and outreach events, newsletters and other publications distributed, and consumers assisted with complaints and other issues.

ACCOMPLISHMENTS

In 2011, results of the DCA's efforts to protect and advance the interests of consumers were seen through its work on behalf of individual communities, as well as major utility issues that will have far-reaching impacts on people throughout the State. Several of these efforts are described below.

Rate Cases

Hawaiian Electric Company, Inc.'s ("HECO") 2009 and 2011 Test Year Rate Case

HECO's 2009 test year application was filed on July 3, 2008, but there are still pending issues related to this docket. There were outstanding issues related to the regulatory treatment for certain projects. During FY 2012, the DCA entered into a settlement with HECO that resulted in HECO recognizing a $9.5 million decrease in its East Oahu Transmission Project (the total cost that HECO sought to include was over $53.5 million), which lowered the overall rates required to be recovered from ratepayers from the 2011 test year.

The DCA continues to work with the parties on possible resolutions on the amounts that HECO may recover for its Campbell Industrial Park CT-1 unit, as well as HECO's new customer information system. The DCA will continue to seek to reduce the overall impact on ratepayers associated with these significant projects that should otherwise be subject to a focused regulatory audit to ensure that ratepayers are not asked to compensate HECO for costs that should not be recovered from customers.

In FY 2012, the DCA pressed HECO concerning the public outcry over Hawaiian Electric Industries, Inc.'s ("HEI") CEO Constance Lau's executive compensation package. HECO then voluntarily removed approximately $755,000 from HECO's revenue requirements associated with HEI's allocated costs for executive officers' compensation.

Maui Electric Company, Limited's ("MECO") 2012 Test Year Rate Case

On July 22, 2011, MECO filed an application for approval to increase its rates (by approximately $23,500,000 or 6.7%, over revenues at current effective rates) and to amend its rules. The DCA, among other things, participated in public hearings on each of the islands in MECO's service territory (Maui, Lanai, and Molokai), conducted inspections of company facilities and witness interviews, and has initiated an extensive discovery process. The DCA recommended numerous adjustments and a lower overall increase in the revenue requirements.

Through rigorous efforts and negotiations, MECO and the DCA entered into a global settlement where it was offered that MECO should receive only a $13,089,000 increase in revenue requirements. The PUC adopted this settlement for interim increase purposes.

As part of the inquiries into the reasonableness of HEI executive compensation and how much was recovered through utility rates, MECO and the DCA negotiated the removal of some of those costs from base rates, as well as additional adjustments that further reduced the overall revenue requirements.

Young Brothers, Limited's ("YB") Application for Rate Increase

On December 23, 2010, YB filed an application for a general rate increase the DCA determined as incomplete since it did not contain actual results of operation for the previous calendar year. On May 6, 2011, pursuant to the PUC's Order, YB re-filed its application for a rate increase with a 2011 test year. The re-filed application requested a 28.8% rate increase in the amount of $16,986,000. YB argued in its application that it would lose significant revenue as a result of competition with Pasha Hawaii Transport Lines LLC into the inter-island shipping market. In the alternative, YB requested a revenue increase of $13,591,000 or a 22.50% revenue increase without the "Pasha impact."

An evidentiary hearing was held on November 1, 2011, and most issues were settled, including the "Pasha impact" that YB agreed to withdraw from consideration by the PUC. A significant position taken by the DCA in this docket and not settled or withdrawn during the evidentiary hearing was the issue that YB was not entitled to include an imputed corporate income tax allowance in its cost of service because YB and its corporate parent Saltchuk Resources, Inc. are both Subchapter S corporations and neither pay corporate income taxes. The parties then briefed the income tax issue on November 16, 2011. The DCA argued that Hawaii's consumers should not be required to pay the personal income taxes of Saltchuk's shareholders, which would be the result if YB was allowed to include a phantom income tax expense in its cost of service.

On December 16, 2011, the PUC issued its Decision and Order stating the parties ultimately reached a settlement on all issues except the inclusion of income tax expense in YB's cost of service. As a result of the parties' settlement, the parties agreed to an increase in YB's intrastate freight revenues, with the inclusion of income tax expense, of 17.37 percent. The PUC adopted the unredacted results of operation schedules filed by YB on November 30, 2011 and found that on balance, the increase in intrastate revenues of $10,574,932 provides YB with a reasonable opportunity to achieve its Test Year intrastate revenue requirement of $74,342,455. The PUC approved the parties' stipulation and determined that income tax expense should be included in YB's cost of service on a stand-alone basis. The PUC also instructed that the methodologies used by the Parties in reaching their settlement may not be cited as precedent by any parties in future PUC proceedings.

Hawaii Water Service Company, Inc. – Pukalani Wastewater District ("Pukalani") 2012 Test Year Rate Case

On August 12, 2011, Pukalani filed its application seeking a 225% revenue increase equal to $1,325,924 over revenues at present rates for wastewater service provided to residential, commercial and governmental customers in Pukalani, Maui. Pukalani is seeking cost recovery for the replacement of its wastewater treatment plant and higher operating expenses. On February 8, 2012, the DCA filed testimony opposing the significant rate increase and instead proposed a rate increase of 26% based on a finding that the new wastewater treatment plant was built with excess capacity and that certain operating expenses were overstated. The DCA and Pukalani are currently in settlement negotiations to resolve the last outstanding issue regarding excess plant capacity and related operating expenses.

Molokai Public Utilities, Inc.'s ("MPUI") and Waiola O Molokai, Inc.'s ("WOMI") Rate Cases

On June 16, 2008, the PUC issued an order opening a proceeding to provide temporary rate relief to two related water utilities, MPUI and WOMI. The PUC was responding to an announcement in late March 2008 by Molokai Properties, Limited ("MPL"), of its intention to cease all current water service operations on Molokai. On August 14, 2008, the PUC approved rate increases for the companies, effective on September 1, 2008. The PUC's Decision and Order required MPUI and WOMI to file rate increase applications within six months of the date of the Decision and Order if a third party was not found to take over the utilities.

Thus, on March 2, 2009, MPUI and WOMI filed rate increase applications with the PUC, requesting revenue increases of $562,550 and $308,781 over revenues at present rates for MPUI and WOMI, respectively. The DCA objected via statements regarding completeness of applications to MPUI's and WOMI's requests to waive the requirement to file audited financial statements in compliance with the PUC's rules. On April 2, 2009, the PUC denied MPUI's and WOMI's requests to file unaudited financial statements, requiring the companies to obtain independently audited financial statements and to file amended applications reflecting such audited financials.

Subsequently, on June 29, 2009, MPUI and WOMI filed amended applications for rate increase with the PUC, seeking net revenue increases of $886,259 and $473,431 for MPUI and WOMI, respectively, using the pro forma revenue amounts at present rates for the 2009-2010 test year. The DCA participated in all aspects of these proceedings, including, but not limited to, public hearings discovery process, written testimonies, a mediation process, and evidentiary hearings. The PUC filed its Interim Decision and Orders in the MPUI and WOMI cases on May 28, 2010, which adopted most of the settlement agreement between MPUI, WOMI and the DCA. This authorized MPUI to increase its rates on an interim basis by $542,724, or an approximate increase of 125.2%. WOMI's authorized increase was $241,478, or an approximate increase of 222.8%.

The PUC filed its Final Decision and Order in the MPUI case on September 23, 2010, which allowed the $548,682 increase that was agreed to in settlement. The final decision in the WOMI case was filed on February 8, 2011, which allowed a $360,238 increase or an approximate 284% increase. The PUC acknowledged the significant increase but noted that it was necessary as the utility had not requested a rate increase for over seventeen (17) years. The PUC approved the settlement proposal between the DCA and WOMI to implement a three-step phase-in to allow ratepayers an opportunity to absorb the consequences of the rate increase over a period of twelve months.

The County of Maui appealed both the PUC's final Decision and Orders in both the MPUI and WOMI dockets. The DCA filed Appellee responsive brief in both appellate proceedings. The Hawaii Intermediate Court of Appeals affirmed both the MPUI and WOMI docket decisions by the PUC on February 13, 2012 and June 14, 2012.

Biofuel Supply Contracts

Aina Koa Pono-Ka'u LLC ("AKP") Biodiesel Supply Contract with Hawaii Electric Light Company, Inc., ("HELCO")

On January 6, 2011, HELCO, HECO, and MECO (collectively, the "HECO Companies") filed an application respectfully asking the PUC to, among other things, approve the contract between HELCO and AKP and to allow HECO and HELCO to use either base rates, the Energy Cost Adjustment Clause ("ECAC") or a Biofuels Surcharge to recover the costs associated with the contract. Following public hearings on the islands of Hawaii and Oahu, on August 23, 2011, the DCA submitted its recommendations that the PUC:

1. Approve the AKP Biodiesel Supply Contract executed between HELCO and AKP on January 6, 2011;
2. Authorize HELCO, pursuant to HAR § 6-60-6(2), to include the costs incurred under the Biodiesel Supply Contract in HELCO's ECAC to the extent such costs are not recovered in HELCO's base rates;
3. Establish a Biofuels Surcharge Provision that would allow only HECO to pass through the difference between the cost of biofuel and the cost of petroleum fuel that the biofuel would be replacing over the customer base of HECO on a per kWh basis;
4. Allow HECO to include the cost differential associated with the AKP Biodiesel Supply Contract in the Biofuel Surcharge Provision to the extent that the Biofuel Surcharge Provision is approved in Docket No. 2011-0005; and

5. Allow the HECO Companies to dispatch the HECO Companies' respective electric utility systems when using biodiesel as if the biodiesel was priced at a figure equal to the price of petroleum diesel, provided further that the HECO Companies could dispatch their respective systems in a manner that would consume the minimum annual volumes required by the AKP Biodiesel Supply Contract, in Docket No. 2011-0005.

On September 29, 2011, the PUC issued a Decision and Order denying the relief sought by the HECO Companies in the application filed by the HECO Companies on January 6, 2011. Uncertain as to what the analysis contained in the Decision & Order meant for proceedings that concerned the approval of biofuel supply contracts in the future, on October 10, 2011, the DCA filed a Motion For Clarification asking the PUC to clarify, among other things, whether the DCA should factor the cost of petroleum fuel heavily in determining whether a biofuel supply contract is reasonable for purposes of contract approval henceforth. After discussing the matter further with the HECO Companies in subsequent days, on November 8, 2011, the DCA filed a Request To Withdraw Its Motion For Clarification filed on October 10, 2011. On August 2, 2012, in Docket No. 2012-0185, the HECO Companies filed another application seeking PUC approval of a re-negotiated biodiesel supply contract executed between HELCO and AKP on August 1, 2012. Proceedings in Docket No. 2012-0185 are continuing as of the compilation of this report.

Pacific Biodiesel, Inc. ("PBI") Biodiesel Supply Contract With HECO

On November 30, 2011, HECO filed an application asking the PUC to, among other things, approve the Biodiesel Supply Contract executed between HECO and PBI on June 15, 2011; and authorize HECO to include the costs incurred under the Biodiesel Supply Contract in HECO's ECAC to the extent such costs are not recovered in HECO's base rates.

After conducting discovery, on August 24, 2012, the DCA filed a SOP recommending that the PUC:

1. Approve the PBI Biodiesel Supply Contract executed between HECO and PBI on June 15, 2011; and
2. Authorize HECO, pursuant to HAR § 6-60-6(2), to include the costs incurred under the Biodiesel Supply Contract in HECO's ECAC to the extent such costs are not recovered in HECO's base rates, in Docket No. 2011-0368.

As of the end of October 2012, the PUC has yet to issue a Decision and Order in Docket No. 2011-0368.

Hawaii BioEnergy, LLC ("HBE") Biofuel Supply Contract With HECO

On November 30, 2011, HECO filed an application asking the PUC to, among other things, approve the Biofuel Supply Contract executed between HECO and HBE on August 8, 2011, and authorize HECO to include the costs incurred under the Biofuel Supply Contract in HECO's ECAC to the extent such costs are not recovered in HECO's base rates.

The DCA participated in a discovery process, but subsequent to the originally scheduled discovery process, on June 28, 2012, the PUC issued an order establishing additional issues to be examined by the parties in Docket No. 2011-0369. Furthermore, on October 12, 2012, the PUC granted Life of the Land

("LOL") intervention into Docket No. 2011-0369 and named the Department of Business, Economic Development, and Tourism of the State of Hawaii ("DBEDT") as a participant in the same docket. As of the end of October 2012, there are remaining procedural issues that need to be resolved and, accordingly, the work in Docket No. 2011-0369 is still on-going.

Purchase Power Agreements ("PPA")

McBryde Sugar Company, Limited ("McBryde") PPA

On August 5, 2011, Kauai Island Utilities Cooperative ("KIUC") filed an application with the PUC for approval, among other things, of a PPA with the developer, McBryde, who is wholly owned by Alexander & Baldwin, Inc. for a six (6) megawatt ("MW") photovoltaic ("PV") solar energy system located in Eleele, Kauai.

On December 6, 2011, the DCA filed its SOP recommending approval of the McBryde project. On March 16, 2012, the PUC issued a Decision and Order approving the McBryde PPA.

Kapolei Sustainable Energy Park ("KSEP") PPA

On August 12, 2011, HECO filed an application with the PUC for approval of a PPA with the developer, Forest City Sustainable Resources Oahu, LLC ("Forest City"), for the one MW KSEP PV solar energy system located in Kapolei, Hawaii.

On October 27, 2011, the DCA filed its SOP recommending approval of the KSEP project, with the condition that HECO file an amendment to the PPA correcting the energy price to accurately reflect the 35% state credit as set forth in HRS § 235-12.5. On November 2, 2011, HECO and Forest City entered into the First Amendment of the PPA to reflect the 35% state tax credit. On November 18, 2011, the PUC issued a Decision and Order approving the KSEP PPA and First Amendment.

Kaheawa Wind Power, LLC ("KWP") PPA Amendment

On August 22, 2011, MECO filed an application with the PUC for approval of an amendment to an existing PPA with KWP for the thirty (30) MW wind farm located at Kaheawa Pastures, Ukumehame, Maui. The amendment with KWP was the first amendment for an existing PPA that delinked the energy price from fossil fuel prices for the remaining term of the PPA as set forth in HRS § 269-27.2(c).

On February 2, 2012, the DCA filed its SOP recommending approval of the KWP PPA amendment. On April 17, 2012, the PUC issued a Decision and Order approving the KWP PPA amendment.

Kawailoa Wind, LLC ("KWLLC") PPA

On September 23, 2011, HECO filed an application with the PUC for approval, among other things, of a PPA with KWLLC, which was organized by First Wind, LLC, to develop the thirty (30) MW wind farm at Kamehameha Schools' Kawailoa Plantation on the north shore of the island of Oahu.

On November 29, 2011, the DCA filed its SOP recommending approval of the KWLLC PPA. On December 12, 2011, the PUC issued a Decision and Order approving the KWLLC PPA.

Kauai Island Utilities Cooperative ("KIUC") Renewable Solutions One LLC ("KRS One") PPA

On October 17, 2011, KIUC filed an application with the PUC for approval of certain financing arrangements, which included among other things, the PPA arrangements between KIUC and its wholly-owned subsidiary, KRS One, to construct, own, and operate a fourteen (14) MW PV solar energy project and battery energy storage system, in the Anahola area in a property owned by the Department of Hawaiian Home Lands, Kauai.

On April 25, 2012, the DCA filed its SOP recommending approval of the KRS One project. A final decision and order is pending.

MP2 Hawaii Solar, LLC ("MP2") PPA

On November 28, 2011, KIUC filed an application with the PUC for approval of, among other things, a PPA with MP2 for a 300 kilowatt ('kW") PV solar energy system, located in Koloa, Kauai.

On May 25, 2012, the DCA filed its SOP recommending approval of the MP2 PPA. A final decision and order is pending.

Kalaeloa Renewable Energy Park ("KREP") PPA

On December 21, 2011, HECO filed an application with the PUC for approval of a PPA with the developer, KREP, for the five (5) MW KREP PV solar energy system located in Barbers Point, Kalaeloa, Oahu.

On July 3, 2012, the DCA filed its SOP recommending approval of the KREP project. On October 22, 2012, the PUC issued a Decision and Order approving the KREP PPA, with conditions.

Honolulu Program of Waste Energy Recover ("H-Power") PPA

On May 25, 2012, HECO filed an application with the PUC for approval of, among other things, an amended and restated PPA with the City and County of Honolulu ("City") regarding the H-Power municipal solid waste to energy facility for Renewable Firm Energy and Capacity. The amended and restated PPA amends and restates the existing PPA with the City for the current H-Power facility of 46 MW and includes the City's new expansion facility of 27 MW for a total of 73 MW.

On October 17, 2012, the DCA filed its SOP recommending approval of the H-Power amended and restated PPA, with the condition that a term and condition of the PPA associated with HECO's cost recovery mechanism be revised. On October 30, 2012, HECO filed its Reply SOP, rescinding its request for the applicable term and condition in the H-Power amended and restated PPA.

Declaratory Rulings

Declaratory Order Regarding the Exemption of the Kalaeloa Partners, LP's ("KPLP") Project from the Competitive Bidding Framework

On November 10, 2011, HECO filed a petition with the PUC seeking a declaratory ruling finding that KPLP's proposal to renegotiate its existing PPA with HECO is exempt from the Competitive Bidding Framework for KPLP's 208 MW cogeneration facility in Kalaeloa, Oahu. The Competitive Bidding Framework was adopted by the PUC on December 8, 2006, in Docket No. 03-0372, to establish a process through which new large-scale generation would be built and acquired.

On April 4, 2012, the DCA filed its SOP recommending approval of the petition with the conditions of annual reporting requirements to ensure that HECO is able to procure alternative resources, if necessary, to serve customers' reliability and at a reasonable cost. On May 14, 2012, the PUC issued a Decision and Order approving the Petition with the reporting requirements.

Waiver Application from the Competitive Bidding Framework for Negotiations of a United States Department of the Army ("Army") Firm and Renewable Generation Project

On December 27, 2011, HECO filed an application petition with the PUC seeking a waiver from the Competitive Bidding Framework to allow negotiations with the Army for a 50 MW firm, renewable energy project. The Army's Project is anticipated to consist of multiple reciprocating engines to be operated on biofuel for the purpose of ensuring that the Army's critical national security and first responder missions can be carried on, particularly when the utility grid on Oahu has been compromised.

On May 24, 2012, the DCA filed its SOP recommending approval of the waiver application with the condition that any subsequent application associated with the Army's Project provide a comprehensive analysis to evaluate and assess the ratepayer benefits of the project. On August 1, 2012, the PUC issued a Decision and Order approving the waiver, with the condition that HECO provide a comprehensive analysis and address the issues identified by the DCA and the PUC.

Other Docketed Matters

Feed-in Tariff Investigative Proceeding

On October 24, 2008, the PUC initiated an investigation into the implementation of feed-in tariffs ("FIT") for the service territories of the HECO Companies. On September 25, 2009, the PUC issued a Decision and Order establishing several policy principles that would guide the development and implementation of a FIT program for the HECO Companies' service territories. On October 13, 2010, the PUC issued an order that approved FIT Tiers 1 and 2 tariffs. On November 22, 2011, the PUC issued an order approving FIT Tier 3 tariff with modifications (based on comments from the DCA).

On May 4, 2012, HECO filed a Motion for Clarification Regarding Program Administration Rules. HECO stated that the FIT program was fully subscribed with significant competition for FIT projects. According to HECO, this competition led to accusations amongst some of the developers that others were "gaming" the system. HECO sought to clarify Tier 2 project applications as to what was meant by projects that were "shovel ready." In summary, Solar Hub was being accused by some developers and the Independent Observer ("IO") of "squatting" in the Tier 2 active queue, then selling its position to another mainland developer. The DCA became embroiled in this dispute when the DCA took the position that Solar Hub's application for Tier 2 projects should not be summarily rejected, as recommended by the IO, because Solar Hub had relied upon statements from HECO that Solar Hub's application was "perfect" and met all of the tariff requirements. The DCA recommended that the PUC conduct an evidentiary hearing to allow the parties and the affected developers to provide evidence of their respective positions. The DCA argued that this process might effectively stave off further litigation and appeals.

On September 14, 2012, the PUC issued a decision and order that ruled on the various motions. The Decision & Order effectively took Solar Hub's projects off the Tier 2 active queue, including projects on farms in Hawaii Kai who would have difficulty paying the new Kamehameha Schools Bishop Estate lease rents without Solar Hub's solar energy PV system. HECO attempted another motion for reconsideration that would have allowed Solar Hub's projects to remain on the active queue, but that motion was subsequently denied by the PUC. Solar Hub appealed these decisions to the Hawaii Intermediate Court of Appeals.

Decoupling Investigative Proceeding

On October 24, 2008, the PUC initiated a proceeding to investigate the implementation of a decoupling mechanism for the HECO Companies, pursuant to the recommendation of the signatories to the Energy Agreement. Having issued orders that allow each of the HECO Companies to make decoupling filings, the Division has reviewed two decoupling filings for HECO, and one each for HELCO and MECO. Each filing essentially represents a request that is somewhat similar to a general rate increase application and, while the work required for a decoupling filing is somewhat less than a general rate increase application (usually reflecting a nine month schedule), the remaining amount of work must be completed in a very short time frame (a 45-day schedule). The DCA continues to work with the HECO Companies and the PUC to streamline the filings to reduce the overall amount of work by the DCA and PUC, while not foregoing any consumer protections.

HECO Companies Integrated Resources Planning ("IRP")

On March 1, 2012, the Public Utilities PUC issued an order commencing the HECO Companies IRP process. The goal of the IRP is for the HECO Companies to develop an action plan that governs how the electric utilities will meet energy objectives and customer energy needs consistent with the State's energy policies and goals, while providing safe and reliable utility service at reasonable cost, through the development of resource plans and scenarios of possible futures that provide a broader long-term perspective.

