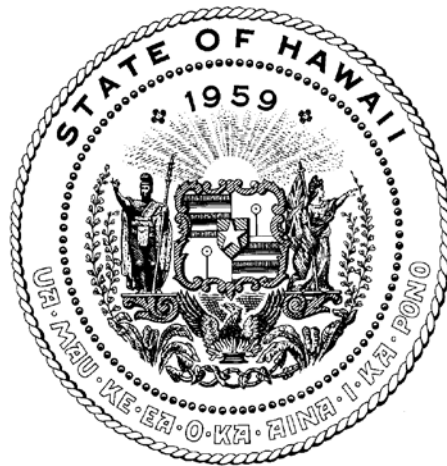


**2011 Annual  
Compliance Resolution Fund Report  
to the Legislature**



**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, DCCA 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 the requirements of said chapter;
- (2) Any person subject to chapters 485, 467B, 514E, and section 485-6(15), Hawaii Revised Statutes has complied with the applicable requirements; or
- (3) Any person has complied with the prohibitions against unfair and deceptive acts or practices in trade or commerce.

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.<sup>1</sup> Act 129 SLH 1999, 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.

<sup>1</sup> 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, 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).

Except for trust and special funds with dedicated purposes<sup>2</sup>, 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:

<b>Functional Area</b>	<b>Objective</b>	<b>Goal</b>	<b>Measure</b>
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 timely and accurate cashiering services for all payments and collections made to the department.	100% timely processing of payments.	Percentage of late payments processed.

<sup>2</sup> 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, Travel Agency Recovery, Travel Agency Education , 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, Patient’s Compensation, Premium Taxes Paid, Service Contract Providers, Captive Insurance Companies LOC; and the following special funds: Driver’s Education, Captive Insurance and Mortgage Foreclosure Dispute Resolution. 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.

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 10-11<sup>3</sup> is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$23,191,995	\$8,276,617	\$31,468,612	\$31,906,092

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

<sup>3</sup> The CRF financial summary relating to ADMIN (Director's Office, Personnel, Administrative Hearings, Fiscal and Administrative Services Offices and ISCO) for FY 10-11 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,175,494	\$1,714,118	\$4,889,612	\$465,504

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 the following 10 major accomplishments this year: 1) updating of the Insurance Division's custom application to include continuing education ethics credits; 2) adding real time updates to the Insurance Division's on-line services; 3) providing computer systems support for the Division of Financial Institutions mortgage loan originator program; 4) working with DBEDT to support their electric vehicle rebate program; 5) converting PVL's forms to fillable format; 6) filtering RICO's legal outcomes from the Internet where the respondent has complied with their orders; 7) assisting OAH with the Mortgage Foreclosure Dispute Resolution Program; 8) providing enhancements to DCCA's Legislative Bill Tracking System; 9) making adjustments and enhancements to DCCA leave approval and accounting system for furloughs and supplemental time-off; 10) upgrading the technology for the Business Registration document processing system; and; 10) making enhancements to the DCCA web site menus and search feature. 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) the introduction of email services via smart phone for DCCA management; 2) the replacement of 135 obsolete PCs; 3) the replacement of 8 obsolete printers; 4) the introduction of automated security scanning of the public facing network; 5) the upgrade of firewall technology; 6) installation of alternative Internet services; and 7) setup and training for new administration management.

Projects underway at this time include: 1) the upgrade of screen technology for DCCA's core custom business applications; 2) the creation of an on-line service to allow the registration of real estate condominium projects; 3) working with the portal manager to add a notification service to the State's calendar; 4) the creation of a web notice system as part of the Broadband Pole exemption under Act 151 (SLH 2011) ; 5) working with the Insurance Division's Health branch to provide premium rate reporting; 6) the configuration of video conferencing between RICO offices on the various islands to improve communication and training and to reduce travel expenses as well as travel time for staff; 7) updating the public wireless access in the King Kalakaua building; 8) the introduction of electronic purchase orders; 9) the introduction of electronic signatures; 10) enhancements to DCCA's Legislative Bill Tracking System; 11) Redaction and replacement of OAH's decisions and orders on-line; 12) integration of DCCA's fiscal system with other State systems to reduce data entry; 13) the introduction of new network security technology; 14) working with CATV on the installation of IP TV for monitoring purposes; 15) the introduction of PC power saving software; 16) review and possible upgrade of phone systems; and 17) revisions to the complaint management system to respond to user and licensee concerns.