The DCA, by order of the PUC, was made a party to the IRP Advisory Group. The role of the Advisory Group ("AG") is to provide the utility with the benefit of various perspectives in the community by participating in the IRP process and representing diverse community, environmental, social, political, or cultural interests consistent with the IRP's goal. The Advisory Group was selected by the PUC and consists of 68 members, including the DCA. A small sample of AG members is as follows:

Legislature – Sen. Roz Baker, Sen. Mike Gabbard, Sen. Kalani English, Rep. Denny Coffman. Environmental groups – Blue Planet, Life of the Land, Nature Conservancy. Businesses – Alexander & Baldwin, Chevron, Tesoro. Community interest groups – Friends of Lanai, Molokai. County – Maui County, Hawaii County, Honolulu County. Education – Punahou Schools. Government – U.S. Dept. of Defense, U.S. Dept. of Energy, DBEDT.

The primary work done in the IRP for FY 2012 involved the selection of the Advisory Group and the Independent Entity (Carl Freedman). Initial work in characterizing existing systems and conditions, then developing objectives and metrics began at the very end of FY 2012. IRP AG meetings were held in August, September, and October, 2012, to discuss scenarios, forecasts, and resource options.

Transfer of Island of Lanai's Regulated Utilities as Part of the Sale of the Island

On June 19, 2012, Castle & Cooke filed an application to the PUC for approval of the indirect transfer of the three regulated utilities on the island of Lana'i – Lana'i Water Company, Inc. (potable water), Manele Water Resources, LLC (sewer treatment), and Lana'i Transportation Services Company, Inc. (bus transport between hotels and airport). The transfer of these utilities was part of the overall sale of the island of Lana'i from Castle & Cooke (David Murdoch) to Larry Ellison, founder of Oracle, who has an estimated net worth of $36 billion. This application raised controversy, because it included a request for temporary approval within six days to enable the sale to close on June 27, 2012.

On June 21, 2012, Castle & Cooke, Lanai Island Holdings LLC (buyer Larry Ellison), and the DCA entered into a settlement agreement under the following terms:

- The DCA would recommend to that the PUC enter an order of temporary approval of the indirect transfer;
- Neither the DCA nor the PUC waives any of their respective rights for a full and complete review of the application for final approval of the transfer;
- In the event that the PUC does not grant final approval, then the ownership, management, and operations of the three utilities would revert back to Castle & Cooke; and
- Lana'i Island Holdings LLC agrees to make $10 million in infrastructure improvements over a period of five years as contributions in aid of construction, which means that none of the amounts expended will be paid for by ratepayers.

On June 26, 2012, the PUC approved the temporary transfer of the utilities and accepted the settlement agreement entered into by the DCA, Castle & Cooke, and Lana'i Holdings LLC. Subsequently, on July 16, 2012, the PUC denied Life of the Land's request for intervention and granted Participant status to Lanaians for Sensible Growth. The DCA supports approval of the transfer of assets subject to certain conditions. Lanaians for Sensible Growth also supports approval of the transaction but is currently seeking access to confidential transaction documents. Thus, a final PUC determination is pending.

Energy Efficiency Portfolio Standards ("EEPS")

Pursuant to the Energy Agreement signed by the HECO Companies, the State, the DCA, and DBEDT, on March 8, 2010, the PUC initiated an investigation into the establishment and implementation of energy efficiency portfolio standards for the State pursuant to Act 155, SLH 2009, and HRS § 269-96. The PUC filed its Decision and Order No. 30089, on January 3, 2012, in Docket No. 2010-0037, which acknowledged concerns raised by the DCA regarding potential bill impacts. As a result, in the EEPS framework adopted by the PUC, EEPS efforts by the technical working group must work with the DCA to evaluate bill impacts and ensure that consumers are not required to bear unnecessarily high costs associated with the EEPS. The DCA has been actively participating in the EEPS technical working group meetings that have occurred. Associated with this responsibility, the DCA has also been reviewing and commenting on applications filed by the utility companies and the public benefits funds administrator regarding energy efficiency measures to ensure that consumers' interests continue to be represented.

As part of the DCA's efforts in this area, the DCA has also been participating in Docket No. 2007-0323. In Docket No. 2007-0323, the PUC selected the firm that would be the Public Benefits Fund Administrator ("PBFA") responsible for the energy efficiency programs in the HECO Companies' service territories. The PBFA must provide an annual plan of how it intends to use the public benefit funds to support Hawaii's energy efficiency efforts in the HECO Companies service territories. The DCA raised a number of issues with the annual plan for the 2012 program year including, but not limited to: the need to increase efforts in the hard-to-reach market segments, increasing island equity so that neighbor islands realize a better value for their contributions to the public benefits fund, better integration with the HECO Companies' long range planning so that ratepayers' funds are not spent ineffectively on duplicative supply-side and demand-side resources, and providing more data to help decision makers evaluate whether the funds might be best spent.

Reliability Standards Working Group ("RSWG")

In August 2010, the PUC filed an order approving, with modifications, the HECO Companies' proposal for a RSWG to assist in facilitating the continued movement toward a clean energy future and ensure reliability throughout the HECO Companies' service territories. The DCA, as a member of the RSWG, has participated, and will continue to participate, in meetings, workshops and webinars to address reliability issues to facilitate the interconnection of renewable energy resources to meet the State's sustainability and renewable energy goals.

On September 8, 2011, the PUC initiated an investigation into the implementation of reliability standards for the service territories of the HECO Companies. The PUC initially approved of the development of reliability standards in the PUC's on-going investigation into the establishment of FIT for the service territories of the HECO Companies. (See the PUC's Decision and Order filed on September 25, 2009 in PUC Docket No. 2008-0273, the PUC's investigation into establishing a FIT program for the HECO Companies' service territories; see also the DCA's participation in Docket No. 2008-0273 in the summer of 2011). Since the opening of the proceeding, the DCA, through its designated representative, has been participating in numerous meetings dedicated to the identification of the scope, duties, and responsibilities of the PUC-approved RSWG. As of the end of June 2012, work on and for the RSWG is still on-going. Initially, the PUC required that the work of the RSWG was to be completed by the end of 2012, but on October 18, 2012, the PUC clarified that the recommendations of the RSWG may be finalized in January 2013, with the PUC to open subsequent proceedings, if necessary, to refine and/or implement the RSWG recommendations.

On-Bill Financing

As a result of Act 204, SLH 2011, the PUC opened Docket No. 2011-0186, on August 15, 2011. In this docket, the PUC intends to investigate whether on-bill financing (where customers are allowed to finance certain types of energy efficiency or renewable capital projects by the actual or estimated savings anticipated from those capital projects through their bills) is a viable financing mechanism that should be implemented in Hawaii. If deemed viable, this type of financing program might facilitate renewable and energy efficiency adoption in markets that have historically proven to be difficult to penetrate. Those markets are the low income and rental markets. The parties to this proceeding have participated in various workshops, as well as discussions with the PUC's consultant.

As a result of the current increase in electricity prices, the HECO Companies proposed its Simply Solar program, which would be a type of on-bill financing program. The PUC's consultants offered a report on the Simply Solar program and the PUC requested that parties offer comments on its consultant's report. After reviewing the HECO Companies' proposed program and the PUC's consultant's report, the Consumer Advocate offered its comments. The PUC has not yet filed its decision on the proposed Simply Solar Program.

Competitive Bidding Process for 200 MW or More of Renewable Energy Delivered To or On Oahu

On September 26, 2011, the PUC instituted a proceeding related to HECO's plan to proceed with a competitive bidding process to acquire 200 MW or more of renewable energy to be delivered to or on the island of Oahu. HECO issued a draft Request for Proposal ("RFP") on October 14, 2011. Prospective bidders were required to submit a notice of intent to bid by November 4, 2011. HECO held a technical conference on December 5, 2011 for all interested parties. HECO had originally planned to file its Proposed RFP with the PUC on February 29, 2012; however, HECO had requested an extension of time to submit the Proposed Final RFP until the second quarter of 2012. HECO has yet to file the Proposed Final RFP. Since the opening of this docket, several motions were filed by various parties to intervene followed by HECO's motions objecting to the intervention requests. Several parties have also filed motions to suspend this docket until the IRP process for HECO and its affiliates is complete in Docket No. 2012-0036. Participation in the instant docket is anticipated to be contentious and protracted.

This RFP will include the undersea transmission cable from a renewable energy source from one or more neighbor island to Oahu. The DCA is working with HECO, PUC, DBEDT, and the Lieutenant Governor concerning the scope of the RFP for the undersea transmission cable.

HECO – Approval of a Commercial Industrial Dynamic Pricing ("CIDP") Pilot Program and Recovery of Program Costs

On December 29, 2011, HECO filed its application requesting to implement a two-year CIDP Pilot Program and recovery of roughly $3.7 million in incremental program costs. HECO is requesting: 1) the ability to recruit customers to supply 2 MW of load; 2) program flexibility adjusting per kW levels of technology incentives and demand charge credits, and/or the per kWh levels of buy-through energy prices to meet customer participation targets; and 3) recovery of HECO's incremental costs. The DCA filed its IRs on April 3, 2012.

On June 26, 2012, the DCA filed its final SOP, stating that it did not object to PUC approval of the application, provided the following be included in the Annual Program Modification and Evaluation Report, the Annual Accomplishments and Surcharge Report, and the Final Pilot Program Report: 1) The CIDP Pilot Program's impact on other demand response programs in terms of any duplicative features and results, and any negative consequences to the other programs; 2) A demonstration that the CIDP Pilot Program is the most cost-effective or one of the most cost-effective means to accommodate intermittent renewable sources; 3) Program progress; 4) Objectives achieved; and 5) A detailed explanation of differences in actual program costs compared to the budgeted program costs in the application. The DCA also made other recommended various expense disallowances to eliminate unjustified items.

HECO and MECO, collectively the HECO Companies – Approval to Defer Stage 2 Inter-Island Interconnection Studies Costs

On November 30, 2011, the HECO Companies requested expedited approval: 1) to defer outside services costs for Stage 2 Inter-Island Interconnection Studies ("Stage 2 Studies") (from date of the PUC's decision and order through 2013) for subsequent PUC review and recovery; and 2) to defer outside services costs for Stage 2 Studies incurred by the HECO Companies from the filing date of the application to the date of the PUC's decision and order. The DCA filed its IRs on February 14, 2012.

In its SOP filed on April 9, 2012, the DCA did not object to PUC approval to defer outside service costs for Stage 2 Studies. However, the DCA stated that there was insufficient evidence at present to conclude that the estimated costs were reasonable and recommended that the HECO Companies be required to file the appropriate support to justify cost recovery upon completion of Stage 2 Studies. The DCA recommended that the HECO Companies increase its cost recovery period to a time frame greater than the HECO Companies' suggested 12 months. Also, the DCA maintained that the carrying charge be eliminated. The DCA also recommended that there be no cost allocation at this time. On May 11, 2012, the HECO Companies and the DCA (collectively the "Parties") filed a settlement letter with the PUC, agreeing that: 1) the Stage 2 Studies are necessary and the HECO Companies would file all necessary documentation to support the reasonableness of any studies' costs to be recovered; 2) the PUC does not need to determine a specific level of costs as being reasonable at this time; and 3) the recovery period related to the actual Stage 2 Studies costs will be determined in a subsequent proceeding. The PUC has not filed its decision and order as of July 10, 2012.

HECO – Approval for Expansion of the Residential Direct Load Control ("RDLC") Program and Recovery of Program Costs

On April 13, 2012, HECO filed an application to: 1) approve the proposed expansion of the RDLC Program; 2) authorize extension of the proposed expanded RDLC Program for 5 years (2013-2017); 3) enroll an additional 18 MW; 4) replace participants that drop out of the program to maintain program impacts; and 5) recover program costs of about $33.4 million over the five-year period and associated revenue taxes, through base rates and the IRP Cost Recovery Provision. The DCA filed its IRs on June 1, 2012, but there is continued ongoing work in this proceeding.

HECO – Approval for Expansion of the Commercial and Industrial Direct Load Control ("CIDLC") Program and Recovery of Program Costs

On May 17, 2012, HECO filed an application to: 1) approve the proposed expansion of the CIDLC Program; 2) authorize extension of the proposed expanded CIDLC Program for 3 years (2013-2015); 3) enroll an additional 6 MW; 4) replace participants that drop out of the program to maintain program impacts; 5) approve program modifications; and 6) recover program costs of about $17.4 million over the three-year period and associated revenue taxes, through base rates and the IRP Cost Recovery Provision. The DCA filed its IRs on June 27, 2012, but there is continued ongoing work in this proceeding.

HECO Companies' Request to Establish a Catastrophic Event Provision

The HECO Companies filed an application, on December 22, 2011, to establish a Catastrophic Event Provision that would allow the HECO Companies to record costs incurred to restore electric utility service and repair electric facilities caused by a catastrophic event such as a hurricane or tsunami that is declared a disaster by a state or federal authority. Under this provision, the HECO Companies would later seek cost recovery from ratepayers for the repair and restoration costs. The DCA filed its SOP on September 11, 2012, objecting to the HECO Companies' request based on several concerns, such as the potential for double cost recovery, the recovery of improvements and upgrades under the guise of disaster recovery, and the lack of any recordkeeping requirements to facilitate a prudence review. In response to the DCA's objection, the HECO Companies withdrew their application on November 9, 2012.

KIUC Financing

KIUC filed an application, on April 16, 2012, to enter into a new form of agreement with National Rural Utilities Cooperative Finance Corporation ("CFC") for a $1,300,000 irrevocable letter of credit ("LOC"). The purpose of the LOC is to provide KIUC's fuel supplier with security for KIUC's fuel supply payment obligations. In its SOP, filed on June 27, 2012, the DCA supported the new agreement subject to certain notification requirements. The PUC issued its Decision and Order, on June 29, 2012, approving the LOC agreement and adopting the DCA's notification requirement.

Maui Kele Shopping Center, LLC ("MKSC") Request For A Declaratory Ruling

On October 19, 2011, MKSC filed a petition respectfully asking the PUC to issue a declaratory order confirming that MKSC is not a "public utility" within the meaning of HRS Chapter 269 if MKSC intends to sell electricity generated by a photovoltaic system owned by MKSC and located on its property to three (3) tenants that maintain businesses at the shopping center owned and operated by MKSC.

On December 22, 2011, the DCA submitted IRs to MKSC seeking further support, clarification, and/or information with respect to certain matters presented by MKSC in its petition filed on October 19, 2011. On May 9, 2012, MKSC responded to the IRs issued by the DCA in Docket No. 2011-0329.

On September 13, 2012, the DCA filed a SOP concluding that MKSC is not a "public utility" within the meaning of HRS Chapter 269, provided that MKSC limits its sale of electricity to the three (3) tenants located in the shopping center owned and operated by MKSC. On September 21, 2012, the PUC issued a Decision and Order agreeing with the conclusion reached by the DCA in its SOP, filed on September 13, 2012, and stating that MKSC will not be a "public utility" within the meaning of HRS Chapter 269, so long as the facts presented by MKSC in its petition remain true and accurate.

TGC's Request to Refinance Debt and Obtain New Debt

On April 5, 2012, TGC filed an application seeking approval for two transactions: 1) to refinance loans of $180,000,000, and 2) to enter into a new $60,000,000 revolving credit facility which would be used for capital expenditures and short-term working capital needs. Since TGC sought an expedited review of the refinancing transaction, the PUC authorized a bifurcated proceeding establishing separate procedural schedules for the refinancing transaction and the credit facility. Based on its analysis of the terms and conditions of the proposed refinancing transaction, the DCA supported the refinancing and the credit facility, subject to certain conditions. The PUC approved TGC's application and adopted the DCA's conditions in its Decision and Order, filed on June 12, 2012 and October 5, 2012.

Eligible Telecommunications Carrier Designation and Annual Certification

The FCC's efforts to comprehensively reform and modernize the universal service and inter-carrier compensation systems have significantly impacted the State's review of applications related to eligible telecommunications carrier's ("ETC") designation and annual certification processes. Among the changes introduced are the inclusion of broadband as a supported service and the transition for Hawaii carriers from the legacy high cost support mechanisms to the Connect America Fund ("CAF").

The DCA considered these reforms and changes in its review of ETC designation and annual certification applications received in FY2012. In addition, the DCA is coordinating the efforts in Docket No. 2011-0052 to propose amendments to the review criteria, relating to these reforms and changes, for the PUC's annual ETC certification requirements with the goal of enabling a more stringent review to ensure that the Universal Service Fund ("USF") support (both high cost and low income) has been and will continue to be used for its intended purposes.

In August 2011, the DCA issued its support for the approval of applications for annual ETC certification of Coral Wireless, LLC dba Mobi PCS ("Mobi"), T-Mobile West Corp. ("T-Mobile") and Sandwich Isles Communications, Inc. ("SIC"). The PUC approved all three applications. In September 2011, the DCA issued its support for the application of Pa Makani dba Sandwich Isles Wireless ("Pa Makani") which was seeking designation by the PUC as an ETC. The PUC designated Pa Makani as an ETC in April 2012.

During FY2012, the DCA received three (3) applications, by wireless service providers, requesting PUC designation as a Lifeline only ETC. In FY2012, the DCA completed its review and is in support of the applications of YourTel America Inc. ("YourTel") and Pinnacle Telecommunications Group, LLC ("Pinnacle"), while the DCA's review of TracFone Wireless, Inc. ("TracFone") was completed near the start of FY2013. Lifeline provides a discount to low-income households (one per household). Lifeline ETCs theoretically compete for the same USF support dollars. While abuse can occur at the carrier level, it seems more likely to occur at the subscriber level.

In addition to the requests for ETC designation received in FY2012, applications for annual ETC certification have been filed by Mobi, T-Mobile, SIC[4], Pa Makani and Hawaiian Telcom, Inc. ("HTI").[5] This year was the first year HTI was required to file for an annual ETC certification due to a change in the PUC's annual filing requirements. As a result of the FCC's USF reforms, the DCA's review now include assessments of the ETC's broadband plans and whether the carrier's use of USF support for the previous calendar year, as well as for the coming calendar year, was/will be used for its intended purpose.

Pest Control Operators Exemption Analysis

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[4] The FCC is still considering SIC's petition for waiver from section 54.302 of the FCC's rules, which establishes a total limit on high-cost universal service support of $250 per line per month. See Sandwich Isles Communications, Inc. Petition for Waiver of Section 54.302 of the Commission's Rules, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Dec. 30, 2011); *see also Connect America Fund* et al., WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*); 47 C.F.R. § 54.302.

[5] SIC and Pa Makani initially sought to receive their 2012 annual ETC certification from the Department of Hawaiian Home Lands, but several months later submitted applications requesting annual ETC certification by the PUC.

As a result of Act 141, SLH 2004, Hawaii's One Call Center was established. The purpose of One Call is to provide a single location where excavators could call to verify the location of underground facilities to mitigate the damage and service interruption that might otherwise occur when excavation might damage underground utility infrastructure. However, Act 72, SLH 2009, allowed pest control operators a temporary exemption from the One Call requirements on the assertion that the One Call requirements should not apply. In the SLH 2012, the pest control operators sought to make the exemption permanent, but due to concerns that were raised, the PUC is investigating in Docket No. 2012-0043 whether it is reasonable to allow the exemption to be made permanent. The DCA is participating in this investigation and has submitted various IRs to pest control operators and the utility companies to assess whether consumers' interests would be adversely affected if the One Call exemption were made permanent.

Advocacy through Participation on Committees and Boards

Enhanced Wireless 911 Services

The DCA has been an active participant in the State's implementation of an order issued by the FCC mandating that enhanced 911 ("E-911") services be provided by wireless telecommunication carriers. The passage of Act 159, SLH 2004, provided the framework to implement the State's wireless E-911 system to route emergency calls to emergency responders, along with the wireless callers' identification and location. Act 159, SLH 2004, also established a Wireless Enhanced 911 Board that oversees the collection and distribution of money collected by the E-911 special fund designates the Executive Director of the DCA as a member of the board. The DCA through its Executive Director has continued to be an active participant in the implementation of this system, which is critical to the public safety of both Hawaii residents and visitors.

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 Chapter 269E, HRS, 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. The system, which was operational on January 1, 2006, will reduce the risk of critical services being disrupted because utility systems were inadvertently damaged due to excavation work conducted in areas where the systems are placed in underground facilities. This will ensure greater public health and safety, and ultimately save excavators time and money.

Hawaii 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 the University of Hawaii at Manoa. 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. HEPF provides support to other organizations, such as the Hawaii Clean Energy Initiative Steering Committee. In FY 2012, the DCA took an active role in the meetings providing input to HEPF concerning consumer concerns in the regulatory process before the PUC and the difficulties facing the state in achieving reliable electricity service at reasonable rates.

Hawaii Clean Energy Initiative ("HCEI")

On January 31, 2008, the State of Hawaii and the United States Department of Energy ("U.S. DOE") launched the HCEI, an agreement, which among other things, established for the State a goal of 70% clean energy resource use by 2030. The State and the U.S. DOE formed various committees designed to examine differing aspects of the State's energy use – transportation, electricity, energy efficiency, etc. 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 HCEI, the Executive Director of DCA also participates in the Steering Committee, which deals with the high level planning associated with various aspects of the technical committees that are analyzing various areas (electricity, end-use efficiency, transportation, fuels, and outreach) that are expected to be integral to the success of HCEI.

The DCA also participates in the Technical Advisory Group ("TAG") that is responsible for evaluating the energy efficiency process that has been transitioned from the HECO Companies to a third-party administrator. As part of this process, the 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, the TAG evaluates the use of the monies to help Hawaii's efforts to reduce its over-reliance on imported fossil fuels.

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 division publishes its own newsletter and plans to increase the frequency of new publications in moving forward.

Interactive Participation with Other State Agencies

DBEDT's Hawaii's Electric Vehicle ("EV") Rebate Program

The DCA, on behalf of DCCA, continued to administer DBEDT's EV Rebate Program, which has given Hawaii residents and businesses nearly $2.2 million in cash back. To date, more than 500 applications were received since the State paid out the first rebates in May. In October 2010, the DCA's Education Specialist was assigned as the Electric Vehicle Rebate Project Administrator. The time spent by the DCA's Education Specialist to work on the EV Rebate Program took away from his duties within the division (and DCCA), and therefore was billed to DBEDT.

While originally slated to conclude in September 30, 2011, DBEDT extended the rebate program three times. While DBEDT has declared the program over with the depletion of funds, the DCA will need to continue to spend time wrapping up the project. The final checks were issued in July 2012; however, 1099-MISC tax forms will need to be furnished to affected rebate recipients by January 31, 2013.

Financial Summary

The CRF financial summary relating to DCA for fiscal year 2011 - 2012 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
$1,095,566	$1,030,654	$2,126,220	$3,024,838

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 place the DCA in a better position to take a more proactive approach to address specific consumer issues and to gain greater public participation in decisions that affect their public utility and transportation services.

DIVISION OF FINANCIAL INSTITUTIONS (DFI)

website: www.hawaii.gov/dcca/dfi
e-mail address for general matters: dfi@dcca.hawaii.gov
e-mail address for mortgage loan originator program: dfi-nmls@dcca.hawaii.gov

OVERVIEW

The Division of Financial Institutions' (DFI) Mission: DFI 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, mortgage servicers, mortgage loan originators and mortgage loan originator companies, by fairly administering applicable statutes and rules, in order to protect the rights and funds of depositors, borrowers, consumers and other members of the public.

DFI provides regulatory oversight for our state's financial service providers. DFI is charged with the 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, and financial services loan companies (both depository and non-depository), and credit unions. DFI also licenses and regulates, supervises and examines escrow depositories, money transmitters, mortgage servicers, mortgage loan originators and mortgage loan originator companies. In supervising financial institutions authorized to take deposits, DFI works closely with the Federal Deposit Insurance Corporation ("FDIC"), the Federal Reserve Bank of San Francisco ("FRB"), the Consumer Financial Protection Bureau ("CFPB"), the Hawaii Credit Union League ("HCUL") and the National Credit Union Administration ("NCUA").

DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and re-accredited in 1995, 2000, and 2005. The CSBS accreditation program sets high standards for state banking regulators nationwide. DFI's status as a fully accredited agency is currently under review by CSBS including an on-site reaccreditation review in 2012.

DFI is located at 335 Merchant Street, Room 221, Honolulu, Hawaii 96813. The public may call DFI at (808) 586-2820 or send e-mail to dfi@dcca.hawaii.gov or dfi-nmls@dcca.hawaii.gov (mortgage loan originators and mortgage loan originator companies).

Composition

DFI is led by the Commissioner of Financial Institutions. The Commissioner is assisted by an *Administrative Section* consisting of the Deputy Commissioner, a specialist, a regulation analyst, and a secretarial staff supervised by the Secretary of the Division. This section coordinates and facilitates activities within DFI, with other divisions, and with other state and federal agencies regarding regulatory and supervisory oversight issues.

Within DFI, there are two branches: (1) the Field Examination Branch and (2) the Licensing and Regulatory Analysis Branch, each composed of financial institution examiners and supervised by its own Branch Manager. The *Field Examination Branch* is responsible for the on-site examination of all state-chartered and state-licensed financial institutions[6]. Examinations, unlike accounting audits, are forward-looking reviews of factors underlying the safety and soundness of the 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 *Licensing and Regulatory Analysis Branch* is responsible for licensing activities and other regulatory approvals, the quarterly off-site monitoring program, responding to complaints and inquiries, and investigating alleged violations of state law. Licensing activities include review and analysis for all applications for new financial institutions, closure of any branches, opening or relocation of branches, addition of new or unique services to determine whether consumer may be harmed by the action of any licensee. The Licensing and Regulatory Analysis Branch Manager[7] also assists the Deputy Commissioner in administrative matters such as legislation, training, and budgetary items.

GOALS and OBJECTIVES

Division Goals. Our mission reflects the increased focus of our role in, not only protecting consumers, but in educating them to protect themselves. Recent legislation in the financial services area reflects the need to educate consumers of financial services in order to prevent consequences such as those currently seen in the sub-prime lending crisis. Regulation and appropriate enforcement hand in hand with consumer education and awareness are the best defense in protecting consumers, especially in times of economic downturn. DFI faces a number of challenges in the next few years including: the impact of the economy on financial service providers and consumers; dealing with increased complexity in our financial markets and products which can lead to increased opportunity for fraudulent activity; and dealing with the threat of federal preemption of our regulatory authority at a time when our services are needed the most.

DFI's goals center on the orientation, training, and effective deployment of its Examiners. Federal programs administered by the FDIC and the Federal Reserve are regularly used for this purpose, as are web-based programs provided by CSBS, the Risk Management Association, and the Hawaii Financial Regulatory Compliance Association. On-the-job training is also a valuable component of the training plan. DFI's goals also focus on the recruitment of new staff who will be able to comprehend and adjust to an ever changing financial services industry. New financial service products (e.g., reverse mortgages, negative equity automobile loans, etc.), delivery channels (e.g., stored value cards, pre-paid cards), providers (e.g., internet companies), economic conditions (e.g., the "global credit crisis" and the "fiscal cliff"), regulatory changes (e.g., the implementation of Dodd-Frank Act provisions), additional federal regulatory agencies, and the attendant opportunities and risks associated with these developments, create a radically expanded regulatory environment in which the use of new experiences and skills (in addition to those currently required) will be necessary to successfully accomplish DFI's mission.

Objectives and Policies. As a part of the CSBS accreditation process, DFI is required to establish a strategic plan and develop policies and operating guidelines to achieve plan objectives. DFI went through a year-long strategic planning effort with the entire staff in 2012. DFI's strategic plan calls for it to:

[6] Financial institutions include banks, savings banks, trust companies, financial service loan companies (depository and non-depository), escrow depository companies, money transmitters, mortgage loan originators and mortgage loan originator companies. The legislature did not provide authority to DFI to examine mortgage servicers.
[7] This position has been vacant since 4Q 2010. Although DFI has interviewed a few candidates for this position, no qualified candidate has applied for this position.

- Stay relevant in a changing environment
- Provide value for the services we offer
- Expand employee's skill set
- Embrace the new regulatory and compliance environment
- Deliver effective and timely services
- Communicate in a respectful, timely and meaningful manner.

DFI's objectives are defined by its strategic plan and the policies to accomplish those objectives are imbedded within its policy and operating manuals.

Action Plan. DFI's action plan is built around its strategic plan. The timetable calls for reaching its goals in a three to five year time frame as it must provide additional training for staff and provide new training to meet the regulatory needs required by the federal regulations and expected by consumers who use our financial institutions. DFI staff is meeting regularly to solidify specific action plans to accomplish our goals.

Performance Measurement. DFI currently measures performance in two ways. The first is empirical – that is, absolute measurements based on the fiscal health and regulatory compliance of the State's DFI-regulated financial institutions using both regular financial and examination based measurements. The second is the measurement of DFI's internal throughput – that is, how many complaints have been answered, how many applications processed, etc. The first measurement is critical, especially in the current climate of global turmoil in the financial services industry, and demonstrates performance in DFI's key area of responsibility - to ensure the safety and soundness of Hawaii-chartered and licensed financial institutions. The second measurement, while informative, is less useful, and in many ways does not accurately reflect either effort or results as it does not measure the complexity and changing nature of the work. The second measurement is also viewed as the "pulse" of Hawaii's financial institutions in terms of any "hot button" issues facing consumers.

ACCOMPLISHMENTS

The Banking Industry in Hawaii. Since the financial crisis, many in the industry have assumed or just hoped that these revenue challenges would be a cyclical phenomenon. However, as we have seen there is a creeping realization that this is not the case. It is our belief that a structural shift is underway; the industry is transitioning from a high-margin business to a lower-margin one.

As significant as these structural shifts are for profitability, they are not the only forces reshaping the retail banking environment. Over the next five years, we predict that two trends will force retail financial institutions to rethink their operating models: digitization, which is de-integrating the front-to back-office value chain; and consumer expectations, which are relentlessly rising. Banks have been investing in these technology advances — specifically, cloud computing, analytics, broadband, and social tools — to meet customer expectations, which are increasing as innovative nonbanks step into the space and solve common, long-standing customer "pain points."

With limited avenues for growth, the banking sector will be hypercompetitive for the foreseeable future. In this environment, it is critical for each bank to be very clear on how it will compete and win in the market. We believe that the winners will retain their profitable customers and capture a bigger share of their wallets by adroitly targeting specific customer segments, creating products that go beyond deposit and checking accounts, and delivering those products through highly competitive (physical and virtual) sales forces will be competitive necessities.

As banking industry rapidly digitizes, banks have been investing in technology and partnering to differentiate themselves. Banks have been trying to improve the user interface/customer experience by leveraging analytics in the front office and partnering with retail and technology firms to personalize offers, market to customers, and build loyalty.

Investing in the new capabilities will be expensive, and funding will need to come from wringing costs out of the operation. Banks will have to continuously focus on expense control — on *how work gets done* as well as what work to do — using lean and technology-enabled process redesign to build more flexible, responsive operating models. In the process, banks have taken advantage of emerging technologies to drive out complexity and improve the customer experience while also reducing costs — recognizing that these seemingly divergent objectives can now be simultaneously achieved.

At the same time, banks have to become nimbler and reduce bureaucracy in decision making by optimizing their organizational structure through a reexamination of roles, spans of control, and management layers while not losing the capability to control risks. Banks are facing pressure to not raise fees. For example, the industry's attempt to raise debit card fees was not successful as the outcry from consumers was intense and loud.

Through all of these challenges, Hawaii was one of the few states that did not have a bank failure during the economic crisis. DFI was able to keep our supervisory oversight strong even though the majority of our financial institutions had increased supervision. DFI is proud to say that consumers' funds were safe and sound.

<u>Implementation of New Federal Laws Continues to Expand and Impact DFI's Regulatory Role.</u> There are several factors that impact DFI's regulatory role in this new environment. As the provisions of Dodd-Frank are implemented by the various federal regulatory agencies, DFI will also meet the needs to inform and supervise our state-chartered and state-licensed financial institutions for the protection of consumers.

1. **Capital Requirements –** In the wake of the financial crisis, Dodd-Frank calls for increased capital, especially for the biggest banks in the U.S. Globally, stricter capital requirements have been adopted by the European Union member states. Bankers realize that it would be unpopular to publicly call for less capital, so they phrase their position as calling for "clarity" in regulatory capital requirements. Of course, they do not want U.S. standards that will make them uncompetitive globally, nor do they want capital levels that will substantially reduce profitability.
2. **Volcker Rule –** During 2012, the U.S. learned about JPMorgan Chase's recent trading losses which will undercut opposition from the banking industry and give regulators and Congress renewed focus on putting the teeth back in the Volcker Rule. Using the words "portfolio hedging" should not obscure what is really trading for the bank's own account. There will be a "back to basics" push from those who still see "Too Big to Fail" as a compelling problem.
3. **Executive Compensation and Corporate Governance**. The public is still uncomfortable when it comes to excessive executive compensation for Wall Street bankers perceived to have played a

major role in the financial crisis. That being said, shareholders for the most part continue to deliver advisory approvals of executive compensation packages. Good corporate governance is the hallmark of an institution that has procedural checks and balances in place. Regulators continue to correctly insist that the board of directors is responsible for establishing appropriate policies and for making sure those policies are adhered to.

4. **CFPB –** The agency continues to be under industry and political attack. On the other hand, consumers need a strong advocate to deal with predatory practices. This should not be a partisan issue.
5. **Community banks and regulatory burden** - This is a very important concern. As always, any requirement placed on large banks becomes "guidance" and then expected for smaller banks. DFI continues to remind its examiners that excessive, unnecessary burdens on smaller banks will drive them out of the market and result in greater industry consolidation and possibly a large negative impact on Hawaii's economy. Compliance costs are staggering for a small bank. The traditional mission of a bank is to take deposits and make loans within a community, and we need community banks to do that.
6. **Risk management and Stress testing -** Financial institutions should have strong risk management programs and be conducting meaningful stress testing even without a regulatory requirement. If we hope to avoid a future financial crisis, financial institutions must give these internal programs high priority.
7. **Mortgage foreclosure issues** - We have not seen the last of this issue. Political pressure is being placed on mortgage servicers to comply with the large multi-state mortgage settlement among the five largest banks. Many small to mid-size mortgage servicers may not be able to comply with the compliance costs and greater industry consolidation may occur.
8. **Lending issues –** Our economy needs small business lending in order to recover from the recession. Unfortunately, some government programs that support this are too complicated. Real estate valuation continues to be a regulatory focus. Commercial real estate concentrations continue to be cited in enforcement actions. Fair Lending compliance (RESPA, HMDA, TILA, and ECOA) and Flood Insurance are always on the examiner's check list.
9. **BSA/AML** - Money laundering concerns remain prominent on DFI's radar screen.
10. **Charter conversions** - Across the nation we have seen regional banks convert from a national charter to a state charter when the federal regulator OTS (Office of Thrift Services) was eliminated with Dodd-Frank. We have not received any charter conversion in Hawaii, however, DFI will not be less strict, but will be more accessible and more knowledgeable about local conditions.

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

- Mobile Banking
- Effective regulation of Non-bank Financial Institutions – or not global economic conditions
- Basel III and efforts to harmonize capital requirements, regulation, and enforcement

DFI continues to actively work with the banking industry to discuss these emerging issues and provide educational sessions to banks who want to train their staff. DFI has conducted an examination on all state-chartered banks in Hawaii and continues to provide regulatory oversight to all financial institutions in Hawaii.

Supervision of Escrow Depositories. DFI has undertaken a project to review and modernize the escrow depository laws with the escrow depository industry. DFI notes that this law has not changed since 1992; however, the escrow depository industry and real estate lending has changed over the years. The federal consumer laws have changed significantly over the last five years, with changes to both RESPA and TILA, the strongest consumer protection laws to protect consumers against undisclosed fees and inform consumer about the interest and payments they need to make for residential mortgage loans. The public demands that their funds retained by the escrow company are safe and sound.

Today a real estate transaction requires time to prepare documents and obtain financing instructions. The escrow depository company enters into an agreement with the parties (buyer and seller) that contains the terms and conditions of the sale and provides a central place where all funds and documents may be deposited. The funds and documents are collected and disbursed only when all conditions of the contract are met. The escrow depository is an independent third party who performs these services impartially, protecting both Buyer and Seller, and acting on their written instructions in dealing with lenders, attorneys, brokers, agents, and any other parties involved in the transfer of the property. The Escrow Officer is responsible for the final settlement between the Buyer and Seller, the recording of the required documents, the payoff of the existing liens or mortgages, and the proration of real property taxes, lease rents, maintenance fees, and any other property expenses to assure an accurate and complete closing. This contract is governed by both federal and state laws.

DFI supervises, regulates and examines eight escrow depository companies. The examinations focus on the safety and soundness of the company and the escrow funds it holds. Due to the recent changes in the federal laws, in 2011, DFI has been examining the compliance of federal and state regulations on this industry.

Supervision of the Money Transmitter Industry in Hawaii. DFI continues to supervise, regulate and examine money transmitters licensed in Hawaii. We conduct multi-state exams with other state regulators which allowed DFI to examine large money transmitter companies. DFI is an active member in MTRA, the national non-profit organization dedicated to the efficient and effective regulation of money transmission industry in the United States of America. The MTRA membership consists of state regulatory authorities in charge of regulating money transmitters and sellers of traveler's checks, money orders, drafts and other money instruments.

Regulators exercise oversight of banks by conducting supervisory reviews on a regular basis to ensure safety and soundness in the U.S. banking system. With respect to nonbanks that are not engaged in money transfer services, but fill a separate role in mobile payment service models, the Federal Trade Commission (FTC) has authority to bring enforcement actions for unfair or deceptive acts and practices. Finally, the Dodd-Frank Act created the Consumer Financial Protection Bureau (CFPB) in order to consolidate the rulemaking for consumer protections for uniform application to all transactions over an array of firms that provide financial products and services to consumers.

Current mobile payment business models leverage traditional payment sources. For example, in the context of mobile proximity payments where a mobile handset is used to initiate payments, the funding sources consist of credit, debit, and prepaid access (or stored value) payments. Bank card issuers and major card networks collaborate with technology and telecom partners, who provide the platforms and means to send payments data. Consequently, financial institutions, which are empowered to issue payments through traditional channels for clearing and settlement, retain responsibility for the payment providers in these new models.

There are two trends in money transmission industry. First, remote payments and money transfers are beginning to emerge to facilitate person-to-person (P2P) payments and cannot be ignored from a regulatory perspective. Second, growth in nonbank money transfer services is subjecting more nontraditional technology-based companies to state money transmitter licenses and related regulatory oversight.[8]

DFI's regulatory concerns:

1. Elements common to both mobile and Internet environments. The mobile handset is becoming recognized as an access device for payment initiation rather than as an actual payment method. The mobile device serves as a new channel for existing clearing and settlement methods, while simultaneously relying on traditional funding sources for new payment schemes. This distinction is critical to policymakers understanding of how best to apply the regulatory infrastructure governing mobile payments and their providers going forward.
2. Regulators have interest in ensuring safety and soundness and consumer protection in the emerging mobile payments environment. Existing regulatory guidance provides sufficient governance for existing mobile payment services. Regulatory representatives acknowledged that future guidance should contain distinct language that includes "mobile" to ensure clarity and avoid any ambiguity around payments delivered via the mobile channel.
3. Regulators will need to stay abreast of mobile industry trends and developments to effectively monitor the emerging risk environment. Regulators are currently focused on monitoring mobile payment developments to ensure that existing guidance for examination staff is relevant and applicable to emerging risks that could potentially threaten the safety and soundness of financial institutions providing mobile financial services.
4. Regulators will need to stay apprised of regulatory changes. Specifically, regulators want more in-depth knowledge of data privacy, security, and consumer protections for mobile payment transactions. As technology supporting mobile payment solutions advance, regulators want a better understanding of the new developments and impacts these innovations may have on the entire risk environment. The challenge will be to make sure the training is available and DFI has the ability to fund examiners' training opportunities.

DFI has been able to provide minimal training for its examiners with the funds available. DFI has provided regulatory oversight to forty-two money transmitters as well as conduct five examinations for national money transmitters with other states.

<u>Mortgage Loan Origination Regulation</u>. As noted in previous reports, in response to the federal *S.A.F.E Mortgage Licensing Act of 2008* (federal *SAFE Act*), Hawaii's version of the federal SAFE Act (HRS Chapter 454F), was enacted in 2009 with the passage of Act 32 (SSLH 2009). Chapter 454F requires that persons engaged in mortgage loan origination activities related to Hawaii residential real estate to be licensed by DFI as mortgage loan originators (MLOs) and mortgage loan originator companies (MLOCs). In compliance with the federal SAFE Act, Chapter 454F, requires background checks, pre-licensing education and testing, and continuing education, and also requires that Hawaii participate in the Nationwide

[8] For example, PayPal services are categorized as money transfers and, accordingly, PayPal is registered in 43 U.S. states, the District of Columbia.

Mortgage Licensing System (NMLS). This online system is designed to replace individual state's existing mortgage licensing application forms, systems, and processes. Persons wishing to apply for a license**,** or amend**,** surrender/cancel or renew a license do so through NMLS. DFI devoted considerable resources in since late 2010 license over 1200 MLOs, 250 MLOCs and 120 MLOC branches as of September 30, 2012.

As required by law, DFI began reviewing the quarterly mortgage call reports that licensees are required to file through NMLS. The quarterly mortgage call reports are reports showing the mortgage loan activity in a company and by individual mortgage loan originators. DFI continues to supervise mortgage loan originator companies who fail to submit the reports timely or with incorrect data. DFI continues to provide individual educational opportunities for these companies who must file these reports.

The Division was an early participant in the multi-state MLOC examinations which examine compliance in accordance to federal and state regulatory schemes.

Mortgage Servicer Regulation. DFI conducted the first annual renewal of these licenses in 2011. NMLS has opened its portal to accept applications and renewals of this industry in 2nd quarter 2012. While DFI would like to allow our licensees to use this portal for ease of application and renewal, DFI will seek authority from the legislature to allow this process. In 2010 when DFI began to license this industry, it predicted approximately 20 mortgage servicers that would be licensed under this new law. At the end of 2010, DFI had licensed a total of 56 mortgage servicers. In 2011, DFI licensed and supervised 65 mortgage and additional applications still being received. Due to the increased oversight, DFI will also ask the legislature for the authority to conduct examinations on this industry. With the oversight of the five large banks in the mortgage foreclosure settlement related to their servicing activities, DFI will want to participate in the examinations of these companies.

Continued Development of DFI's Emergency Preparedness Program. DFI continues to develop, implement, and rehearse multiple level emergency preparedness contingency plans. Maintaining and safeguarding an adequate supply of currency to the public as well as efficient access to deposit accounts is the main objective of these plans. As the overall coordinator for financial institutions operating in Hawaii, DFI is a strategic partner in HawaiiFIRST, a financial industry business continuity planning coalition established to address Homeland Security issues affecting the local financial industry, to develop and maintain relationships with city, county, State and federal agencies, and private industries that have an impact on the local business community, and to enhance the financial industry's capability to respond to and recover from disasters. DFI, together with HawaiiFIRST, also continues to maintain and periodically test a statewide emergency communications plan which includes all Hawaii depository financial institutions.