## **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)

website: [www.BusinessRegistrations.com](http://www.BusinessRegistrations.com)

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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: One at 1130 North Nimitz Highway, Second Level, Suite A-220, Honolulu, HI 96817; one at 70 E. Kaahumanu Ave., Unit 8-9, Kahului, HI 96732; and one at 100 Pauahi St., 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, tax and employer registration and 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 **240,000** documents during fiscal year 2011, which is an increase of 28% from fiscal year 2010, and maintains the public registry of over **168,000** businesses, trade names, trade marks 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.

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 we can process and record documents with enhanced speed and accuracy. Recent system upgrades include modifying internet interfaces to be more user-friendly and working to automate additional pre-filing of annual report fields.

It is the goal of the Documents Registration Branch to become 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.

The branch's accomplishments and goals this year continue to be focused on actively looking at thoughtful ways to improve and automate online services for the public. 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.

This year, the branch launched one of the first mobile applications in the country for business registration and the first state government mobile application for tablet and smart phone technology. The application utilizes an interface customized for touch screen technology and smaller phone screens, including large buttons and customized displays. The application provides for business name searches and the purchase of certificate of good standing and filed documents which are some of the most popular online services of the state. The application can be found at [www.business.hawaii.gov](http://www.business.hawaii.gov).

This year, the branch continued to improve the documents online project that allows the public to purchase filed documents through an online webpage. About **9,524** documents were ordered online this past year. We have made an estimated **701,000** documents immediately available online as of this past fiscal year. 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 upgrade the interface of its website that can be found at [www.BusinessRegistrations.com](http://www.BusinessRegistrations.com).

This year, our "go green" effort to increase our online adoption rate for annual report filings has risen to over 90% of the total filings by the second quarter of fiscal year 2011. 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 3 to 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 opened a temporary office in Hilo in February 2008. 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 business license and 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, 2012, will be to: (1) continue to develop relationships with the business community; (2) explore better ways to accept business, employer and state tax registration 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.

BAC continues to support the offices in Hilo, Maui and Oahu. In FY11, the BAC branch assisted over 19,400 customers over the counter or via phone, e-mail, fax, or Live Chat. In particular, Live-Chat assistance continues to be popular with over 675 chats per quarter in FY11.

In FY11, 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. BAC customers are paired with a SCORE volunteer, who may be an attorney, accountant, marketing expert, business owner in the same industry as the BAC customer, or other expert, depending on the needs of the customer. SCORE volunteers meet in one-on-one sessions with the customer to offer advice. If no local SCORE volunteer fits the customer’s needs, SCORE can find a volunteer with the requisite expertise through its nation-wide network of volunteers. These partnerships allow unique opportunities for small business owners to speak with experts on a one-on-one basis. In FY12, the BAC plans to conduct more outreach with SCORE volunteers to reach other groups such as the Wounded Warrior Program for injured veterans returning from war-time service.

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 **25** 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 **950** attendees. The BAC has also expanded our outreach activities to private educational institutions such as Heald and Remington colleges, while also assisting rural business programs like the KEY Project in Kahalu'u and the Kona Hawaii Community Federal Credit Union.

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 and expand the program.

### ***GOALS, OBJECTIVES AND ACCOMPLISHMENTS - 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 **1,380** broker/dealer firms registered to sell securities. In addition, the branch has **60** state registered investment advisory firms and an estimated **1,775** registered investment adviser representatives on record. The branch also processed an estimated **855** franchise offering circular filings and approximately **360** filings for the private placement of securities in FY11 and conducted **20** exams.

The goal of the Securities Compliance Branch and Securities Enforcement Branch is to become one of the most effective state securities regulatory agencies in the country. 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 improve investor awareness of fraud, reach communities throughout Hawaii with investor education materials and increase investor education efforts for students throughout the State.

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 and others; (3) continuing our efforts to keep our kupuna informed; (4) increasing investor education programs for our keiki; and (5) improving our website features and developing electronic media.

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. We will be working 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 NASAA to advocate for a fiduciary standard for broker dealers to match that of investment advisers. This fiduciary standard for broker dealers continues to be a heated debate that has garnered the support of Senator Akaka. He continues to champion it as an improved standard to protect retail consumers.

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.

In FY10, the branch developed the comprehensive State Investment Adviser Guide to help firms understand the state law compliance requirements and the manner in which to prepare for a firm examination conducted by the branch. The guide was developed to help small firms with limited resources to better understand the compliance requirements. The guide has been produced with an interactive index and is placed on our website at <http://hawaii.gov/dcca/sec/iag>. NASAA has now shown interests in making a similar guide a national resource and we are looking to assist NASAA in that effort.

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 **36** investor protection presentations in FY11, and participated in **55** community events statewide in FY11, a 12% increase from the previous year, through which we reached an estimated **80,648** consumers in Hawaii in FY11.

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. Educating the public is an important part of our efforts to fight fraud, as knowledgeable investors are able to make better investment decisions.

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. During the spring of 2011, the program reached **59** teachers who reported their intent to use the SMS lesson plans for **2,306** students. Over the past 6 years, this program has reached nearly **896** teachers and **31,639** students. We very much hope to look to re-implement this program in FY12.

The branch maintains nearly **65** handouts, brochures, booklets, games, puzzles, CDs, DVDs, guides & 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.

The branch continues with the implementation of a comprehensive training program to improve the quality and efficiency of the securities enforcement work. The program consists of: (1) cross-training with registration clerks and securities examiners of the Securities Compliance branch, (2) in-house training with panels of regulatory enforcement and legal experts from other regulatory and law enforcement agencies, academia, and industry, and (3) outside training classes and conferences.

As previously discussed, the goal of the Securities Compliance Branch and Securities Enforcement Branch is to become one of the most effective state securities regulatory agencies in the country. 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 FY11, the division issued two (2) preliminary orders to cease and desist with penalty recommendations of **\$4,000,000**; obtained three (3) final orders, and issued eleven (11) consent agreements or orders, imposing **\$2,435,264** in penalties. During the past fiscal year, the branch collected **\$317,776** 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 the North American Securities Administrators' Association in the multi-state actions. Resolutions are pending.

The Securities Enforcement Branch has continued with the implementation of an extensive and comprehensive training program that includes: (1) outside training in the form of seminars and conferences specifically aimed at improving skills, staying up-to-date with the increasing complexity of cases and achieving more effective regulatory actions, and (2) frequent interaction with regulators in other states and, particularly in specific areas including franchises and broker dealer operations. The training and interaction have resulted in more focused enforcement, effective impact on the market and increased attention on the use of conduct remedies and monetary penalties. Currently, the branch is supporting training leading to the Certified Fraud Examiners designation for investigators (3 certified) and the Certified Regulatory and

Compliance Professional from the FINRA Institute for Professional Development for attorneys (1 certified).

*CRF FINANCIAL SUMMARY*

The CRF financial summary relating to BREG for FY 10-11 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,894,718	\$845,034	\$4,739,752	\$5,980,132

**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](http://www.hawaii.gov/dcca/catv)

e-mail address: [cabletv@dcca.hawaii.gov](mailto: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 franchisee 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 government 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 are 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 oversee that all complaints and concerns are researched and result in some form of resolution. 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 access (“PEG”) and provide a percentage of gross revenues for PEG use. The State has delegated oversight of the access channels and funds 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 FY11 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 address: [www.hawaii.gov/dcca/catv](http://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 on INET deployment
  - Convene periodic Cable Advisory Committee meetings
- 2) Monitor and participate in federal telecommunications legislation and rulemaking.
  - Continue working with Hawaii’s congressional delegation on applicable federal legislation
  - Continue the division’s working relationship with the FCC on DBS and other cable related matters
  - Continue to monitor federal issues that may have an impact to Hawaii cable television subscribers and broadband consumers
- 3) Advocate for equivalent DBS, and other enhanced services.
  - Ensure that DirecTV and DishNetwork comply with FCC order regarding service to Hawaii
  - Monitor development and deployment of new advanced services
  - Ensure that Hawaii receives equivalent service as does the mainland
- 4) Broadband