DFI participated in the four-day Makani Pahili 2012 disaster recovery/business continuity exercise conducted by the State Department of Civil Defense and FEMA. DFI also coordinated the exercise with HawaiiFIRST members to test its communication function during an emergency.

DFI will continue to work with the State's financial institutions (primarily as a strategic partner with HawaiiFIRST), State Civil Defense, federal regulators, the Hawaii Bankers Association, the Hawaii Credit Union League, and others to ensure that robust and comprehensive emergency preparedness plans are developed, implemented and maintained going forward. In addition, the Commissioner is a member of the FEMA CERT (Federal Emergency Management Agency Community Emergency Response Team) and undergoes training with FEMA to prepare for major emergencies.

Reaccreditation. DFI is accredited by CSBS, the industry association for all state financial service regulatory agencies in the United States. CSBS administers its national accreditation program for state financial service regulatory agencies to ensure that the management and staff of these agencies are knowledgeable, appropriately organized, staffed, funded and trained to carry out their responsibilities, which includes authorizing, regulating and supervising of state-chartered financial institutions. DFI was originally accredited by CSBS in 1990. Each year thereafter, DFI has been required to file a comprehensive report of its activities, which is evaluated by CSBS, to retain to determine whether DFI's accredited status will be renewed for another year. Every 5 years, the CSBS staff visits DFI on site in Honolulu to conduct an exhaustive review of every facet of the Division's operations; interview managers, supervisors and staff; and evaluate the overall effectiveness of the program. DFI underwent such an examination in March of 2005, and received reaccreditation in late 2005. DFI was scheduled for an on-site reaccreditation review in 2010, however, DFI had been working with CSBS to determine whether past employee furloughs, spending restrictions, and vacant positions would result in DFI's accreditation being subject to probation, suspension or revocation, and what the impact any of these actions would have on an on-site reaccreditation review. Discussions with CSBS continued in 2011, and in late 2012 DFI underwent an on-site accreditation review. At this time, DFI is awaiting the results of that on-site review.

Workload and Budget Impact. As noted above, DFI's workload has increased dramatically, both in the type and number of institutions regulated (see chart below) and in the scope and complexity of the work. However, DFI's revenues have not been sufficient to allow DFI to fully fund all of its positions, resulting in delays in processing applications and complaints, responding to inquiries, and handling other administrative matters. To address this shortfall so that DFI has the funds to hire the necessary staff, DFI plans to introduce bills in the 2013 legislative session that will seek increases in many of the fees currently imposed, many of which have not been increased in years. The proposed increase in fees for each type of institution is designed to have the revenues from each industry cover DFI's costs of regulating and supervising that industry.

Number of Institutions and Offices Regulated						
	Financial Institutions	Escrow Depositories	Money Transmitters	Mortgage Servicers	Mortgage Loan Originator & Companies	Total
FY 10	251	56	549	-	-	856
FY 11	251	54	643	65	994	2,007
FY 12	243	54	808	67	1,220	2,392

The CRF financial summary relating to DFI for FY 11 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
$2,148,205	$322,553	$2,470,758	$3,348,970

CONCLUSION

During 2012, while DFI maintained its established regulatory, supervisory, and licensing programs, and devoted considerable resources to developing and implementing the new mortgage servicer and mortgage loan originator programs, continued emphasis was directed towards responses to ongoing deterioration across all aspects of the global financial services sector.

The impact of the “sub-prime mortgage crisis” which has now led to the current “global financial crisis”, with its attendant disruption to the normal pattern of financial services product delivery, has affected both our local economy and all financial institutions operating in the State. Increased supervisory oversight is mandated by new federal laws and expected by consumers. The increased supervisory oversight brings increased costs and expenses for both DFI (and the five industries it supervises) to validate compliance with the new federal laws. In addition, DFI must keep abreast of the emerging issues and technological advances in order to not fall behind the industry’s advances and to protect consumers.

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.

INSURANCE DIVISION (ID)

website: www.hawaii.gov/dcca/ins
e-mail address: insurance@dcca.hawaii.gov

OVERVIEW

The Insurance Division's (ID) goal and mission is to ensure that commercial and individual consumers are provided with insurance services meeting acceptable standards of quality, equity, and dependability at fair rates by establishing and enforcing appropriate service standards and fairly administering the Insurance Code.

The primary goals are for all insurance licensees to comply with the letter and spirit of the law through appropriate oversight and to maintain insurers' solvency by monitoring their financial condition.

The following were the number of active insurance licensees at the end of the last two fiscal years.

Type of License	Licenses as of June 30, 2012	Licenses as of June 30, 2011
Adjuster	1,460	1,296
Captives	175	168
Certificate of Authority (Insurer)	1,003	1,002
Foreign Risk Retention Groups (Registered)	55	50
Fraternal Benefit Society	7	7
HMO (Health Maintenance Organizations)	3	2
Independent Bill Reviewer	28	24
Limited Lines Motor Vehicle Rental Company Producer	25	24
Limited Lines Producers	952	960
Managing General Agent	28	22
Mutual Benefit Society	6	6
Nonresident Producers	34,279	33,164
Producers	7,064	6,775
Purchasing Group (Registered)	217	204
Reinsurance Intermediary Broker	21	18
Service Contract Provider Registration	121	122
Surplus Lines Broker	1,366	1,323
Vehicle Protection Product Warrantor Registration	17	14
TOTAL:	46,827	45,181

ID administers chapters 431, 431K, 431L, 431M, 431P, 432, 432C, 432D, 432E, 435C, 435E, 448D, 481R, 481X, and 488, Hawaii Revised Statutes, relating to licensing, supervision, and regulation of all insurance transacted in the state by all insurance entities.

ID is located at 335 Merchant Street, Room 213, Honolulu, Hawaii 96813. The public can call ID at (808) 586-2790, and send e-mail to insurance@dcca.hawaii.gov.

Composition

The Insurance Commissioner heads the ID and is assisted by the Chief Deputy Insurance Commissioner and the Branch Chiefs. The branches of the ID are:

Captive Insurance Branch. The Captive Insurance Branch (CIB) is currently led by the Deputy Commissioner and Captive Insurance Administrator and includes a secretary and eight captive insurance examiners. The CIB reports directly to the Insurance Commissioner and is responsible for all aspects of licensing, regulating, and developing the captive insurance industry for the State of Hawaii. The size and scope of Hawaii's captive insurance industry surpasses the size and scope of Hawaii's domestic insurance companies.

The captive program cost is not funded from the CRF. Pursuant to Act 1, SLH 2005, funds expended for the ID's captive insurance program are defrayed from the Captive Insurance Administrative Fund.

Compliance and Enforcement Branch. When a complaint is filed with the ID, the Compliance and Enforcement Branch (C&E) conducts an investigation to assure compliance with the applicable statutes and rules. Appropriate disciplinary actions are taken by the C&E when necessary. In addition, the C&E is responsible for processing administrative hearing requests, qualifying applicants to the Hawaii Joint Underwriting Plan Assigned Claims program, qualifying no-fault challenges on medical care and treatments to peer review organizations, and coordinating and qualifying Applications for Written Consent received by the Commissioner pursuant to 18 U.S.C. § 1033 and HRS § 431:2-201.3. The C&E is comprised of a chief investigator and three investigators.

Financial Surveillance and Examination Branch. The Financial Surveillance and Examination Branch (FS&E) is comprised of a manager, nine examiners, a certification specialist, and an office assistant.

The FS&E conducts a continuous program of financial analyses and examinations of Hawaii-domiciled insurance companies, agencies, and mutual benefit societies, to determine financial condition, solvency, and compliance with applicable laws and administrative rules in an effort to safeguard consumer interests and maintain integrity in the industry. The FS&E functions also include licensing more than 1,000 domestic, foreign, and alien insurers; processing and collecting of more than $130 million of Premium and Surplus Lines taxes from General Fund and Workers' Compensation levies on behalf of the Department of Labor & Industrial Relations; processing and administration of Qualified High Technology Business Investment Tax Credits claimed against the Insurance Premium taxes; authorizing and monitoring of accredited and trusteed reinsurers; registering of purchasing groups and foreign risk retention groups; regulating self-insurance; administering of security deposits; and monitoring of market share and competitive standards of mergers and acquisitions.

The Insurance Division is subject to review by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Program which requires state insurance departments to regulate domestic insurers' corporate and financial affairs. The FS&E recommends the adoption of legislation and administrative rules to ensure that the Insurance Division has adequate statutory and administrative authority and the necessary resources to carry out that authority.

Health Insurance Branch. The Health Insurance Branch (HIB) is responsible for regulating health insurers, including health maintenance organizations and mutual benefit societies. The HIB's primary responsibilities are: to receive inquiries and complaints pertaining to health insurance, including long-term care insurance; to receive requests from consumers for external reviews of a health plan's coverage decisions under the Hawaii Patients' Bill of Rights and Responsibilities Act and to administer the external review process; to review premium rate filings and forms to ensure readability and the disclosure of required information; and to conduct financial surveillance of health insurers. The HIB also reviews advertising materials of long term care insurers. The HIB is headed by the Program Administrator and has nine other authorized positions.

Insurance Fraud Investigations Branch. The Insurance Fraud Investigations Branch (IFIB) conducts a statewide program for the prevention, investigation, and prosecution of insurance fraud cases and complaints relating to insurance fraud. Effective July 1, 2009, the jurisdiction of the IFIB expanded to all lines of insurance, except workers' compensation, pursuant to Act 149, Session Laws of Hawaii, 2009. The IFIB reviews referrals submitted by the insurance industry, other agencies, and members of the public and initiates an investigation in all cases where there is reason to be1ieve that a crime may have been or is currently being committed. State law requires any insurer or insurer's employee or agent who believes that a fraudulent claim is being made to refer the case to the IFIB within 60 days.

The IFIB consists of 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 prompt attention and representation in the criminal justice system.

Legal Branch. The Legal Branch advises the Commissioner, the Chief Deputy, the Branch Chiefs, and the ID on all legal matters and serves as the interface between the ID and the Department of the Attorney General. The Legal Branch function includes serving as hearings officers for administrative hearings as assigned by the Commissioner; researching insurance issues, providing interpretations of laws and rules, and reviewing and analyzing administrative decisions and rulings; preparing legislative bills, legislative testimonies, administrative rules, and requests for formal and informal legal opinions; assisting the branches in enforcing compliance provisions within Title 24, HRS; and providing assistance to the Financial Surveillance and Examination, Health Insurance, and Captive Insurance branches in regards to supervision, rehabilitation, and liquidation proceedings. The Legal Branch is comprised of a supervising attorney, three staff attorneys, and a legal assistant.

Licensing Branch. The Licensing Branch (LB) oversees the examination process and issues licenses to qualified applicants for various insurance licensees. The major license types are producer, nonresident producer, and adjuster licenses; the LB maintains records of these licensees. The LB is responsible for continuing education deficiency notices, license renewal notifications, processing of remittance checks, and confirmation and cancellation of these insurance licenses. The LB also works with the Commissioner's advisory board on continuing education requirements for producers. The LB is comprised of a licensing assistant, seven licensing clerks, and an office assistant.

Office Services Branch. The Office Services Branch (OS) provides general reception; answers and screens telephone calls; and provides clerical, stenographic, typing, duplicating and other administrative services for the ID. OS also maintains the ID's central administrative files, including ID's memorandum, newspaper articles, documents, reports, etc.; orders office supplies and equipment for the ID, and maintains its inventory; and handles the receiving and distribution of ID's general mail. The OS is comprised of a clerical supervisor, a clerk-typist, and five office assistants.

Rate and Policy Analysis Branch. The Rate and Policy Analysis Branch (RPA) provides systems and procedures for the conduct and analyses of rate and policy filings of domestic, foreign and alien insurance companies for compliance with State insurance laws. The RPA analyzes and approves or disapproves rate filings for casualty, property, motor vehicle, inland marine, surety, credit life and disability, and Medicare supplement insurance. The RPA 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 RPA is comprised of a manager and nine rate and policy analysts.

ACCOMPLISHMENTS

Compliance and Enforcement Branch. During 2011, consumers and the Insurance Industry saved or recovered $439,380.96 from insurers and agents with the assistance of the Insurance Division's Compliance and Enforcement Branch. Three hundred and ninety seven (397) complaints were received for the following classes of insurance:

Motor Vehicle Insurance: Received the largest number of complaints with 225 or 57% of the total. Of this amount complaints involving no-fault coverage for medical and other related benefits accounted for 158 cases. Fifty (50) cases involved claims handling in the following categories: nine (9) for material damage claims, eleven (11) for claim payment or settlement/resolution delays, nine (9) concerning coverage and liability disputes, and twenty one (21) for claim denials and other miscellaneous claim issues. Complaints other than claims total seventeen (17) in the following categories: nine (9) in the area of premiums and underwriting, two (2) for policy cancellations or non-renewals, and six (6) miscellaneous ones. All cases were resolved or referred to the appropriate agency for resolution.

Life/Annuity Insurance: There were 40 complaints received or 10% of the total. Of this amount, twelve (12) involved misrepresentations and marketing issues, thirteen (13) involved policy servicing, four (4) involved claims handling, seven (7) involved underwriting issues, one (1) involved the inappropriate replacement of existing policies and three (3) involved miscellaneous issues. Thirty seven (37) cases were resolved or referred to the appropriate agency for resolution. Three (3) cases remain pending.

Worker's Compensation: There were 19 complaints received or 5% of the total. Of this amount, eighteen (18) involved claims handling and payment delays and one (1) involved miscellaneous issues. Six (6) cases remain pending.

Fire/Homeowners Insurance: There were 29 complaints received or 7% of the total. Of this amount, seventeen (17) involved claims, four (4) involved underwriting, rating, cancellations, or nonrenewals, five (5) involved policyholder service and sales, and three (3) involved miscellaneous issues. All cases were resolved or referred to the appropriate agency for resolution.

General Liability: There were 20 complaints received or 5% of the total. Of this amount, fifteen (15) involved claims and the remaining 5 cases involved miscellaneous issues. Eighteen (18) cases were resolved or referred to the appropriate agency for resolution. Two (2) cases remain pending.

Miscellaneous: In addition to the above categories, there were 64 complaints received or 16% of the total, relating to other classes of insurance (disability, marine, surety, and miscellaneous). Fifty five (55) cases were resolved or referred to the appropriate agency for resolution. Nine (9) cases remain pending.

Assigned Claims Program: There were 57 applications for benefits under the assigned claims program that were received and reviewed. Of this amount, thirty six (36) applications were assigned to servicing carriers for further handling; fifteen (15) applicants did not met eligibility requirements and six (6) applications remain under review.

Review of Licensee's Criminal and Regulatory History: 1,237 applications and renewal applications for Producer Licenses were reviewed by the Compliance and Enforcement Branch to screen for felony convictions or administrative action histories.

Disciplinary Actions: There were 27 formal actions involving the Compliance and Enforcement Branch. Of this amount, twenty three (23) were letters of caution/reprimands, one (1) was a stipulated agreement, two (2) were certificate of authority revocations, and one (1) was a license revocation. A total of $100,250.00 was levied in fines.

Financial Surveillance and Examination Branch. State insurance departments undergo a comprehensive review every five years by an independent review team, as well as interim annual reviews, to ensure they continue to meet NAIC standards. The Hawaii Insurance Division was first accredited by the NAIC in 1996 and re-accredited in 2001 and 2006. The NAIC performed its Accreditation review of the Hawaii Insurance Division in July 2011. The NAIC review team recommended, and the NAIC Financial Regulation Standards and Accreditation Committee approved, a full five year accreditation for the Insurance Division in November 2011. In August 2012, the Insurance Division successfully completed the NAIC's interim annual review.

The following is a summary of activities administered by the FS&E during the last two calendar years (dollar amounts are rounded to the nearest thousand):

	2011	2010
Number of Active Licensees	1,075	1,067
Direct Premiums Written in Hawaii*	$8,915,781,000	$8,198,628,000
Surplus Lines Premiums Written in Hawaii	$ 204,416,000	$ 220,624,000
Foreign Risk Retention Group Premiums Written in Hawaii	$ 6,126,000	$ 5,208,000
Premium Tax Returns Processed	9,000+	8,400+
Premium Taxes & Levies Collected**	$ 134,642,000	$ 141,010,000
Total Hawaii Investments***	$5,580,463,000	$5,656,355,000

* Includes annuities, mutual benefit societies (MBS) and health maintenance organizations (HMO) which are not subject to premium taxes. 2010 amount restated from $4,986,925,000 to include MBS and HMO premiums. The 2011 comparable amount is $5,253,047,000.

** Net of premium tax credits. The decrease in premium taxes collected was primarily due to the change from quarterly to monthly collections of the Premium Taxes on Direct Premiums Written in Hawaii, which began in July 2010. The change to monthly collections effectively increased collections to 14 months in 2010 as compared to 12 months in 2011.

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

Health Insurance Branch. From July 1, 2011 to June 30, 2012, 110 complaints and written inquiries were received. Of the 110 complaints and inquiries, 48 were resolved, 32 are still pending, four were withdrawn and 26 did not fall under the Health Insurance Branch jurisdiction and were provided with information and referred to the appropriate agency for resolution. Of the total formal complaints and inquiries, 19 involved claims appeals; 18 involved reimbursement timeliness; 14 involved obtaining health insurance; 12 involved denial of coverage; 7 involved policy coverage; 5 involved termination of coverage; 5 involved unfair marketing; 3 involved rate increases; 1 involved drug formularies; and the remaining 26 involved miscellaneous issues. The complaints during this period resulted in consumers saving over $192,230.

In addition to addressing formal written complaints and inquiries, the Health Insurance Branch assists consumers, healthcare providers, and health insurance professionals with informal inquiries by providing callers with information on health insurance matters. During the July 1, 2011 to June 30, 2012 period, the Health Insurance Branch handled over 1,500 informal inquiries.

The Health Insurance Branch also reviews premium rate filings of managed care plans pursuant to Hawaii Revised Statutes (HRS) chapter 431, Article 14G. The Health Insurance Branch received 37 rate filings during the period July 1, 2011 through June 30, 2012. This resulted in consumer savings of over $9,423,000.

Pursuant to HRS Chapter 431 Article 10 Part I, the Health Insurance Branch also reviews health insurance contracts and forms to ensure readability and the disclosure of required information. The Health Insurance Branch received 48 policy form filings for the period July 1, 2011 through June 30, 2012.

In addition, the Health Insurance Branch reviews long-term care advertising filings issued by long-term care insurers licensed in the state. The filings are reviewed for compliance with HRS chapter 431 Article 10H (Long-Term Care Insurance). The Health Insurance Branch received and reviewed 116 long term care advertising filings during the period July 1, 2011 through June 30, 2012.

The Health Insurance Branch also conducts independent external reviews of managed care plan coverage decisions that are appealed by the plan member pursuant to HRS chapter 432E. From July 1, 2011 to June 30, 2012, 14 requests for an external review were received.

The Health Insurance Branch has been assisting the Hawaii Health Connector (“Connector”) to set up Hawaii’s health insurance exchange under the federal Patient Protection and Affordable Care Act (“PPACA”). The Insurance Division acted as the federal grantee for moneys under a federal grant from the Department of Health and Human Services (“HHS”) which was used to start up and finance the Connector. The Health Insurance Branch has also worked together with the Connector to create the blueprint for the Connector that was filed with HHS as a key milestone in the creation of the Connector. The branch is continuing to work with the Connector and HHS in the further implementation of the PPACA.

The Health Insurance Branch is also the federal grantee under a grant from the HHS for improving its health insurance premium rate review program and the implementation of those improvements is underway. The branch has also worked with the Office of the Governor to create a strategic planning document that addresses the decisions and issues that must be faced by the State of Hawaii under the

PPACA. Branch representatives and the Insurance Commissioner are also participating on a task force for the implementation of PPACA led by the Office of the Governor. The Health Insurance Branch has also worked closely with the Hawaii Department of Labor and Industrial Relations to ensure that implementation of the PPACA can be done in a way that preserves the Prepaid Health Care Act.

Insurance Fraud Investigations Branch. During the fiscal year 2011-2012, the Fraud Branch received 274 referrals from insurance companies, various agencies, and the public. Of the referrals accepted for prosecution, criminal indictments were obtained against 24 individuals with a fraud amount totaling $508,000.00 for the fiscal year. The Fraud Branch obtained restitution orders totaling $12,972.00 for the cases that reached final disposition. In addition, the Fraud Branch obtained fines payable to the State of Hawaii totaling $5,250.00, payments in the amount of $2030.00 to the Crime Victim Compensation Fund, probation services fees in the amount of $1,400.00, and community service totaling 725 hours.

The Fraud Branch endeavored to meet its statutory mandate to prevent insurance fraud by making available copies of its informational brochure on the topic of insurance fraud to the public. Fraud Branch investigators participated at Chaminade University's annual Criminal Justice Expo. Presentations were made to DTRIC, Progressive Insurance, First Insurance, Financial Benefits Insurance, Inc., WSATI Auto Theft Training Seminar, Pearl City Lions Club, NAIFA, and the NAIC/FSS Insurance Fraud Symposium. Prosecutors and investigators received training in medical provider fraud, medical terminology, and auto theft investigations and attended the Hawaii Regional Training Conference for the National Association of Drug Diversion Investigators.

Rate and Policy Analysis Branch. During fiscal year 2011-2012, 4,397 filings were reviewed; in the preceding year (fiscal year 2010-2011), 3,854 filings were reviewed.