- Implement requirements of Act 199 (SLH 2010)
- Implement the requirements of DCCA ARRA Broadband Mapping & Planning Grants
- Continue to lead INET initiatives
- Facilitate the development of broadband infrastructure

### **ACCOMPLISHMENTS**

**Broadband – Act 199 (SLH 2010)** - Act 199 tasked DCCA with new duties related to facilitating access to, competitively priced broadband services and to promoting use of such services. Among other things, it required DCCA/CATV to convene a Permitting Work Group to develop procedures for streamlined permitting applicable to the development of broadband services and technology. DCCA/CATV convened and chaired this group, which provided direction and guidance to the 2011 Legislature on legislation that was enacted as Act 151 (SLH 2011), which provides an exemption from certain permitting and approval processes for certain broadband infrastructure deployment. DCCA/CATV has also convened the Broadband Assistance Advisory Council as required under Act 199, and has called three meetings of the Council. The Council will address and advise the Department on various broadband-related issues and activities.

**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.

**Institutional Network ("INET")** - CATV continues its leadership role in the development, expansion and enhancement of the INET. Working with 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.

As of the end of FY11 (June 30, 2011), TWE held approximately \$ 2.7 M in an interest-bearing account on behalf of the DCCA for INET purposes and broadband activities. These funds are the result of an agreement between the DCCA and Olelo regarding cable television franchise fees that are collected from Oahu cable television subscribers.

**Oceanic Time Warner Cable of Hawaii ("Oceanic") – Hawaii Island Franchise Renewal** - Oceanic submitted an application to renew its cable franchise 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 we expect this process to conclude by year end 2011.

**Hawaiian Telcom (“Hawtel”) Application For a Cable Television Franchise** - On October 28, 2010, Hawtel emerged from Chapter 11 bankruptcy and submitted a new application for a new cable franchise to CATV on November 5, 2010 and withdrew its prior application. On June 24, 2011, DCCA granted Hawtel a new cable franchise for the island of Oahu only to provide video programming services.

**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 reviews periodically 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 2011 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.

**PEG Contracts** -

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 the division within DCCA that will be responsible for reviewing the applications and negotiations required for this designation process.

The CRF financial summary relating to CATV for FY 10-11 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$366,963	\$542,897	\$909,860	\$1,926,773

**CONCLUSION**

The year 2011 was a remarkable year for CATV, due in part to the rapid development of advanced technology by cable companies, and the additional responsibilities that CATV was given with respect to

Broadband. The continued enhancement of the fiber to node architecture provided increased bandwidth capacity for traditional services such as video programming as well as for new interactive and digital services. Thus, given the nascent nature of digital technology relative to cable, CATV had and presently has the continuing task of monitoring the public's present needs and future interests.

Because of the rapid advancements in telecommunications, CATV seized the opportunity to provide a more uniform standard of practice within the State, offer improved services to meet the needs of the public, and provide greater reliability and responsiveness without financially impairing the system operators. CATV will strive to ensure fairness to the public in the provision of cable television services.

## DIVISION OF CONSUMER ADVOCACY (DCA)

website: [www.hawaii.gov/dcca/dca/](http://www.hawaii.gov/dcca/dca/)

e-mail address: [consumeradvocate@dcca.hawaii.gov](mailto:consumeradvocate@dcca.hawaii.gov)

### OVERVIEW

The Division of Consumer Advocacy (“DCA”) represents, protects, and advances the interests of consumers of utility and transportation services before regulatory agencies, primarily the Hawaii Public Utilities Commission (“PUC”) and the 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.

### 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/](http://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 HRS § 269-52(1). Pursuant to Act 130, 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 may involve a balancing of 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.

#### *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 Test Year Rate Case*

On July 3, 2008, HECO filed an application for approval to increase its rates (by approximately \$97,011,000, or 5.2%, over revenues at current effective rates) and to amend its rules. The DCA and the Department of the Navy were parties in this docket and offered analyses and recommendations for the PUC's consideration. As part of the rate case, issues related to management audits were considered. The PUC's final decision and order filed on December 29, 2010, which granted an overall increase of about \$66 million or about a 5% increase over present revenues. There remain outstanding issues regarding whether it is appropriate to conduct an overall management audit of HECO or to perform more focused audits relating to certain projects in order to determine the amount that might be recoverable from ratepayers. The DCA's recommendation was that rather than require a general management audit, the ratepayers and the resulting rates may benefit from focused regulatory audits that would allow the PUC to identify the amount of costs that should be deemed unreasonable. The PUC's decision on this matter is still pending.

*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 continues to examine the support for any increase in rates as well as other issues in the case, such as implementation of decoupling for MECO.

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

On December 23, 2010, YB filed an application for a general rate increase. DCA filed a Statement of Position ("SOP") indicating that the application was not complete, because it did not include YBs' actual results of operation for the previous calendar year. The PUC ordered YB to file a completed application no later than June 30, 2011. On May 6, 2011, 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. This revenue requirement reflected the alleged negative impact that Pasha Hawaii Transport Lines LLC would have on YBs' roll on/roll off cargo volumes. (Pasha began a limited inter-island roll on/roll off service in February, 2011, pursuant to a PUC interim Decision & Order that gave Pasha a three-year certificate of public convenience & necessity.) YB argued in its application that it would lose significant revenue as a result of this competition 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."

DCA filed numerous Information Requests ("IRs"); conducted interviews of YBs' financial employees; toured all of YBs' facilities; retained consultants to analyze YBs' application; and participated in public hearings on all islands served by YB.

The two most significant positions taken by DCA in this docket were that 1) YB should not get any increase for the alleged "Pasha impact" and 2) 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. DCA refused to negotiate on either of these two items. An evidentiary hearing was held on November 1, 2011, on the phantom income tax issue. All other issues were settled, including the "Pasha impact" that YB agreed to withdraw from consideration by the PUC. The parties then briefed the income tax issue on November 16, 2011. 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.

*Hawaii-American Water Company ("HAWC") 2011 Test Year Rate Case*

On February 22, 2011, HAWC filed an application for approval to increase its rates (by approximately \$1,764,860 or approximately a 21% increase over revenue at its prior existing rates). The DCA participated in a public hearing, conducted its review and analysis, developed testimonies, engaged in a negotiation process with HAWC to resolve the outstanding issues of this proceeding, and answered numerous information requests of the PUC. On November 21, 2011, the PUC issued its Decision and Order approving the Parties' Stipulation of Settlement Agreement in Lieu of Rebuttal Testimonies, an Evidentiary Hearing and post-hearing briefs, which specifically approved an increase in revenues over

present rates of \$1,246,630 or approximately 14.20% for HAWC based upon a total revenue requirement of \$10,026,020 for the 2011 calendar test year. Thus, the DCA was able to provide ratepayers a cost-savings of over \$500,000.

*Hawaii Water Service Company (“HWSC”) General Rate Case for its Kaanapali Division*

On December 30, 2010, HWSC filed an application for approval to increase its rates (by approximately \$1,546,250 or 54.6%, over revenues at current effective rates) and to amend its rules. The DCA, among other things, participated in the public hearing, conducted discovery, inspections and witness interviews, and filed its testimonies and exhibits that recommended various adjustments to HWSC’s requested increases. The DCA contended that any increase in utility rates above 25% might constitute rate shock, which generally refers to a sudden and significant increase in rates that will be difficult for the affected customers to absorb, and recommended an increase of only 18%. If the requested increase exceeded 25%, DCA recommends that a rate phase in plan be considered where the overall increase is phased in over at least two different points, with the first increase effective with the PUC’s interim increase and the subsequent increases occurring after an interval that would allow residents and businesses to properly plan for that next incremental increase. In November 2011, the PUC approved requests by the parties to amend the procedural schedules. As the only two parties to the docket, HWSC and DCA are still attempting to reach a stipulated settlement in lieu of proceeding to an evidentiary hearing. The PUC approved an amended procedural schedule for the parties to resolve outstanding issues by December 12, 2011. The DCA will remain flexible and continue to work with HWSC to negotiate and settle proceedings. The PUC’s decision and order is pending in this case.