Hawaii participates in the NAIC filing process known as SERFF or the System for Electronic Rate and Form Filing. Hawaii began accepting life insurance products via SERFF in 2001; limited property and casualty lines in 2007 and all lines in 2008. A total of 4,377 electronic filings were processed through SERFF during the fiscal year; in the preceding fiscal year, 3,611 electronic filings were processed through SERFF.

Act 104, Session Laws of Hawaii (SLH) 2004, established Article 30, Hawaii Revised Statutes (HRS) chapter 431, which permits Hawaii to join with other states to regulate designated insurance products through an interstate insurance product regulation compact (IIPRC). The Commission for the IIPRC became effective May 2006 when 26 states representing a total exceeding 40% of the premium volume for life, annuities, disability income, and long-term care insurance products established similar statutes. A total of 41 jurisdictions are currently members of IIPRC. The IIPRC has since adopted bylaws, operating procedures, and 82 product standards on life and annuity products and has reviewed 318 filings for approval this fiscal year.

Long-Term Care Insurance: Pursuant to Act 233, SLH 2007, insurers transacting long-term care insurance business on or after January 1, 2008 were required to comply with new and amended disclosure standards and actuarial ratemaking standards. There are 40 insurers with rates and forms on file in Hawaii; however, some insurers may not be issuing new policies.

Medicare Supplement Insurance: Pursuant to the Medicare Prescription Drug, Improvement and Modernization Act (MMA) of 2003, enacted December 8, 2003, Medicare supplement plans no longer offer prescription drug coverage. As of January 2006, Medicare eligibles were able to enroll in federal Medicare Part D. Pursuant to the Medicare Improvement for Patients and Providers Act (MIPPA) of 2008, revised standardized benefit plans will be in effect June 1, 2010. Hawaii Medicare supplement insurance laws were amended in conformance with MIPPA. Thus, companies were required to cease new issues of existing plans effective June 1, 2010, and new plans complying with the revised federal standards were required to be filed. There are nine licensed issuers of Medicare supplement insurance in Hawaii with one or more standardized plans under the new guidelines.

The significant filings approved or impacting the rates or the policies issued during the fiscal year were as follows:

Personal Auto: On February 17, 2012, Hawaii Insurance Bureau, Inc. (HIB) personal auto loss costs revisions with an overall impact of -3.5% was approved.

Commercial General Liability: On February 17, 2012, HIB's commercial general liability basic limit loss cost revision representing an overall impact of -4.4% was approved.

Homeowners: By October 6, 2011, all insurers writing homeowners insurance refilled rate filings pursuant Commissioner's Memorandum 2011-1R. This resulted in the Rate and Policy Analysis Branch reviewing over 30 rate filings for homeowners insurance and a savings of over $10 million.

Workers' Compensation: On December 15, 2011, revisions to the National Council on Compensation Insurance, Inc.'s workers' compensation loss costs, to reflect experience and statutory benefits as of January 1, 2012, were approved with an overall impact of 3.6%.

Legislative Highlights

The Twenty-Sixth Hawaii State Legislature, Regular Session of 2012, passed numerous insurance related bills and adopted various concurrent resolutions. A few of these bills are highlighted below:

Act 258 (S.B. No. 2769, S.D. 2, H.D. 3, C.D. 1 – Relating to Insurance) Requires the Insurance Commissioner to publish a list of homeowners insurers and homeowners insurance annual premiums, and motor vehicle insurers and motor vehicle insurance annual premiums on the Insurance Division's official website; allows the Insurance Commissioner to intervene to adjust insurance rates; provides for written notice of disapproval and hearing requirements. Includes advisory organizations in the rate filings and regulation process under Article 14, chapter 431, Hawaii Revised Statutes. [Effective 7/1/2012]

Act 250 (S.B. No. 2767, S.D. 2, H.D. 1, C.D. 1 – Relating to Insurance) Updates provisions of Article 16 of the Insurance Code governing guaranty associations in conformity with the NAIC Property and Casualty Insurance Guaranty Model Act and the Life and Health Insurance Guaranty Association Model Act. [Effective 7/1/2012; provided sections 4 to 13 shall not apply to any proceedings in which a member insurer is placed under an order of liquidation prior to 7/1/2012]

Act 251 (S.B. No. 2766, S.D. 2, H.D. 2, C.D. 1 – Entities Regulated by the Insurance Commissioner) Updates Title 24 by removing or revising certain provisions that relate to the licensing and regulation of mutual benefit societies, fraternal benefit societies, and health maintenance organizations; updates financial regulatory requirements and fees to be more consistent with requirements placed on traditional insurance companies. [Effective 7/1/2012]

Act 253 (S.B. No. 2765, S.D. 2, H.D. 2, C.D. 1 – Relating to Captive Insurance Companies) Updates and streamlines Hawaii's captive insurance company law and ensures that risk retention captive insurance companies comply with the accreditation standards of the NAIC. [Effective 7/1/2012]

GOALS, OBJECTIVES, and POLICIES

ID's goal is to ensure that consumers are provided with insurance services meeting acceptable standards of quality, equity, and dependability at fair rates by establishing, implementing, and enforcing appropriate service standards and fairly administering the Insurance Code and other applicable laws.

Short and Long Term Goals of the Division: (1) Meet its statutorily mandated requirements; (2) Address national insurance issues by working with other state regulators and the NAIC; (3) Protect policyholders by examining insurers/captive insurers to ensure financial compliance with statutory requirements and strive for early detection of any potentially hazardous financial conditions to preserve the assets of the insurer; (4) Increase the efficiency of the ID's operations; (5) Retain the ID's accreditation by the NAIC; and (6) Provide and improve Internet access by the public for insurance licensees' public data and provide on-line processing, rate and policy form filings, information on licensing and filing requirements, electronic payments of fees and premium taxes, and forms for licensees.

Objectives and Policies Setting Forth How Goals Can and Will be Accomplished.

1. The ID will strive to meet the mandated statutory requirements for the Insurance Code through proper personnel and case load management.

2. The ID participates in the proceedings of the NAIC by attending its meetings to address regulatory, market place, and national issues, including the Federal Patient Protection and Affordable Care Act ("PPACA") of 2010. The members of NAIC are all of the state insurance regulators. The ID is actively involved with NAIC by its membership on various committees and currently is vice chair of a committee.

3. Protect policyholders from insolvent insurers by continuing the timely review and detailed analysis of financial statements filed by insurers to assure their compliance with the statutory financial requirements. Perform on site financial examination at least once every five years or more frequently as necessary as required by statute. Incorporate risk assessment methodology into the examiner's financial analysis work product.

4. To increase efficiency of operations, the ID is continuously improving its computerization and the use of the Internet. This includes the review of current operating systems and the exploration of adopting and using national regulatory systems to increase efficiency. The ID developed a database named the Hawai`i Insurance Division System (HIDS), which is an integrated system with the licensing module at its core and subsystems to support the other functions of the ID. HIDS provides better management of the large volume of transactions handled by the ID. It has greatly reduced the manual processes and has allowed for the dissemination of information to the public through the Internet. Examination application

allows for the electronic submission and collection of premium tax returns and payments. With these modifications to HIDS, continued interfaces with the NAIC and the Hawaii Information Consortium (they provide the Internet portal for the State of Hawaii's web site), databases can be built. These interfaces will continue to improve the efficiency of the ID and provide better services and information via the web to consumers and insurance licensees.

5. Accreditation of state insurance regulators is administered by the NAIC and requires state insurance departments/divisions to have and maintain adequate statutory and administrative authority as well as sufficient resources to effectively regulate the financial solvency of insurance companies. In order to maintain the accreditation, the ID will ensure the required level of funding in the budget for its financial surveillance resources. Also, the ID will review and submit to the Legislature, when necessary, proposed legislation for the adoption of NAIC model laws required for accreditation.

6. The ID's web site allows the public to access general information on insurance, information on licensees, comparative auto and homeowners' premiums, and information on how to file a complaint. Producers can now apply for a license, renew their licenses and submit appointments on-line. The ID has several projects which have created additional interfaces from HIDS to the NAIC and the Hawai`i Information Consortium databases. The current interface enhancement projects include allowing producers to update contact information, continuing education providers can submit completed course credits on-line and course schedules, time and locations will be able to be found on the website. The ID worked with the NAIC to implement additional lines of filing through SERFF.

7. President Obama signed the PPACA into law in 2010. The requirements of PPACA are many and specific time frames for states to meet those requirements are set. One of these is the State option of establishing a health exchange. The Division was the recipient of several grants from the federal Department of Health and Human Services ("DHHS") beginning in 2010 to study and create and implement, if decided, a health insurance exchange in Hawai`i. Health insurance exchanges are part of PPACA and are designed to allow individuals and small businesses to purchase federally qualified health plans written by private insurer and obtain federal subsidies. Exchanges must also provide a front end for Medicaid. The Division is devoting resources and is working with the Hawai`i Health Connector (the State's exchange) to ensure that the State is incompliance with the PPACA.

Financial Summary

The CRF financial summary relating to INS for FY12 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
$4,776,142	$1,621,673	$6,397,815	$8,024,136

CONCLUSION

The ID has met and continues to meet its mission and goals to maintain a secure and competitive insurance market place for consumers.

OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

website: www.hawaii.gov/dcca/oah/
e-mail address: 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 divisions within DCCA that are required by law to provide contested case hearings under the provisions of HRS Chapter 91. The primary CRF caseload of OAH is composed of cases originating from: 1) the Regulated Industries Complaints Office (RICO) and boards, commissions, and programs attached to the Professional and Vocational Licensing Division (PVL) on licensee disciplinary action and declaratory relief petitions; 2) citations issued to persons or businesses engaged in unlicensed activities; 3) trade name/trademark revocation and securities cases from the Business Registration Division (BREG); 4) denials of no-fault and personal injury protection benefits; and 5) other matters from other divisions.

OAH also is responsible for conducting administrative hearings for (1) procurement cases from all agencies and divisions of the State and the four counties that arise under the State's Procurement Code, HRS Chapter 103D; (2) due process hearings involving the Individuals with Disabilities Education Act (IDEA) under a Memorandum of Agreement with the Department of Education; 3) certain kinds of motor vehicle dealer, distributor and manufacturer disputes under HRS Chapter 437 Part 2; 4) appeals of benefit determinations from the Employer-Union Health Benefits Trust Fund under a Memorandum of Understanding; and 5) appeals of benefits determinations from the Employees' Retirement System of the State of Hawaii under a Memorandum of Understanding.

In addition, on May 5, 2011, the OAH became responsible for the administration of Mortgage Foreclosure Dispute Resolution Program (MFDRP) established by Act 48 (SLH 2011). The MFDRP provides owner-occupants an opportunity to negotiate an agreement that avoids foreclosure or mitigates damages in cases where foreclosure is unavoidable. With the input and assistance of the Judiciary's Center for Alternative Dispute Resolution, the MFDRP contracted with three entities to provide neutral services for the dispute resolution process, participated in the training of neutrals, contracted for and assisted with the creation of a website for purposes of providing access to the Program for borrowers, lenders, and neutrals, and the Program up and running by October 1, 2011. The MFDRP was subsequently modified by Act 182 (SLH 2012). An annual report is separately produced detailing MFDRP activities.

Lastly, OAH also provides administrative support to the Medical Claims Conciliation Panel (MCCP) and the Design Claims Conciliation Panel. The MCCP program is responsible for conducting informal conciliation hearings on claims against health care providers before such claims can be filed as lawsuits. Similarly, the DCCP program is responsible for conducting informal conciliation hearings on claims against design professionals (engineers, architects, surveyors, and landscape architects) before such claims can be filed as lawsuits. The decisions of the MCCP and DCCP panels are advisory in nature and are not binding on the parties, in the event that any party still wishes to pursue the matter via the courts. An annual report is separately produced regarding MCCP and DCCP activities.

Composition

The OAH staff responsible for CRF related activities are: Senior Hearings Officer, division secretary, four additional hearings officers, two legal clerks, and an MCCP/DCCP clerk. In addition, a program specialist and an office assistant were hired to design, implement and administer the MFDRP. The office is physically located in the King Kalakaua Building, 335 Merchant Street, Suite 100. The OAH mailing address is: Office of Administrative Hearings, 335 Merchant Street, Suite 100, Honolulu, Hawai`i 96813; phone number: 586-2828; fax number: 586-3097; internet address: www.hawaii.gov/dcca/oah/; and e-mail address: oah@dcca.hawaii.gov.

ACCOMPLISHMENTS

The following table summarizes the CRF-related activities conducted by OAH for the 2011-2012 fiscal years:

Type of Proceeding Conducted	Number
Pre-hearing conferences	104
Status conferences	52
Motions	26
Hearings	127

The following table summarizes the number of cases and the relative percentage of CRF-related activities conducted by OAH for the 2011-2012 fiscal years.

DCCA Divisions Referring Matters to OAH	Cases Filed	%
Insurance Division (denial of personal injury protection benefits)	152	49%
Regulated Industries Complaints Office (disciplinary proceedings and citations for unlicensed activities)	86	28%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, violations of securities laws)	19	6%
Professional and Vocational Licensing (license denials)	12	4%
Office of Administrative Hearings (condominium disputes)*	0	0%
Office of Administrative Hearings (procurement protests) **	38	12%
Other CRF-related hearings	3	1%

***** By statute, the Condominium Dispute Resolution Program expired at the end of the previous fiscal year.
** Act 173 of the 2012 Legislature permanently instituted protest bond and minimum amounts in controversy requirements, effective July 1, 2012, that were not applicable during the 2011-2012 fiscal years. Accordingly, the number of procurement protests will be significantly less in the 2012-2013 fiscal years and thereafter.

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

GOALS and OBJECTIVES

The primary goal and objective of the Office of Administrative Hearings has always been to conduct contested case hearings and issue recommended decisions, in a fair and impartial manner, as expeditiously as possible.

In order to track the processing of cases from the date of filing to the issuance of a final order, pursuant to directives from the Director's Office, as of July 1, 2005, the Office of Administrative Hearings has implemented additional processes and procedures to ensure that all cases are timely processed:

1. Revising the Office of Administrative Hearings data base to include additional data fields so that all pending cases can be tracked for timeliness throughout the entire hearings process;
2. Physical inventories of all Office of Administrative Hearings cases in February and July of each year, and
3. Specific procedures for the disposition of cases in which no action has been taken by the parties.

The secondary goal and objective of the Office of Administrative Hearings is to make all of the decisions issued by the Boards, Commissions, Programs, and Divisions that are part of the CRF, available to the public. All procurement protest decisions are currently available online shortly after the parties themselves are notified of the decisions. All special education decisions are made available online by the Department of Education. All decisions in other areas since January 2009 have also been posted online. The purchase of new software has allowed OAH to redact decisions of personal information protected by privacy laws and also make the online decisions ADA complaint. OAH now publishes all such decisions shortly after they are issued.

CONCLUSION

The Office of Administrative Hearings will continue to work closely with all of the Boards, Commissions, and Programs that are part of the CRF, as well as with the other DCCA divisions that are also integral parts of the professional and vocational licensing system, to ensure that cases are processed as expeditiously as possible, and that all participating entities will have access to the OAH case data base and archives of past decisions.

OFFICE OF CONSUMER PROTECTION (OCP)

Website: www.hawaii.gov/dcca/ocp
E-mail address: ocp@dcca.hawaii.gov

OVERVIEW

The Director of the Department of Commerce and Consumer Affairs serves as consumer counsel for the State of Hawaii under Chap. 487 of the Hawaii Revised Statutes ("HRS") through the Department's Office of Consumer Protection ("OCP"). OCP is responsible for reviewing, investigating and prosecuting allegations of unfair or deceptive trade practices in consumer transactions on behalf of the State of Hawaii. In addition to its enforcement powers, OCP provides consumer education and promotes awareness of important consumer protection issues through its programs, media releases, and educational materials.

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

OCP also provides the general public with information about the Hawaii Residential Landlord Tenant Code through its Landlord-Tenant Hotline.

OCP has successfully adopted a number of different strategies to ensure that 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, in an effort to proactively address perceived consumer problems, the office initiates investigations of problematic commercial practices. Third, staff persons attempt to provide as much assistance by telephone as possible, so as to enable a consumer to resolve their concern(s) without government intervention. Fourth, emphasis is placed on consumer and business education, through public service announcements, Consumer Dial messages, public informational forums, speaking engagements, media releases, and the dissemination of brochures. Finally, OCP partners with numerous public and private agencies to promote consumer protection throughout the State of Hawaii. In view of the successful implementation of these goals during the past few years, OCP will continue to focus on them in the foreseeable future.

OCP's main office is located at the Leiopapa A Kamehameha Building (State Office Tower), 235 South Beretania Street, Suite 801, Honolulu, Hawaii 96813. It shares offices with the Regulated Industries Complaints Office (RICO) in Wailuku, Maui at 1063 Lower Main Street, Suite C-216 and in Hilo, Hawaii at the Bank of Hawaii Building, 120 Pauahi Street, Suite 212. OCP's website address is www.hawaii.gov/dcca/ocp. Its functions are divided into four basic sections: intake, investigation, landlord-tenant, and legal.

Composition

OCP is organized under the following four sections:

The Consumer Resource Center Intake Section - phone: (808) 587-3222

The Consumer Resource Center (CRC) handles the intake of complaints for OCP. CRC is staffed by investigators who answer consumers' questions, distribute OCP complaint forms to consumers, receive written consumer complaints, and forward cases to OCP for review, closing or further investigation. In addition, a section within CRC answers telephonic requests for prior complaint history. If circumstances permit, consumers also have the opportunity to visit OCP's Honolulu office to view the actual case files. Prior to the release of any file, OCP's staff reviews its contents to ensure that legally protected private information is not disclosed. See Table 2, statistics on OCP Information Requests.

The Investigation Section - phone: (808) 586-2630

OCP's investigation section receives cases from CRC and gathers evidence to determine whether violations of consumer laws have occurred. Investigators' tasks include site inspections, witness interviews, document collection, evidentiary analysis, report writing and the service of subpoenas. See Table 3, Number of OCP Complaints Filed; Table 4, Numerical Breakdown of Dispositions of All OCP Cases; and Table 5, OCP Complaints by Subject Matter for FY 2011-12 statistics.

The Landlord-Tenant Section - phone: (808) 586-2634; Consumer Dial: (808) 587-1234; website www.hawaii.gov/dcca/ocp

OCP operates the Landlord-Tenant Volunteer Center. The Center is staffed primarily by OCP investigators who answer questions about landlord-tenant issues Monday through Friday each week. The Landlord-Tenant Center does not represent landlords or tenants in court or provide legal advice; its role is limited to providing information regarding the particular laws relating to landlords and tenants. The office supplements this function by making available additional information on the department's 24-hour Consumer Dial Information Service, and on its website. The office also disseminates information to interested parties through its very popular Landlord-Tenant Handbook, of which thousands are distributed each year.

The Legal Section - phone: (808) 586-2636

The Legal Section consists of staff attorneys who file civil actions against consumer law violators. Attorneys also engage in informal and formal resolution of cases prior to filing lawsuits.

OCP also provides the following services:

Consumer Education

In an effort to enhance consumer awareness of various consumer problems, OCP continuously strives to promote consumer education. The office issues press releases on a variety of consumer topics, and prepares and distributes written materials to provide specific consumer information. OCP also provides consumer information through its website and its Consumer Dial Information Service, in which interested parties can call 24 hours a day and receive information on a variety of topics. In addition, OCP staff has participated in numerous educational forums in which thousands of consumers and business persons have received extensive information about consumer protection in Hawaii.

Neighbor Island Assistance Requests

OCP staff offers assistance to neighbor islands residents in DCCA related matters or other areas, as is reflected in the attached Table 6.

In addition, the office's neighbor island staff has been trained in the technical operation of the State's Video Conference Center equipment and provides technical assistance to the department's hearings office so that neighbor island administrative hearings can be conducted through video conferencing.

GOALS AND OBJECTIVES

During the next five years, OCP will strive to fulfill its statutory mandate by fostering a fair and safe marketplace for both consumers and businesses. In this regard, 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 specific goals and objectives include:

- Maintaining fiscal responsibility on behalf of DCCA/OCP;
- Supporting innovative legislation designed to protect the consumers in the State of Hawaii;
- Proactively initiating cases against problematic business practices before there is widespread consumer harm;
- Disseminating consumer education to the largest possible audience;
- Facilitate the exchange of information with a wide array of law enforcement agencies; and
- Providing in-house training to OCP investigators and attorneys.

ACCOMPLISHMENTS

Consumer Education

During the past several years, OCP has educated tens of thousands of citizens by conducting workshops for senior care providers, speaking to business leaders and consumers regarding consumer protection and training Hawaii attorneys and military legal assistance personnel on consumer protection law.

Recently, OCP has focused on the growing problems of identity theft and mortgage fraud by providing important information to thousands of Hawaii residents on how to avoid being victimized.

Cases

OCP handled significant cases in 2012 involving nearly every area of consumer protection. It filed and resolved numerous cases relating to alleged violations of Hawaii's laws governing mortgage fraud, unaccredited degree granting institutions, identity theft, gift certificates, car rentals, credit practices, deceptive marketing practices, door-to-door sales, refund and exchanges, and unfair or deceptive trade practices, including complex multistate investigations into unfair and deceptive marketing practices committed by national pharmaceutical companies. OCP's involvement successfully resulted in recovering approximately $1.8 million dollars from respondents for having engaged in alleged unfair or deceptive trade practices and thousands of dollars in restitution for Hawaii consumers.

LEGISLATION

OCP testified and provided input on virtually every measure relating to consumer protection at the Hawaii Legislature in 2012, including those relating to mortgage foreclosures, the scanning of the machine readable portions of state identification cards and driver's licenses by merchants and other establishments, unscrupulous payday lending practices against servicemembers and their dependents and mortgage rescue fraud.