*Olowalu Water Company, Inc. (“Olowalu”) 2011 Test Year Rate Case*

On December 29, 2010, Olowalu filed an application requesting an increase in both potable and non-potable water utility service revenues of 77%, amounting to additional revenues of \$60,570. This was Olowalu’s first rate increase request since receiving its authority to operate as a public utility in August 2000. The DCA filed its SOP on May 7, 2011 with a recommended 28% increase for additional revenues of \$27,294. On July 1, 2011, the parties entered into a settlement agreement for an increase of 47%, resulting in additional revenues of \$43,146. The parties agreed to an across-the-board increase of 44% being phased in over two periods, with the first increase at 25% and the second at 19%. On August 17, 2011, the PUC issued its Decision and Order accepting the parties’ settlement agreement.

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

On August 12, 2011, Pukalani filed its application seeking a 224.7% revenue increase equal to \$1,325,924 over current revenues for wastewater service provided to residential and commercial customers in Pukalani, Maui. Pukalani is seeking cost recovery for the replacement of the wastewater treatment plant and higher operating expenses. The DCA participated in the public hearing and completed its discovery phase. The DCA’s testimony and exhibits will be filed in December 2011.

*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, of its intention to cease all current water service operations on Molokai. During the fiscal year, the DCA participated in public hearings and meetings, interviewed customers, conducted analysis of the limited financial information available from the companies, and provided the PUC with a SOP reluctantly stating non-opposition of the significant rate increases. 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.

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.

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. Based on the temporary rates authorized in the Temporary Rate Order, MPUI's proposed net revenue increase amounts to \$565,939, which is an approximate 74.6% increase from the pro forma revenue amount of \$758,958 at the temporary rate for the 2009-2010 test year. Based on the temporary rates authorized in the Temporary Rate Order, WOMI's proposed net revenue increase amounts to \$308,431, which is an approximate 106.96% increase from the pro forma revenue amount of \$288,360 at the temporary rate for the 2009-2010 test year.

The DCA participated in the public hearings, and due to the presence of intervenors in both docketed proceedings, the proceedings were contentious. The DCA participated in a lengthy discovery process and submitted written testimonies. Due to concurrent civil litigation between the County of Maui and Molokai Properties, Ltd., there was a mediation process that was ongoing and the parties involved in the proceedings before the PUC were asked to participate in the mediation process, to which the DCA complied. While an agreement was reached between MPUI, WOMI and the DCA, the intervenors, County of Maui and West Molokai Association, did not enter into any settlement agreements. As there was no agreement among all of the parties, the PUC held evidentiary hearings in both dockets. 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 has appealed both the PUC's final Decision and Orders in both the MPUI and WOMI dockets. The DCA has filed Appellee responsive brief in both appellate proceedings. Both appellate decisions are still pending before the Hawaii Intermediate Court of Appeals.

### ***Generic and Other Proceedings***

#### *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 HECO, Hawaii Electric Light Company, Inc. ("HELCO") and MECO (collectively, 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. Throughout 2011, the DCA participated in numerous formal and informal meetings dedicated to the further development, implementation, and/or refinement of the FIT program for the HECO Companies' service territories. On June 3, 2011, the PUC issued a procedural order discussing the need to further refine and/or develop Tier 3 of the HECO Companies' FIT program. Following a series of filings made by the PUC-approved Independent Observer, on October 4, 2011, the DCA provided its comments with respect to Tier 3 of the HECO Companies' FIT program. In the view of the DCA, Tier 3 of the HECO Companies' FIT program should be implemented without modifications. As of the end of November 2011, the PUC has yet to rule upon Tier 3 of the HECO Companies' FIT program.

#### *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. Generally, decoupling is a regulatory tool designed to separate a utility's revenue from changes in energy sales. The prospect of decoupling was one of the items that were enumerated in the Energy Agreement signed on October 20, 2008 by parties including the Governor Lingle, the HECO Companies, and the DCA. The DCA engaged in a lengthy process of evaluating and analyzing various decoupling proposals and developed a proposal consistent with the Energy Agreement but with modifications meant to help protect consumers' interests to which the HECO Companies agreed. The PUC filed its final decision and order on August 31, 2010 that implemented the joint proposal that was filed. The actual implementation of decoupling was contingent on the PUC being able to approve electric rates that reflect a return on equity that has been adjusted for decoupling. The PUC has had filed its decision and order for HECO in Docket No. 2008-0083 and the first decoupling filing occurred in 2011. Since that time, the DCA has been working with the PUC and the HECO Companies to further refine and improve the filing process in anticipation of HECO's next filing in 2012 as well as the possibility of additional decoupling filings by MECO and HELCO.

*AT&T And T-Mobile USA Merger*

On April 21, 2011, AT&T filed an application for either the PUC's waiver to consider AT&T's Stock Acquisition of T-Mobile or in the alternative, approval of such transaction.

On August 24, 2011, the DCA filed its SOP representing that it had concerns regarding the overall impact on the market share of telecommunication service in the State of Hawaii relating to this transaction but also stated that such consideration is at issue at the national corporate level and better left to the Federal Communication Commission and the United States Department of Justice's ("DOJ") investigation and disposition.

On August 31, 2011, the DOJ filed its complaint in the District Court for the District of Columbia seeking to enjoin the transaction. Pursuant to a Stipulated Scheduling and Case-Management Order issued on September 23, 2011, U.S. District Judge Ellen Segal Huvelle set February 13, 2012, as the date to begin trial which is estimated to take four to six weeks to complete. On November 10, 2011, the PUC filed its Order suspending this docket pending the disposition of the DOJ complaint.

*Biodiesel Supply Contract with Aina Koa Pono-Ka'u LLC*

HELCO filed its application on January 6, 2011, for the PUC's approval for a fuel purchase contract with Aina Koa Pono-Ka'u LLC ("AKP") for 16 million gallons per year of locally produced biofuel over twenty years. The application also requested the establishment of a Biofuel Surcharge Provision that will pass through the differential between the cost of the biofuel and the cost of the petroleum fuel that the biofuel is replacing, in the event the cost of the biofuel is higher than the cost of the petroleum fuel, for the customers of HECO, HELCO, and MECO based on the customers' kilowatt-hour ("kWh") usage.

AKP is a Hawaii-based limited liability company, formed to develop renewable energy solutions which are sustainable, reliable, and environmentally sound, with an emphasis on actively generating local economic development opportunities in the State. AKP sought to build and operate a bio-refinery project in the Ka'u District of the Island of Hawaii ("Facility") in order to produce, among other products, biodiesel to meet AKP's delivery obligations under the Biodiesel Supply Contract dated January 6, 2011.

Initially, the PUC issued an order that if AKP's biodiesel was to be purchased by HELCO only, then the surcharge could not be spread across all HECO Companies' ratepayers. However, as a result of the passage of Act 69, SLH 2011, the Legislature authorized a surcharge for companies that aggregate their respective Renewable Portfolio Standards (RPS) requirements to allocate costs associated with meeting the RPS where reasonable. HECO subsequently withdrew its request to include MECO in the surcharge, but still included HELCO and HECO.

The DCA, in its SOP concerning HECO's application for approval of the AKP contract, noted strong consumer opposition due to environmental, cultural and cost concerns but ultimately supported the application. As part of its consideration, the Consumer Advocate took note of the State Administration's support for the concept of the project that serves a number of principles that are set forth in the "New Day Plan," in particular the need to reduce Hawaii's dependence on petroleum oil.