The CRF financial summary relating to OCP for FY 2011-12 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
$1,210,270	$204,008	$1,414,278	$1,878,132

CONCLUSION

OCP continues to receive a large number of 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 and consumer protection agencies throughout the country, OCP's staff attempts to keep abreast of the latest consumer problems and "rip-offs," in order to prevent them from occurring. Through its efforts in taking proactive measures to prevent wide-scale consumer problems before they occur, and through its enforcement actions and consumer and business education, OCP strives to fulfill its mission of protecting Hawaii's consumers and businesses.

Table 1: Laws Enforced by OCP

HRS §209-9	Price Gouging
HRS §290-11	Towing
HRS Chapter 437D	Motor Vehicle Rental
HRS Chapter 446	Debt Adjusting
HRS Chapter 446E	Unaccredited Degree Granting Institutions
HRS Chapter 476	Credit Sales[9]
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices[10]
HRS Chapter 480D	Collection Practices[11]
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; Offers of Gifts or Prizes; Aid to Handicapped; Refunds and Exchanges; Solar Energy Devices; Sales of Computers; Sensitivity Awareness Group Seminar; Credit Repair Organizations; Gift Certificates; Ticket Sales
HRS Chapter 481C	Door-to-door Sales
HRS Chapter 481D	Going Out of Business Sales
HRS Chapter 481F	Sale of Fine Prints
HRS Chapter 481H	Water Treatment Units
HRS Chapter 481K	Assistive Technology Warranty Act
HRS Chapter 481L	Motor Vehicle Lease Transactions
HRS Chapter 481M	Rent-to-Own
HRS Chapter 481P	Telemarketing Fraud Prevention Act
HRS Chapter 481 X	Service Contracts
HRS Chapter 486N	Health Clubs
HRS §487-5	Laws Enacted and Rules Adopted for the purpose of consumer protection[12]
HRS Chapter 487A	Plain Language Law
HRS 487J	Social Security Number Protection
HRS 487H	Notification of Security Breaches
HRS 487R	Destruction of Personal Information Records
HRS Chapter 506	Reverse Mortgage Loan
HRS Chapter 521	Landlord Tenant Code[13]

[9] HRS §476-31. OCP has also filed cases based upon the Federal Truth in Lending Act and the State's usury statute, HRS Chapter 478.

[10] OCP also has enforcement power over certain Lemon Law agreements (HRS §481I-4), and has filed lawsuits based upon HRS §486-119, "Made in Hawai'i" law. Also HRS Chapter 514E sets forth a comprehensive regulatory scheme for time-share development, sales and maintenance. However, there is a section which makes thirteen specific types of conduct *per se* violations of HRS §480-2. Under HRS §490:2A-104, UCC leases are explicitly subject to state consumer protection statutes and case law.

[11] *See also*, Collection Agencies HRS §443B-20.

[12] E.g. Motor vehicle advertising, HRS §437-4.

[13] HRS §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 §480-2. In addition, HRS §521-77 provides that OCP may receive, investigate and attempt to resolve any dispute arising under HRS Chapter 521.

Table 2: OCP Information Requests

REQUEST AND INQUIRIES	FY 09-10	FY 10-11	FY 11-12
Requests for Prior Complaint History	4,916	4,367	6,318
Website inquiry General Information	-	120,785	80,633
Website inquiry Landlord/Tenant Information	-	157,850	91,139
Requests for Landlord/Tenant Information	7,286	7,561	7,211
Complaint Inquiries	10,120	16,102	16,558
Requests for Records Review	20	7	10
TOTAL	**22,342**	**306,662**	**201,869**

Table 3: Number of OCP Complaints Filed

COMPLAINANT	FY 09-10	FY 10-11	FY 11-12
Public	1,904	1,787	1454
OCP	85	54	42
TOTAL	**1,989**	**1,841**	**1496**

Table 4: Numerical Breakdown of Dispositions of All OCP

DISPOSITIONS	FY 09-10	FY 10-11	FY 11-12
Complaint Withdrawn	14	15	13
Legal Action & Referrals to Legal	170	103	174
Advisory Contact	37	27	30
Civil Dispute/Personal Matter	66	83	66
Monetary Threshold	1	0	0
Complainant Uncooperative	43	32	34
Consumer Complaint Resolved	65	69	40
Respondent Died or Bankrupt	298	63	91
Business vs. Business	26	25	37
No Jurisdiction	13	10	13
Refer to Investigation	151	76	81
Other	2	4	2
Warning Letter	56	39	35
Insufficient Evidence	379	391	365
Transferred to Other Gov't. Agency	1,123	959	858
No Violation	26	26	9

DISPOSITIONS	FY 09-10	FY 10-11	FY 11-12
Information Only/Inquiry	136	244	88
Total	**2,606**	**2,166**	**1936**

Table 5: OCP Complaints by Subject Matter
A complaint may cover multiple subject matters

SUBJECT	FY 09-10	FY 10-11	FY 11-12
Mortgage Foreclosure Dispute Resolution Act-Act 48 Non-Public			1
Refund Law- Refund/Exchange/Merchandise Credit	68	39	42
Gift Certificate	19	28	20
Rebate	4	2	1
Animals	7	9	11
Breeders	0	2	0
Pet Grooming	0	0	0
Pet Shops	2	3	2
Kennels/Boarding	0	1	1
Veterinary Clinics			4
Apparel/Accessories	5	4	8
Laundry/Dry Cleaning/Laundromats	3	1	1
Dressmaker/Tailors	2	0	1
Fabric/Notions/Etc.	0	0	1
Shoes/Etc.	3	3	3
Clothes	3	3	7
Appliances	22	33	20
Refrigerator/Freezer/Stove/Range	11	19	8
Water Heaters/Air Conditioners	2	1	4
Washer/Dryer	7	4	3
Radio/Stereo/Tape Deck/CD Player	1	3	2
TV/VCR/DVD	3	4	6
Sewing Machine	0	2	0
Vacuum Cleaner	4	7	4
CB Radios	0	0	0
Computers/Software	25	20	24
Health Services/Products	18	18	21

SUBJECT	FY 09-10	FY 10-11	FY 11-12
Exercise Devices	1	0	1
Exercise/Health Clubs/Clinics	10	5	4
Health Foods	1	1	1
Weight Reduction	0	0	2
Cosmetics/Beauty Products	4	3	3
Wigs/Hairpieces	1	0	1
Barber/Cosmetology Clinics			0
Entertainment/Music	2	5	2
Concerts/Events	1	1	2
Ticket Sellers/Promoters	2	1	4
Theaters	0	0	1
Night Clubs/Discotheques	2	2	0
Musical Instruments/Lessons	0	1	2
Audio Records/Tapes/CD/Etc.	3	1	0
Buying Clubs - Record/Tape/CD/Video	0	0	1
Video Records/Tapes/CD/Etc.	10	9	1
Florists/Nurseries	0	1	0
Food/Drink	10	8	8
Food Stores/Markets	10	2	10
Drive Inns	0	0	0
Caters/Deli	1	1	1
Bakery	0	0	0
Restaurants	8	12	14
Banquet Halls	0	0	0
Bars/Cocktail Lounges	0	0	0
Energy/Fuels	0	1	0
Solar Energy	0	0	4
Gas, Propane, Etc.	4	2	5
Energy Saving Devices	0	0	1
Identity Theft	48	30	24
Identity Theft – Security Breach Notification	19	18	13
Identity Theft – Social Security Theft	0	1	0
Identity Theft – Destruction of Personal Information/Records	1	0	0
Identity Theft – Security Freeze	0	0	0

SUBJECT	FY 09-10	FY 10-11	FY 11-12
House Materials/Goods/Services	8	7	8
Beds & Mattresses	2	2	4
Furniture	14	9	8
Cookware	3	1	0
Drapery	1	0	0
Carpet/Rugs	4	5	1
Clocks	1	2	1
House Hardware/Fixtures	4	4	5
Woodwork/Metal craft/Glass/Etc.	4	5	2
Interior Decorators	0	0	0
Lawn Care Products/Yard Service	1	4	0
Upholsters	1	0	0
Water Purifiers/Filters	23	2	4
Cleaning Services	3	8	4
House Construction/Remodeling	6	3	6
Vermin/Bug Extermination	0	0	0
Tools	4	0	0
Insurance	16	10	22
Extended Warranties	13	6	9
Service Agreements/Contracts	55	27	16
Jewelry	9	11	20
Precious Stone & Metals	2	3	0
Watches	1	1	4
Medical	6	49	10
Hospitals/Clinics	8	4	3
Pharmacies	2	3	1
Convalescent/Nursing Homes	1	0	0
Medical Equipment	2	1	5
Medical Service Companies	1	6	2
Medical Laboratories	0	0	1
Home Care Facilities	0	4	2
Psychiatric Counseling/Group Therapy	0	0	0
Other Counseling/Group Therapy	0	0	0
Occupational Therapists (457G)	0	0	0

SUBJECT	FY 09-10	FY 10-11	FY 11-12
Morticians, Cemeteries & Other	0	1	2
Moving & Storage	17	10	7
Private Storage Company	1	0	2
Bill of Lading	0	0	0
In-transit Storage	0	0	0
Delivery Service	5	25	12
Air Cargo Service	0	0	3
Self Storage			1
Box/Package Delivery Service			2
Multi-Product Retailer/Wholesalers	5	7	4
Buying Clubs	1	0	0
Department Stores	3	2	5
Photography	3	1	2
Photo Studios	0	0	0
Film Processing	0	0	0
Camera/Equipment	2	3	1
Photographic Services	6	4	2
Professional Services	7	2	9
Attorneys/Legal Services	14	10	11
Accountants/Bookkeeping	0	1	1
Tax Services	2	4	3
Medical Professional	8	4	3
Adoption Agencies	0	0	0
Printers	2	1	0
Regulated Services (Trade & VO Caption)	1	3	3
Protection Devices	0	0	0
Fire/Burglar Alarms	3	5	5
Heat/Smoke Detectors	0	0	0
Locks (Windows, Doors, Etc.)	2	3	0
Fire Extinguisher	0	0	0
Recreation/Toys/Game/Etc.	11	7	8
Arts & Crafts	4	3	1
Boats & Airplanes	4	4	2
Toys	6	3	2

SUBJECT	FY 09-10	FY 10-11	FY 11-12
Surfboards	1	0	0
Video Games	2	0	3
Camping Equipment	0	0	0
Sporting Goods	5	3	5
Recreational Rentals	1	0	3
Transportation	3	4	0
Cabs	5	1	2
Moving Companies/Storage	8	5	4
Pedi-Cabs	0	0	0
Tour Buses and Limos	0	0	2
Automobiles	7	3	13
Car/Truck Rental	20	19	23
Car/Truck Lease	1	1	0
Moped Rentals	2	0	2
Other Transportation Rentals	2	1	0
Towing	39	24	35
Parking	10	8	5
Body/Paint Shops	8	4	4
Auto Parts/Repair	18	14	23
Rust proofing/Undercoating	1	0	0
Glass Tinting	1	0	0
Vehicle (Incl Mopeds) New & Used Sales	13	33	37
Warranties	11	4	3
Travel/Vacations	64	24	24
Air Travel Services (Airlines, Etc.)	7	14	9
Ocean Travel Services (Cruises & Ships)	0	2	2
Discounted Tickets - Travel/Entertainment	14	2	6
Hotels & Motels	20	8	14
Bed & Breakfast	3	5	0
Tour Services	4	7	2
Travel Clubs	0	0	0
Passports & Visas	0	0	0
Utilities	1	0	0
Gas Provider	2	4	1

SUBJECT	FY 09-10	FY 10-11	FY 11-12
Electric	1	1	3
Telephone/Cellular/Pagers	54	42	30
Water	3	1	1
Cable	6	3	2
Telecommunications/Electronic Devices	4	1	2
Dating/Wedding Services	6	1	9
Investment/Financial	3	7	7
Chain Letter	0	0	0
Consumer Credit	114	96	5
Credit Card	43	34	29
Checking Accounts	6	3	0
Debit Accounts	3	3	2
Promissory Notes	0	2	0
Buying on Account	0	0	1
Information to Obtain Credit/Credit Cards	0	0	0
Discount Coupons/Books	1	0	2
Financial Institutions	4	8	3
Credit Reporting Agency	3	5	4
Credit Repair	6	3	4
Collection of Debts	9	15	6
Advance Fee Loans	3	4	5
Bank/Savings & Loan/Industrial Loan Companies	6	118	3
Escrow Services	1	2	1
Loan/Mortgages and Related Services	204	251	36
Mortgage and Related Services	-	0	22
Investment/Opportunity Scheme	12	0	4
MLM/Pyramids/Endless Chain Schemes	3	10	1
Referral Sales	0	0	0
Get Rich Programs	0	1	1
Work-at-Home Programs	1	0	4
Coins/Currency	5	4	2
Stocks & Bonds	1	2	2
Oil/Gas Lottery	0	0	0
Art	2	1	3

SUBJECT	FY 09-10	FY 10-11	FY 11-12
Securities	1	3	1
Tax Planning/Devices	2	0	0
Contract Sellers	0	1	0
Pawn Shops	0	0	1
Auctioneers	1	1	0
Second Hand Dealers	3	1	0
Real Estate	52	42	37
Landlord-Tenant			18
Foreclosure and Related Services			4
Sweepstakes/Lottery/Games of Chance	16	42	20
Contests	2	1	3
Gambling	0	0	1
Education/Information	1	8	4
Schools (Elementary, High)	1	0	1
Degree Granting Schools	6	8	3
Unaccredited Degree Schools	6	4	5
Trade/Vocational Schools	6	5	3
Home Study	0	0	0
Correspondence Schools	0	0	0
Dance Schools	1	1	0
Modeling Schools	1	1	1
Day Care Centers	1	0	2
Employment	5	6	3
Resume Preparation	0	0	0
Modeling Agency	0	0	2
Regular Periodic Information Service	0	0	0
Magazine	4	3	5
Subscription Services	13	4	7
Newspaper	1	3	3
TV Broadcasting	1	0	0
Radio Broadcasting	0	0	0
Computer Information Services	1	1	3
Internet Transactions	423	426	436
Internet Fraud Complaint Center/ NW3C	717	667	639

SUBJECT	FY 09-10	FY 10-11	FY 11-12
Books/Encyclopedia	4	2	5
Self-Improvement Seminars	1	0	0
Encounter Group Therapy	0	0	0
Charitable Solicitations	4	1	3
Environmental Claims	0	0	0
Religious	0	1	1
Emergency: Prize/Freeze/Gouging/Rent Termination	0	0	0
Rent to Own	0	0	0
Elderly Issues	11	5	5
Civil Procedures/Statutory Constructions	0	0	0
Multistate Projects	15	8	10
Spamming	1	5	1
Scam			83
Tax (G.E.T.; T.A.T.; ETC)			3
MS – Newspaper Advertisement	8	8	1
MS – Other Regular Printed Media Ad (Magazine, Etc.)	4	4	6
MS – Television/Cable	4	9	4
MS – Info Commercial	3	0	1
MS – Telemarketing	10	5	5
MS - 1-900 Numbers	0	0	0
MS – Direct Mail	0	0	2
MS – Information Brochure	0	0	0
MS – Response Card/Letter	2	1	1
MS – Home Presentation (Door-to-Door)	3	5	3
MS – Radio	1	2	0
MS – Product Show	1	1	2
MS – Information/"How To" Seminar	2	6	0
MS – Mail Order	6	3	0
MS- Internet Advertisement			18
MS- Email and Related Methods			3
Special Project to be used by OCP only			2
TOTAL COUNT	**2,771**	**2,664**	**2306**

Table 6: OCP Neighbor Island Assistance FY 11-12

DIVISION	HILO	MAUI	TOTAL
Division of Financial Institutions	1	2	3
Business Registration	6	15	21
Cable Television	0	2	2
Insurance Division	2	8	10
Division of Consumer Advocacy	0	0	0
Professional & Vocational Licensing	0	16	16
Regulated Industries Complaints Office	17	54	71
Non-Departmental Related	31	83	114
Other DCCA Divisions	1	5	6
TOTAL	**58**	**185**	**243**

PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)

website: hawaii.gov/dcca/pvl
e-mail address: pvl@dcca.hawaii.gov

OVERVIEW

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations for forty-seven (47) different professions and vocations. Twenty-five (25) licensing regulatory boards and commissions are administratively attached to DCCA/PVL, as well as twenty-two (22) licensing programs (those without a board or commission). The division provides staff support to the licensing regulatory boards, handles applications and licenses, reviews and processes renewals, and maintains license records. The division provides guidance for proper implementation of the licensing laws and administrative rules for the forty-seven (47) professions and vocations. Additionally, PVL responds to phone inquiries on whether a person or entity is properly licensed. This is a service that can assist consumers in making a decision on whether or not to utilize the services of the person or entity.

PVL's division, Board and Program websites are very user friendly. PVL continues to explore ways to enhance public accessibility to licensing information, the licensing process, and its licensee roster. PVL's webpage, a site that provides general licensing information for all 47 licensing areas, features fillable license applications, publications, links to Hawaii Revised Statutes and Hawaii Administrative Rules, as well as a means to request an application or contact the board or program staff via e-mail. The website address is http://hawaii.gov/dcca/pvl. The website also includes FAQs, a link to online services, a link to board meeting schedules and agendas, board meeting minutes, and a Geographical Report of current licensees by licensee type, by island, and by type of entity. The geographical report is updated regularly to reflect the number of current licensees who have been issued licenses by PVL. It is a useful tool for those who are interested in the number of licensees by their professions and their geographic locations.

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

This is the twelfth year that online renewals are being made available to licensees. This entirely paperless process enables licensees to complete, file, and pay for their license renewals electronically. A fair share of renewals are still mailed in by licensees and manually processed by PVL, but by far, the majority of the renewals are done online. Online renewals are available at http://hawaii.gov/dcca/pvl/e_services.

With regard to fiscal matters, PVL's goal is to maintain the division as a special-funded and entirely self-sufficient program. Through careful budgeting of PVL revenues and expenditures, PVL endeavors to maintain self-sufficiency, while expanding and improving services to the public. Internally, PVL continues to evaluate and re-engineer its processes for efficiency and streamlining, and to develop alternative means of delivery of licensing information to the public.

PVL is located at 335 Merchant Street, on the third floor of the King Kalakaua Building, Honolulu, Hawaii 96813.

Composition

PVL is divided into four branches:

Licensing Branch **(Phone 586-3000)** is comprised of the Applications Section and the Records Section. The Applications Section 1) assists with the review and processing of applications for licensure; 2) issues licenses; and 3) maintains records of licensing applications. The Applications Section staff, on behalf of the boards, commissions, and programs, conducts highly intensive reviews of all initial licensing applications, determines the status of such applications, and, in some instances, makes the final determination to either issue or defer issuing licenses. The Applications Section also performs customer service duties by answering the main public call-in line of the division which normally exceeds 5,000 calls per month. The Records Section is responsible for renewing, restoring, and reactivating licenses and maintaining records of all licensees. The Records Section staff is also involved with performing customer service duties by assisting the public with licensing information at the main PVL walk-in counter. Both sections of the Licensing Branch utilize the PVL computerized licensing database to provide immediate information pertaining to applicants and licensees. Inquirers may obtain information on whether a person or entity is licensed, the original date of licensure, the current 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.

Examination Branch **(Phone 586-2711)** arranges for the administration of licensing examinations on behalf of the boards, commissions, and programs, confirms the validity and reliability of exams, revises board constructed examinations to ensure their continued validity and reliability, and advises boards, when necessary, on the technical aspects of examinations. In addition, the Examination Branch transmits and verifies to various testing organizations the eligibility information of applicants seeking licensure in Hawaii who have been deemed approved to sit for the examination. The Examination Branch also sees that the approved applicants are provided the necessary pre-examination information, and generates and provides the applicants their post-examination score reports. Moreover, the Examination Branch reviews and processes requests by applicants for special examination accommodations with regard to the Americans with Disabilities Act. In addition, the Examination Branch maintains the examination records for applicants and licensees.

Administration Branch **(Phone 586-2690)** serves as the liaison between the director of the department and the twenty-five (25) boards, commissions, and twenty-two (22) regulatory programs administratively attached to DCCA. On a daily basis, the Administration Branch (comprised of a Staff Attorney, Executive Officers, Program Specialists, and Secretaries) handles board affairs such as the coordinating, preparing, facilitating, and recording of board meetings; ensuring board compliance with applicable laws that guide and direct their conduct; and implementing board decisions on applications, policies and procedures, and disciplinary actions. The Administration Branch also responds to requests for interpretation of the licensing laws and rules, oversees licensing and examination activities, and guides and assists with regulatory compliance issues. The same activities are done for the twenty-two (22) programs (absent the necessity of board meetings) on behalf of the director of the department. There are also substantial coordination and facilitation activities performed by the Administration Branch with other state, county, and federal agencies involved with licensing and regulatory issues.

Real Estate Branch **(Phone 586-2643)** serves as the liaison between the director of the department and the Real Estate Commission (REC), and performs the same functions as the Administration Branch for real estate licensing and regulation, and condominium property regimes. With the largest volume of applicants, licensees, and registrations, the Branch (comprised of a Supervising Executive Officer, an Executive Officer, Real Estate Specialists, Condominium Specialists, Secretarial and Clerical staff) administers the Real Estate Recovery Fund, Real Estate Education Trust Fund, and the Condominium Education Trust Fund. The Branch also administers education and research programs in the field of real estate and condominiums. Information on the programs, financial reports, and the Commission's annual report may be reviewed at the Branch's website: http://hawaii.gov/hirec.

In summary, all Branches within PVL work toward efficient and expedient processing of applications, licenses, and renewals to ensure the public has choices among competent and licensed practitioners. For a statistical summary of PVL key activities, see Table 1: PVL Statistical Overview; Table 2: Total Number of Current PVL Licensees; Table 3: Total Number and (Percentage) of Licenses Renewed Online; and Table 4: Total Number of Email Inquiries.

GOALS AND OBJECTIVES (Action Plan) for FY 2013

PVL will continue to be fiscally conscious and will continue to protect its special fund so that it remains solvent to provide accurate, efficient, and timely services.

PVL will continue to look for ways to enhance and improve its online systems for renewals, License Searches, List Builder, and PVL's webpage to be more user friendly and informative.

PVL will begin to regulate Athletic Trainers, effective January 1, 2013. It has been reported that there are approximately 155 athletic trainers in the State of Hawaii.

PVL, more specifically, the Board of Private Detectives and Guards (Board), has begun to prepare for the implementation of registering approximately 10,700 security guards in the State, effective July 1, 2013. It has been an onerous and tedious process in trying to prepare for this new regulatory framework. As part of the application process, the Board is in discussions on trying to determine what "or its equivalent" means as far as the applicant having to possess a high school education "or its equivalent". Discussions among the various parties are still ensuing to determine what "or its equivalent" means. While this mandatory regulation appropriated some funding for two positions for the processing of the application forms of the 10,700 security guards, the division is running into some desk space issues within the

Licensing Branch. Unfortunately, it is clear to PVL that the division will find it very difficult to assume the regulation of more licensing more regulatory areas. The office space is restricted and the staff is already up to full capacity in trying to license the current licensing areas and renewing the current licensees in a timely manner. We are already trying to provide the best customer service for the 47 soon to be 48 licensing authorities. Adding more regulatory areas to the division would not be fair to our current licensees because we would not be able to provide them with the timely processing of their requests due to lack of staff and lack of office space.

PVL will continue to convert its downloadable application forms to online fillable application forms. This is a very tedious project and attention to detail is of utmost importance.

PVL will continue the design phase for a new online surety system that will allow insurance companies the ability to submit liability and worker's compensation insurance updates for contractor and pest control licensees. This has been a difficult project to move forward due to the complexity of designing a system that in the front end, will verify the surety is licensed to do business in this State and is authorized to write these lines of insurance. Integration with the DCCA Insurance Division license provider database appears to provide a solution. Also, dedication of resources to this project has been strained because of the need to attend to other online priorities. The staff of DAGS/ICSD, who are critical to the design and subsequent development phase, face similar strain on their resources and the likelihood of reduced staffing. We remain committed, however, to moving forward with this project.

PVL will be upgrading its licensing database system (ALIAS) to an updated compliant version by purchasing services and necessary software. ALIAS is relied upon to process license applications, renewals, and change transactions received via walk-in, mail, or over the web. It can also be used to do online PVL license searches for those who want information on licensees.

PVL will continue the scanning and imaging of licensee files so that new documents for a current licensee file are added as new licensee files are scanned, and will continue the reorganization of the hardcopy files.

The Licensing Branch will focus on improving public service in its communication with the public by providing more information regarding processing. Both sections will continue to seek as many ways to incorporate further use of technology to communicate with our customers such as twitter, the PVL website, etc., and will increase use of technology in our daily processing of the branch's tasks such as having more information placed in ALIAS or on a shared system for greater access and convenience by staff. Lastly, the Licensing Branch would like to increase the amount of renewals processed on-line by 1) removing current obstacles to online renewing and 2) further encouraging use/adoption of the online renewal system.

The Examination Branch will maintain its current efficiency but will also find additional ways to provide assistance to the rest of the division such as more in-depth assistance with handling verifications of exam results. The Examination Branch will also explore updating the license application forms as well as the information on the PVL website to include more comprehensive information regarding the examination process and requirements.

The Real Estate Branch will continue to improve the offering and delivery of real estate pre-licensing and continuing education courses to stay in line with the increase in CE hours and the changing electronic environment. Rule making will be continued for Hawaii Administrative Rules (HAR) Chapter

99 for real estate brokers and salespersons, Chapter 53 for fees relating to boards and commissions, and Hawaii Revised Statutes 514B. For the condominium program, REB solicited and collected suggestions from stakeholders in the condominium community, and is currently compiling and drafting proposed rule amendments for HRS 514B and HAR Chapter 53. REB will further work to enhance online public access to condominium projects and AOUO registrations. The Program of Work for the Real Estate Commission and the REB also includes the development and implementation of a new registration program for condominium projects. For a comprehensive report on the FY 2013 goals and objectives of the Real Estate Branch and the Real Estate Commission, please refer to http://hawaii.gov/dcca/real/main/reports to view their Annual Report for fiscal year ending June 30, 2012.

PVL will also pursue several rule amendment initiatives through the formal rule adoption process including amendments to HAR chapter 53, relating to Fees; amendments to HAR chapter 89, relating to Nurses; amendments to HAR chapter 99, relating to real estate brokers and salespersons; amendments to HAR chapter 100, relating to speech pathologists and audiologists; and amendments to Chapter 115, relating to Professional Engineers, Architects, Surveyors, and Landscape Architects. PVL will also be working on proposed new rules for Mixed Martial Arts Contests and Respiratory Therapists.

ACCOMPLISHMENTS AND PERFORMANCE MEASURES

This year additional improvements were made to existing PVL online systems and their websites as follows:

New license types were added to the online renewal system which included Community Service Dentists and Accountancy Firm Permits to Practice.

Significant Online User Activities

In pursuing the division's objective of improving and expanding customer online services, PVL saw the number of online renewals increase for businesses and professionals. In FY 12, the online renewal user rate was 88.4%, while the corresponding FY 10 biennial renewal user rate was 82.81%, resulting in a 5.59% increase in the user rate. In FY 11, the online renewal user rate was 87.35%, while the corresponding FY 09 biennial user rate was 81.29%, resulting in a 6.06% increase in the user rate.

PVL continued to absorb transaction fees that otherwise would have been passed on to licensees who used the online renewal system. With the online system, licensees were provided the ability to pay by Echeck and by credit card, all of which incurred service fees charged by PVL's online system provider. However, instead of passing on these service fees to our licensees, PVL continued to pay these costs using its online renewal revenue. For FY 12, PVL paid $408,653 in service fees. The total to-date service fees paid by PVL since the inception of the online renewal system (FY 01) is $2,459,130.

For PVL's License Search online system, there were 561,909 "page views" during FY 12. This service is a very popular, valuable, and useful tool for those who want information on licensees. The public can check to see if a licensee is currently licensed and find out if there are any formal disciplinary actions against the licensee, in addition to other pertinent information.

Significant Branch Activities

The Administration Branch coordinated and organized an Orientation for 27 of PVL's Board/Commission/Committee chairpersons on December 6, 2011. This was done at the request of the Director. The Orientation was held at the State Capitol and topics such as contested case hearings, ethics in government, sunshine law, personal liability, role of chairpersons, and how to handle complaints were covered. It was a successful event and participants remarked that it was a very valuable and informative session. We were grateful that the presenters from the various state agencies were able to accommodate our late requests for their participation. PVL's Executive Officers were also in attendance and they too mentioned that they gained a lot from the presentations. Also invited were CPN Chair Senator Roz Baker and CPC Chair Bob Herkes. Due to a conflict in scheduling, Chair Herkes was unable to attend. Chair Baker acknowledged that the Orientation was worthwhile and greatly benefitted those who were in attendance.

The Administration Branch/Office Services Branch began posting its Board meeting minutes on each of its websites. The postings are done on a regular basis.

The Licensing Branch processed approximately 9,750 new licenses and was able to attain a 92% on-time processing rate. In an effort to increase convenience, license renewal applicants were encouraged to renew online or to download a renewal application form. The Licensing Branch continues to try to incorporate use of today’s technology to improve its services. The main phone system of the division was updated in an attempt to differentiate calls regarding general inquiries and calls regarding an individual’s license status. One of PVL’s goals was to explore avenues to streamline the Licensing Branch and the Examination Branch functions and services for improved operational efficiency. The interaction between the branches is already efficient but was improved with further use of technology such as additional use of email and placing electronic files on the shared drive to provide and/or access information in place of hardcopy lists. In addition, PVL met its second goal of addressing the information that is made available to the public for thoroughness and clarity in an effort to decrease the amount of inquiries that are generated. Although this was limited mainly to renewals at this time, the branch developed improved guidelines for renewal processing for staff’s use and improved the information regarding renewal processing that is provided to the licensees. PVL also met its goal of reviewing and amending the time frames of some of the steps in the licensure process to ensure greater accountability and consistency in staff performance. As an example, the time frame for all of Records Section processing was reduced to more reasonable standards as staff shortages were addressed.

The Examination Branch was able to maintain processing of applicant eligibility for testing and post-examination results in a timely manner. Candidate eligibility information and confirmation was provided to test agencies within approximately three business days of Examination Branch staff receiving the request for the information. Examination results were processed approximately within five business days of Examination Branch’s receipt of the results. The Examination Branch continued to work closely with the testing organizations, the applicants, and the affected PVL staff such as its Executive Officers and its Licensing Branch, to ensure the examination process remains efficient. The Examination Branch also assisted in the re-securing of a testing agency for Nurse Aide registration in Hawaii.

In line with PVL's objectives of improving and expanding the division's online services, the Real Estate Branch (REB) continued with its implementation of online services, including condominium association registration and a continuing education (CE) system which provided real estate licensees the ability to view the number of CE hours required and earned for the current licensing period, their CE history, and the ability to search for future CE courses being offered by approved CE providers. Real estate licensees may also access and print their own course completion certificates for the current and previous bienniums, whereas in the past this was done by the CE providers. Additionally, real estate principal brokers and brokers-in-charge may monitor and view the current CE hours, CE history, and license status of all licensees associated with the brokerage. The system is updated daily and is simple to use. Information may be found at http://hawaii.gov/dcca/real/ce_online.

The REB/REC continued its working relationship with industry groups, and increased the number of CE hours licensees must complete to keep their real estate licenses on an active status from 10 to 20 hours.

The REB/REC's 2012 legislative participation thwarted high profile industry group members' coordinated effort to diminish key consumer protection provisions placed within the real estate licensing statute. The REB/REC will continue to strenuously advocate its purpose at the legislature for the protection of the general public in its real estate transactions.

In an effort to conserve resources and go "green", the REB/REC's condominium section has been moving towards electronic delivery of most of its programs. Among the Commission's accomplishments in Fiscal Year 2012, was the online biennial reregistration of association of unit owners and by the internet distribution of the condominium bulletin. These accomplishments allow for a wider and easier delivery of programs to the various constituencies.

For a comprehensive report on the FY 12 matters addressed by the Real Estate Commission and the Real Estate Branch, please refer to http://hawaii.gov/dcca/real/main/reports to view its Annual Report for fiscal year ending June 30, 2012.

Significant Legislative Activities

PVL had a rigorous 2012 Legislative Session. While the division did not introduce any administration bills, it was busy monitoring and testifying on bills that affected PVL. Bills impacting PVL which were passed into law in 2012 are described below.

Act 18, SLH 2012, relating to condominiums, amends Chapter 514-A, HRS, by requiring for separate utility metering of nonresidential and residential condominium units to all condominium projects, regardless of when constructed. Act 18 took effect on April 12, 2012.

Act 24, SLH 2012, relating to continuing education for pharmacists, amends Chapter 461, HRS, by amending the definition of "continuation education courses" which now means courses approved by the Accreditation Council for Pharmacy Education. Act 24 took effect on April 17, 2012, and shall apply to license renewals for the licensing biennium beginning on January 1, 2014.

Act 34, SLH 2012, relating to statutory provisions, in part, amends Chapters 514A and 514B, HRS, by making technical and non-substantive amendments. Act 34 took effect on April 20, 2012.

Act 42, SLH 2012, relating to vaccinations, amends Chapter 461, HRS, by allowing pharmacists, per a physician's prescription, to administer the influenza vaccine to persons aged fourteen to seventeen provided that the pharmacist has fulfilled certain requirements, including the training requirement to administer the influenza vaccine to minors. Act 42 took effect on April 20, 2012.

Act 52, SLH 2012, relating to collection agencies, amends Chapter 443B, HRS, by clarifying and strengthening enforcement provisions for exempt out-of-state collection agencies and increasing fines. Act 52 took effect on July 1, 2012.

Act 53, SLH 2012, relating to the center for nursing, amends Act 173, SLH 2008, by making permanent the assessment and deposit of the center for nursing fees into the compliance resolution fund and distribution of those funds to the credit of the center for nursing special fund. Act 53 took effect on April 23, 2012.

Act 79, SLH 2012, relating to professions and vocations, amends Chapter 464, HRS, by adding new definitions for “land surveying” and “professional surveyor”, “professional land surveyor”, or “land surveyor”; amending the definition of “landscape architect”; and repealing the definition of “surveyor” or “land surveyor”. Act 79 took effect on April 26, 2012.

Act 81, SLH 2012, relating to dental hygienists, amends Chapter 447, HRS, by requiring that a dental hygienist’s certificate of licensure be prominently displayed in the workplace and requiring that a dental hygienist’s pocket identification card be available for viewing upon request. Act 81 took effect on April 26, 2012.

Act 102, SLH 2012, relating to mixed martial arts, amends Chapter 440E, HRS, by amending the definition of mixed martial arts to include kickboxing, pankration, muay Thai, and xtreme martial arts. Act 102 took effect on July 1, 2012.

Act 136, SLH 2012, relating to health, amends Chapter 453, HRS, by establishing the circumstances under which a physician, osteopathic physician, surgeon, or student participating in a course of instruction, residency program, or clinical training program may perform pelvic examinations for medical and training purposes on anesthetized or unconscious female patients. Act 136 took effect on June 19, 2012.

Act 177, SLH 2012, relating to open government, amends Chapter 92, HRS, by allowing board and commission members to hear testimony for a meeting canceled for lack of quorum and to attend informational meetings. Act 177 took effect on July 1, 2012.

Act 186, SLH 2012, relating to physician workforce assessment, amends Chapters 304A and 453, HRS, by extending the physician workforce assessment fee and disbursements of the fees collected until June 30, 2017. Act 186 took effect on June 29, 2012.

Act 198, SLH 2012, relating to athletic trainers, creates a new HRS Chapter by creating registration qualifications and requirements for athletic trainers in this state. The Act provides exemptions to the registration requirement, prescribes penalties for failing to register, and makes an appropriation from the compliance resolution fund to implement the new registration program. Act 198 took effect on July 1, 2102; provided that the registration section shall take effect on January 1, 2013.

Act 202, SLH 2012, relating to public meetings, amends Chapter 92, HRS, by permitting the use of interactive conference technology to increase the ability of members of state and county boards and commissions to attend board meetings, and allows a board member with a disability that limits or impairs the member's ability to physically attend the meeting to participate in a board meeting from a location not accessible to the public if connected by both visual and audio means. Act 202 took effect on July 1, 2012.

Act 241, SLH 2012, relating to the small business regulatory review board, amends Chapter 201M, HRS in part, by authorizing the small business regulatory review board with good cause to request a written response from an agency explaining the rationale used to deny public concerns and establishes requirements to be included in the written response. Act 241 took effect on July 1, 2012.

Act 244, SLH 2012, relating to business, in part, amends Chapter 436B, HRS, by charging that any person who engages in an activity requiring a license by the licensing authority and who fails to obtain the required license, shall be guilty of a misdemeanor and each day of unlicensed activity shall be deemed a separate offense. Act 244 took effect on July 1, 2012.

Act 246, SLH 2012, relating to the motor vehicle industry licensing law, amends Chapter 437, HRS, by prohibiting a motor vehicle manufacturer or distributor from recovering or attempting to recover increased warranty reimbursements from automobile dealers. Act 246 took effect on July 6, 2012.

Act 247, SLH 2012, relating to professional and vocational licensing, amends Chapter 436B, HRS, by permitting licensure by endorsement or licensure by reciprocity in certain situations for a nonresident military spouse; permitting issuance of a temporary license if certain requirements are met; and requiring the licensing authority to expedite consideration of the application and issuance of a license by endorsement, license by reciprocity, or temporary license to a qualified nonresident military spouse. Act 247 took effect on July 1, 2012.

Act 248, SLH 2012, relating to professional and vocational licensing, amends Chapter 436B, HRS, by requiring professional and vocational licensing boards to consider relevant military education, training, and service as part of the evaluation process toward the qualifications of a license. Act 248 took effect on July 1, 2012, and is to be repealed on June 30, 2022.

Act 255, SLH 2012, relating to health, amends Chapter 457, HRS, by amending the definition of "the practice of nursing as a licensed practical nurse" and "the practice of nursing as a registered nurse" to include carrying out the orders of a licensed physician assistant practicing with physician supervision as required by Chapter 453, HRS, and acting as an agent of the supervising physician. Act 255 took effect on July 6, 2012 and shall be repealed on July 1, 2017.

Act 257, SLH 2012, relating to real estate brokers and salesperson, amends Chapter 467, HRS, by amending provisions relating to the license and penalties of real estate brokers and salespersons by requiring the real estate commission to consider whether a licensee relied in good faith on information provided by other persons or third parties. Act 257 took effect on July 6, 2012.

Act 260, SLH 2012, relating to contracts, amends Chapter 444, HRS, by shortening the time by which subcontractors are to receive progress and final payments from contractors on private construction projects, and provides interest penalties for late payments. Act 260 took effect on July 1, 2012.

Act 306, SLH 2012, relating to continuing education for veterinarians, amends Chapter 471, HRS, by establishing a veterinary license renewal requirement of at least twenty continuing education credit hours. The continuing education must be completed by June 30, 2016 for the license period beginning July 1, 2017. Act 306 took effect on July 9, 2012.

Act 324, SLH 2012, relating to public accountancy, amends Chapter 466, HRS, by adding a new part, which establishes a peer review process for public accounting firms that engage in attest work. Act 324 took effect on July 1, 2012.

Hawaii Administrative Rules Activities

In FY 12, amendments to the following rule chapters were adopted: HAR Chapter 71, relating to Certified Public Accountants and Public Accountants and HAR Chapter 88, relating to Naturopaths.

Significant Division Activity

PVL began the purging of licensee files that have been stored in the basement since moving to KKB in 2003. PVL now regularly scans license applications and all supplementary documentation, and all of these scanned records are stored in the basement storage room of KKB. As thousands of records were scanned into the database, PVL was beginning to run out of storage space in the basement, therefore, a committee was formed to research the matter. As a result, one of the committee's responsibilities is to oversee the purging of the scanned file records. PVL employees from all of its branches support and assist with the purging project. Staff sign up for two-hour shifts and many of them have participated multiple times. The purging project began in January 2012 and while the purging process is still not complete, PVL continues to strive to see the light at the end of the tunnel. This is entirely a PVL group effort. We have also donated thousands of recyclable colored file folders to many non-profit organizations on Oahu.

Financial Overview

The CRF financial summary relating to PVL for FY 12 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
$3,606,263	$942,466	$4,548,729	$5,680,330

CONCLUSION

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

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

Table 1: PVL Statistical Overview

	FY 10-11	FY 11-12
No. of applications received	11,757	13,120
No. of applicants licensed	9,221	10,125
No. of licenses renewed	68,418	68,420
No. of changes processed	215,738	200,405
No. of calls received by Licensing Branch	85,026	72,565
No. of current licensees	132,948	133,717
Total licensee population (all statuses - i.e. Current, forfeited, delinquent)	347,283	353,980

Table 2: Total Number of Current PVL Licensees

Boards and Commissions (shown by asterisk *), and Programs	**FY 10-11**	**FY 11-12**
Accountants*	3,259	3,101
Activity Desks	814	784
Acupuncturists*	687	677
Barbering and Cosmetology*		
Barbers	1,345	1,290
Barber Shops	186	186
Beauty Operator*	8,423	8,111
Beauty Instructor	98	92
Beauty School	12	10
Beauty Shops	1,295	1,222
Boxing (all categories)*	34	52
Cemeteries and Pre-Need Funeral Authorities	22	22
Chiropractors*	637	591
Collection Agencies	603	626
Contractors*	12,619	12,533
Dentists*	1,543	1,507
Dental Hygienists	38	963
Dispensing Opticians	185	201
Electricians (all categories)*	3,046	3,100
Plumbers (all categories)*	1,125	1,199
Electrologists	18	18
Elevator Mechanics*	223	230
Employment Agencies	68	77
Engineers, Architects, Surveyors, and Landscape Architects:*		
Engineers	5,977	5,986
Architects	2,310	2,225
Surveyors	211	205
Landscape Architects	159	148
Hearing Aid Dealers & Fitters	117	115
Marriage and Family Therapists	257	278
Massage Therapists*	7,436	7,982
Massage Establishments	788	886
Medical and Osteopathy*		
Physicians	8,599	8,558
Podiatrists	75	77
Osteopaths	741	780
Physician Assistants	235	240
Emergency Medical Technicians	671	637
Mobile Intensive Care Technicians	456	454
Mental Health Counselors	236	236

Mixed Martial Arts	192	134
Motor Vehicle Dealers*	257	269
Motor Vehicle Salespersons	1,429	1,601
Motor Vehicle Repair Dealers*	859	787
Motor Vehicle Mechanics	1,955	1,743
Naturopaths*	127	121
Nursing*		
Registered Nurses (RN)	21,664	20,715
Licensed Practical Nurses (LPN)	2,992	2,688
Advanced Practice Registered Nurse (APRN)	1,047	1,051
APRN with Prescriptive Authority	278	352
Nurse Aides	7,770	7,682
Nursing Home Administrators	139	147
Occupational Therapists	557	647
Optometrists*	395	390
Pest Control Operators*	185	190
Pest Control Field Representatives	219	247
Pharmacists*	2,182	2,213
Pharmacies	254	257
Wholesale Prescription Drug Distributors	65	71
Miscellaneous Permit	342	377
Physical Therapists*	825	1,468
Port Pilots	10	10
Private Detective Agencies*	41	42
Private Detectives	113	118
Guard Agencies	79	87
Guards	101	114
Psychologists*	944	1,004
Real Estate Appraisers	594	556
Real Estate Brokers*	6,207	6,441
Real Estate Salespersons	11,358	12,274
Real Estate Branch Offices	69	71
Condominium Hotel Operators	26	29
Respiratory Therapists		374
Social Workers	1,660	1,776
Speech Pathologists*	584	537
Audiologists	71	70
Travel Agencies	1,310	1,183
Uniform Athlete Agents	5	6
Veterinarians*	444	476
TOTAL	**131,897**	**133,717**

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

License Types	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Accountant		2,203 (90.4%)		2,105 (88.7%)
Accountancy Firm Permit to Practice				285 (95%)
Activity Desk		170 (75.9%)		194 (87.8%)
Acupuncturist	478 (86.59%)		561 (93.81%)	
Architect		2,004 (97.6%)		2,026 (94.76%)
Audiologist		55 (94.8%)		60 (92.3%)
Barber		709 (62.6%)		907 (79.4%)
Barber Shop		96 (58.5%)		99 (58.6%)
Beauty Operator		4,832 (71.5%)		5,991 (85.9%)
Beauty Instructor		61 (82.4%)		67 (88.2%)
Beauty Shop		665 (65.5%)		691 (66%)
Chiropractor		434 (80.7%)		507 (92.2%)
Contractor	5,927 (58.85%)		7,089 (74.53%)	
Community Service Dentist				19 (86.4%)
Dental Hygienist		747 (88.4%)		837 (96%)
Dentist		1,257 (88.6%)		1,368 (95.5%)
Dispensing Optician		151 (90.4%)		147 (89.09%)
Electrologist	10 (62.50%)		12 (70.59%)	
Electrician			1,942 (71.9%)	
Elevator Mechanic		161 (81.3%)		144 (71.29%)
Emergency Medical Technician (basic)		462 (86%)		540 (93.8%)
Emergency Medical Technician (paramedic)		353 (86.5%)		398 (93.6%)
Guard		44 (62.9%)		78 (86.67%)
Guard Agency		35 (67%)		48 (77.42%)
Hearing Aid Dealer and Fitter		86 (85.1%)		96 (94.1%)
Landscape Architect		142 (97.9%)		136 (95.1%)
Land Surveyor		193 (97.5%)		193 (96.5%)
Marriage and Family Therapist			192 (86.1%)	
Massage Establishment		500 (79.5%)		526 (82.97%)
Massage Therapist		5,130 (80.5%)		5,707 (86.08%)
Mental Health Counselor			197 (92.92%)	
Motor Vehicle Auction		4 (80%)		5 (100%)
Motor Vehicle Broker		1 (100%)		1 (100%)
Motor Vehicle Branch		27 (87%)		30 (90.91%)
Motor Vehicle Consumer Consultant		4 (80%)		3 (75%)
Motor Vehicle Dealer		175 (80.3%)	361 (54.86%)	
Motor Vehicle Salesperson		947 (86.7)	254 (48.94%)	
Naturopath		85 (94.4%)		88 (81.5%)
Nurse, Advanced Practice Registered (APRN)	596 (73.22%)		710 (78.8%)	
Nurse, Licensed Practical (LPN)	1,588 (70.52%)		2,011 (88.47%)	
Nurse, Registered (RN)	13,267 (80.49%)		15,937 (89.87%)	
Nursing Home Administrator		101 (80%)		106 (86.18%)
Occupational Therapist	349 (81.54%)		392 (87.5%)	
Optometrist		303 (89.1%)		321 (88.2%)
Osteopath		432 (81.5%)		519 (86.79%)
Pest Control Field Representative		146 (84.9%)		155 (91.18%)
Pest Control Operator (inactive status only)		3 (30%)		7 (46.67%)
Pharmacist		1,748 (90.9%)		1,997 (94.4%)
Pharmacy		121 (52.6%)		130 (52.6%)
Pharmacy – Misc. Permit		188 (70.7%)		239 (74.7%)
Pharmacy – Wholesale Prescription Drug Dist.		36 (70.6%)		46 (73%)
Physical Therapist	854 (80.41%)		1,015 (84.3%)	
Physician		5,820 (80.6%)		6,588 (87.8%)

lumber	703 (73.60%)			853 (85.47%)
Podiatrist		50 (71.4%)		54 (75%)
Private Detective		68 (73.9%)		90 (90%)
Private Detective Agency		22 (68.8%)		24 (77.42%)
Professional Engineer		5,138 (97.7%)		5,528 (95.96%)
Psychologist		715 (84.7%)		869 (92.45%)
Real Estate Branch Office	57 (73.08%)		54 (81.82%)	
Real Estate Broker	5,519 (94.89%)		5,660 (96.82%)	
Real Estate Salesperson	11,057 (96.73%)		10,326 (97.75%)	
Social Worker		678 (81.5%)		
Speech Pathologist		400 (90.3%)		399 (83%)
Travel Agency		593 (71.4%)		692 (90.8%)
Uniform Athlete Agent		1 (100%)		3 (100%)
Veterinarian		340 (85.9%)		388 (89.2%)
TOTAL	**42,638 (81.29%)**	**39,174 (82.81%)**	**46,713 (87.35%)**	**43,585 (88.4%)**

Table 4: Total Number of Email Inquiries

Boards and Programs	**FY 10-11**	**FY 11-12**
Accountancy	930	1,231
Activity Desk	51	55
Acupuncture	199	228
Barbering and Cosmetology	735	834
Boxing	0	34
Cemetery and Pre-Need Funeral Authority	8	16
Chiropractor	326	308
Collection Agency	581	687
Contractor	1,614	1,035
Dentist and Dental Hygienist	196	227
Dispensing Optician	15	11
Electrician and Plumber	246	377
Electrologist	2	3
Elevator Mechanic	12	18
Employment Agency	6	13
Engineer, Architect, Surveyor, and Landscape Architect	340	272
Exam Branch	126	86
Hearing Aid Dealer and Fitter	31	42
Marriage and Family Therapist	146	116
Massage Therapy	919	1020
Medical and Osteopathy	2,041	3,322
Mental Health Counselor	200	235
Mixed Martial Arts	445	573
Motor Vehicle Industry	256	195
Motor Vehicle Repair	92	91
Naturopathy	134	97
Nurse Aide	223	204
Nursing	2,570	2,343
Nursing Home Administrator	15	24
Occupational Therapist	152	133
Optometry	191	274
Pest Control	113	68
Pharmacy and Pharmacist	1,750	3,309

Physical Therapy	562	638
Private Detective and Guard	119	382
Psychology	601	438
Professional Vocational Licensing (PVL)	2,293	2,408
Real Estate	5,970	6,568
Real Estate Appraiser	763	987
Respiratory Therapist	35	155
Social Worker	379	255
Speech Pathology and Audiology	148	133
Subdivision	50	21
Time Share	472	501
Travel Agency	75	102
Uniform Athlete Agent	8	8
Veterinary	124	110
TOTAL	**26,447**	**30,187**

REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)

website: www.hawaii.gov/dcca/rico
e-mail address: rico@dcca.hawaii.gov

OVERVIEW

The Regulated Industries Complaints Office (RICO) assists the public through education, complaints processing, and the enforcement of professional licensing laws.

As the enforcement arm of the Department's professional and vocational licensing boards, commissions and programs, RICO handles complaints, investigations and prosecutions of over forty-seven (47) different professions and vocations. In addition, the office administers the state's State Certified Arbitration Program, commonly referred to as "lemon law" by providing an arbitration forum for consumers with warranty-related disputes with motor vehicle manufacturers.

RICO's main office is located on Oahu at the Leiopapa A Kamehameha Building (State Office Tower), 235 South Beretania Street (8th and 9th Floors), Honolulu, Hawaii 96813. The division operates four neighbor island offices at Hilo, Kona, Wailuku and Lihue.

RICO's functions can be divided into two main categories: (1) education, information, complaint intake and alternative dispute resolution functions which are performed by the division's Consumer Resource Center, and (2) investigation and prosecution functions for the licensing boards, commissions and programs within the Department's Professional and Vocational Licensing Division which are performed by the division's field investigation and legal branches.[14] RICO staff consists of intake investigators, field investigators, attorneys and support staff. Approximately one-fifth of RICO's full-time positions are located in the four neighbor island offices. The primary functions of the RICO branches are generally described as follows:

Consumer Resource Center (Education, Information, and Intake)

The Consumer Resource Center ("CRC") handles all intake functions for RICO and the Office of Consumer Protection ("OCP"). With the easy to remember 587-DCCA telephone number, CRC provides an efficient means for the public to obtain consumer information, make complaint-related inquiries and submit formal complaints. Information and assistance to the public is available through telephone, facsimile and walk in contact, and through the RICO website at www.hawaii.gov/dcca/rico. CRC investigators answer questions and educate the public about governmental services, RICO's and OCP's jurisdictional areas, and RICO's and OCP's complaint processes. CRC staff also conducts preliminary investigations of RICO complaints and forwards only those cases appropriate for further investigations or prosecution to the other sections of RICO.

Consumer-initiated complaints comprise the majority of RICO's cases. Upon receipt of a complaint, CRC will determine whether an actionable violation is involved. If so, the complaint is handled through mediation, further investigation or prosecution, or other resolution.

[14] ***See***, Section 26-9, Hawaii Revised Statutes.

Another important aspect of CRC's work is the service provided by CRC's Licensing & Business Information Section (LBIS). The LBIS is a consolidated service operated by RICO for the Office of Consumer Protection, the Business Registration Division, the Professional and Vocational Licensing Division, and RICO. The service allows callers to use just one telephone number (587-DCCA) to find out (1) basic business registration information; (2) whether a business holds a professional license; and (3) complaints history on file with RICO and OCP. Through LBIS' service, callers are able to gather important information about a particular licensee or business without having to call multiple state offices.

Public access to complaints information has been significantly enhanced with the availability of the interactive Business and Licensee Complaints History search site at www.businesscheck.hawaii.gov. Consumers and businesses now have 24-hour access to current information about an individual's or business' complaints history. The site provides information about complaints that were filed as well as administrative or civil legal actions that were taken. The site is widely used by consumers, businesses, licensees, and credentialing organizations in Hawaii, as well as in other states, and is designed to provide the inquirer with a printable complaints history report.

See Table 1 for more specific information about the Consumer Resource Center.

Field Investigation Branch

The Investigation Branch, consisting of field investigators and clerical support staff, contains the largest concentration of RICO personnel statewide. With enforcement responsibility over the licensing laws of 47 different boards, commissions and programs, investigators evaluate a wide range of licensing violations within a diverse population of licensees. See Table 2 for an overview of the number of cases by board, commission or program. In addition, both CRC and Field staff investigate many tips, anonymous reports and other complaints from consumers, businesses and other interested parties.

Field investigators are responsible for gathering evidence in RICO cases to determine whether licensing law violations have occurred. RICO's investigators also take an active part in resolving cases, and in issuing administrative citations where unlicensed activity is observed.

In many cases, field investigators will seek an independent evaluation of the case by an appointed member of a board's advisory committee. Advisory committee members provide opinions about the particular practice being investigated and are helpful in determining industry standards. Once the field investigator has gathered the evidence in a particular case, the case may be referred to the Legal Section for evaluation and disposition.

In addition to handling RICO complaints, the neighbor island offices within RICO's investigative section serve as liaison for the Department of Commerce and Consumer Affairs. This responsibility requires the neighbor island staff members to know a little bit about everything concerning the department. As illustrated in Table 3, neighbor island RICO offices provide the most information in areas concerning the Professional and Vocational Licensing Division and the Business Registration Division. Neighbor island staff provides information, forms, educational brochures, technical assistance for hearings, and assistance in the facilitation of professional and vocational licensing examinations.

Legal Branch

The Legal Branch has the principal responsibility of taking disciplinary or civil action against violators of the statutes and rules within RICO's jurisdiction.

Upon receipt of a case, the Legal Branch will determine the appropriate course of action based upon the information contained in the investigative file. Formal action may be taken by either the filing of a Petition for Disciplinary Action with the Office of Administrative Hearings (for cases involving licensees), a hearing related to the issuance of a citation, or a Complaint for Injunctive and Other Relief in circuit court (for cases involving unlicensed activity).

State Certified Arbitration Program The State Certified Arbitration Program (SCAP), more commonly known as the lemon law program, provides an arbitration forum for a consumer to resolve a warranty-related dispute with a motor vehicle manufacturer without having to hire an attorney.

RICO's Legal Branch handles the administration of SCAP. Staff is actively involved in arbitrator training and in overseeing the actual arbitrations, and provides educational information to the public about the lemon law and the arbitration process. The SCAP administrator is also actively involved in representing Hawaii in the International Association of Lemon Law Administrators.

See Table 4 for more specific information about SCAP case outcomes.

GOALS, OBJECTIVES & POLICIES

RICO has three main operational goals: to uphold a fair and safe marketplace, to provide excellent customer service, and to optimize operational efficiency.

In upholding a fair and safe marketplace, RICO activities are directed toward addressing license violations and complaints and inquiries through appropriate referral, investigation, resolution and/or prosecution and toward making regulation more effective. The division is doing this proactively through sweeps, stings and compliance checks. The division gauges performance by, among other things, the number of enforcement actions it brings and the number it completes.

In providing excellent customer service, RICO staff strives to address complaints timely and expeditiously, investigations and prosecutions are to be handled equally, fairly and with integrity, and all people are to be treated with respect. Excellent customer service occurs throughout the RICO process: intake investigators familiarize themselves with other agencies and assist consumers who have reached RICO in error to find the appropriate agency/resource; field investigators may attempt to mediate disputes where possible; and staff attorneys consider restitution requests when evaluating RICO cases. RICO activities are also directed toward enabling members of the public to become knowledgeable participants in transactions with licensed professionals, fostering an awareness of the importance of licensure, and providing meaningful assistance and support to the public in a user-friendly manner. The division is doing this through participation in relevant consumer fairs and shows, especially on the neighbor islands, and through providing additional information available online. The division gauges performance by, among other things, the amount of consumer outreach conducted (educational, fairs, neighbor island assistance, speaking engagements and telephone assistance).

In optimizing operational efficiency, RICO activities are directed toward promoting internal case handling systems and related tools and systems that aid in fair, timely and effective enforcement, and enabling (training) and assisting staff in fulfilling RICO objectives and policies. The division is doing this through training for staff, adequate staffing, database enhancements, and streamlined report writing. The division evaluates performance by monitoring the amount of time a case is handled by each branch.

ACCOMPLISHMENTS

Enforcement Prosecutions:

The following table summarizes RICO legal actions for the 2011-2012 fiscal year:

RICO Proceedings Filed FY 12	
Petitions for Disciplinary Action	55
Settlement Agreement and Order	116
Citations (Unlicensed Activity)	69
Complaints (Unlicensed Activity)	23
Consent Judgments (Unlicensed Activity)	52
Assurance of Voluntary Compliance	10
Miscellaneous/Special Proceedings	0
Total	325

RICO Proceedings Outcomes FY 12		
Board Orders (total)		106
Revocation Orders	52	
Suspension Orders	8	
Assurance of Voluntary Compliance		10
Unlicensed Activity Judgments and Orders		175
Fines Assessed	$1,015,584.34	
Restitution Assessed	$387,780.44	
Total Proceeding Outcomes		291

Legislation:

Pursuant to House Concurrent Resolution 286, House Draft 1 (2011), the Director of DCCA was asked to establish a task force to develop a collaborative enforcement, with a specific emphasis on information sharing and criminal law enforcement. The task force was, among other things, instructed to evaluate existing laws and propose new laws that would apply to unlicensed contractors and facilitate better enforcement. The work of the Task Force resulted in Act 244 (2012), which made repeated unlicensed contracting conduct a felony and serious, fraudulent unlicensed contracting schemes intended to defraud consumers a felony. Law and criminal law enforcement agencies now have several new tools to use in the collective effort to curb unlicensed contracting. RICO is working to refer appropriate cases and appreciates the commitment of others in the law enforcement community that continue to partner with us and work with us to address unlicensed contracting.

Consumer and Licensee Outreach:

RICO continues to work with the building industry to provide contracting law information to consumers as part of a series of Building Industry Association presentations about remodeling issues and has participated in a number of home shows and industry group presentations. At the same time, in response to questions from the public, RICO prepared and placed online detailed tips on what information to provide when reporting unlicensed activity and has placed its Quarterly List of Unlicensed Activity Judgments online. In addition, RICO's website now includes a link to the Department's monthly press release of professional disciplinary orders and a detailed explanation of its complaints handling process.

The CRF financial summary relating to RICO for FY12 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
$4,125,595	$590,489	$4,716,084	$4,940,521

CONCLUSION

With responsibility for the enforcement of the licensing laws of over 47 boards, commissions and programs, RICO continues to receive a large number of inquiries, complaints and other requests for assistance. Rapid changes and increased complexity in the way many of the licensed professionals conduct business, as well as changes in state law have spawned new enforcement issues and new challenges for RICO. Through strategic initiatives, enhanced training, and a commitment to continual improvement, the division will continue its efforts to provide a fair and safe marketplace for the consumers, businesses and professionals it serves.

Table 1: RICO Consumer Resource Center

	2010	2011	2012
Telephone Requests for Complaints History, License Status and Business Registration	59,423	53,025	57,399
Complaint Inquiries & Forms issued by CRC	18,087	15,797	14,554
TOTAL	**77,510**	**68,822**	**71,953**

Table 2: Complaints Filed With RICO

	2010FY	2011FY	2012FY
Accountants	**11**	**8**	**11**
Activity Desks	**37**	**2**	**17**
Acupuncturists	**0**	**0**	**2**
Barbers & Cosmetologists	**46**	**66**	**85**
Boxing	**2**	**0**	**0**
Cemeteries and Pre-Need Funeral Authorities	**4**	**5**	**4**
Chiropractors	**2**	**7**	**7**
Collection Agencies	**10**	**12**	**8**
Contractors	**363**	**363**	**346**
Dentists and Dental Hygienists	**21**	**16**	**30**
Dispensing Opticians	**2**	**6**	**4**
Electricians & Plumbers	**28**	**31**	**43**
Electrologists	**0**	**0**	**0**
Elevator Mechanics	**0**	**0**	**0**
Employment Agencies	**0**	**0**	**0**
Engineers, Architects, Surveyors and Landscape Architects	**17**	**31**	**26**
Hearing Aid Dealers & Fitters	**2**	**0**	**1**
Marriage and Family Therapists	**0**	**0**	**0**
Massage Therapists	**60**	**78**	**95**
Medical (including Osteopathy)	**49**	**53**	**74**
Mental Health Counselors	**0**	**0**	**1**

	2010FY	2011FY	2012FY
Mortgage Brokers & Solicitors	**21**	**27**	**5**
Motor Vehicle Industry	**33**	**55**	**20**
Motor Vehicle Repair	**44**	**37**	**36**
Naturopaths	**1**	**1**	**1**
Nursing	**30**	**32**	**8**
Nursing Home Administrators	**2**	**1**	**0**
Occupational Therapist	**0**	**1**	**0**
Optometrists	**0**	**2**	**0**
Pest Control	**5**	**7**	**3**
Pharmacy	**42**	**18**	**7**
Physical Therapists	**2**	**2**	**1**
Pilotage	**0**	**0**	**0**
Private Detectives & Guards	**6**	**12**	**10**
Psychologists	**9**	**5**	**6**
Real Estate Appraisers	**4**	**10**	**8**
Real Estate (including Condominiums)	**180**	**159**	**147**
Respiratory Therapists (effective 7/1/2011)	**0**	**0**	**0**
Social Workers	**3**	**2**	**3**
Speech Pathologists & Audiologists	**1**	**0**	**0**
Subdivision	**0**	**0**	**0**
Time Share	**4**	**3**	**5**
Travel Agencies	**6**	**9**	**19**
No Rules Combat (Chapter 440D repealed and replaced by Chapter 440E (Mixed Martial Arts, 7/1/2009)	**0**	**1**	**2**
Uniform Athlete Agents (effective 7/1/08)	**0**	**0**	**0**
Veterinarians	**2**	**4**	**4**
	1,049*	**1,068***	**1,039***

*Does not include investigations closed or referred at intake level. **Includes compliance checks.

Table 3: Assistance by Neighbor Island RICO Offices in FY 2012

AGENCY	HILO	KAUAI	KONA	MAUI	TOTAL
Division of Financial Institutions	28	0	29	0	57
Business Registration	464	528	566	157	1,715
Cable Television	3	0	0	0	3
Insurance Division	41	17	39	12	109
Division of Consumer Advocacy	35	4	3	0	42
Professional & Vocational Licensing	470	265	574	286	1,595
Office of Consumer Protection	320	292	154	124	890
Non-Department Related	379	572	326	108	1,385
Totals	**1,740**	**1,678**	**1,691**	**687**	**5,796**

Table 4: RICO State Certified Arbitration Program ("SCAP") Activity

TOTAL NO. OF COMPLAINTS January-December 2011	
CHRYSLER (includes Dodge)	**1**
GM (includes Chevrolet)	**2**
NISSAN	**1**
SMART	**1**
TOYOTA	**1**
VOLKSWAGEN	**1**
VOLVO	**1**
TOTALS	**8**
*Cases arbitrated	3
Cases settled	4
Cases withdrawn/dismissed	1
More than $200,000 was recovered by consumers.	

*Of the cases arbitrated, 1 arbitration was in favor of the manufacturer and 2 were in favor of the consumers.