The DCA further noted the benefit of the fixed-priced for AKP's contract over the 20-year period. Although higher than the price of petroleum diesel, the fixed AKP contract price would mitigate against the

price volatility of petroleum. The Consumer Advocate also found that the AKP contract price was consistent with other biofuel contracts that had been previously approved by the PUC. The DCA then recommended that the PUC approve the HECO/AKP biodiesel contract with the suggestion that HELCO should also be excluded from the surcharge.

On September 29, 2011, the PUC filed its Decision and Order denying the application, noting that the commitment to purchase 16 million gallons per year of AKP produced biofuel at the proposed price was too high in comparison to known petroleum fuel costs. The PUC compared the biodiesel contract price against the Annual Energy Outlook (published by the United States Department of Energy) reference forecasts for the price of oil in determining that AKP's price was too high.

#### *Energy Efficiency Portfolio Standards*

On March 8, 2010, the PUC initiated an investigation into the establishment and implementation of energy efficiency portfolio standards ("EEPS") for the State of Hawaii ("State") pursuant to Act 155, Session Laws of Hawaii 2009, and Hawaii Revised Statutes § 269-96. The PUC's investigation into the establishment and implementation of an EEPS for the State arises out of the Energy Agreement entered into by the State, the Department of Business, Economic Development, and Tourism, the DCA, and the HECO Companies on October 20, 2008. Following numerous technical meetings and exchanges of information attended by or conducted on behalf of the parties participating in the PUC's EEPS Docket, on August 29, 2011, the parties to the PUC's EEPS Docket, including the DCA, filed Statements of Position outlining the parties' respective positions on the Framework for Energy Efficiency Portfolio Standards proposed by the PUC on August 5, 2011. As of the end of November 2011, the PUC has yet to issue a decision and order pertaining to the establishment and implementation of an EEPS for the State.

#### *Reliability Standards Working Group ("RSWG")*

In August 2010, the PUC filed an order approving, with modifications, the HECO Companies' proposal for a Reliability Standards Working Group 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 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 HECO, HELCO, and MECO, 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). Throughout the fall of 2011, 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 November 2011, work on and for the RSWG is still on-going.



*Kapolei Substation*

On February 3, 2011, HECO filed an application seeking PUC approval to commit funds estimated at approximately \$9.85 million, excluding customer contributions, for the purchase, construction and installation of the Kapolei Substation, Kapolei Transformers #1 and #2, and associated 46kV and 12kV circuits, related equipment, and easements. The DCA, among other things, participated in the public hearing, conducted a rigorous review, submitted information requests and filed a SOP to address concerns raised by State Senator Gabbard, State Representative Har, the Villages of Kapolei Association, and several area residents.

*Recovery of Deferred Costs for Big Wind Implementation Studies through the Renewable Energy Infrastructure Program Surcharge*

On May 17, 2011, HECO filed an application respectfully requesting PUC approval to recover approximately \$3,912,952 for Stage 1 Big Wind Implementation Studies costs through the Renewable Energy Infrastructure Program (“REIP”) Surcharge approved by the PUC in Docket No. 2007-0416, the PUC’s investigation into the establishment and implementation of a REIP for HECO, HELCO and MECO. Previously, HECO requested, and the PUC approved, the deferral of Stage 1 Big Wind Implementation Studies costs in Docket No. 2009-0162.

On October 7, 2011, the DCA submitted IRs to HECO seeking further support, clarification, and/or information with respect to certain matters presented by HECO in its application filed on May 17, 2011. On October 28, 2011, HECO responded to the IRs issued by the DCA in the Big Wind Implementation Studies Cost Recovery Docket.

In December 2011, the DCA filed a SOP (“SOP”) detailing its position regarding the request to recover Big Wind Implementation Studies costs through HECO’s REIP Surcharge. As of December 2011, the PUC has yet to issue a decision and order pertaining to HECO’s request to recover Big Wind Implementation Studies costs through HECO’s REIP Surcharge.

*Big Wind Assignment of Non-Conforming Bid to Molokai Renewables*

Pursuant to a previous PUC Decision & Order, Castle & Cooke had been granted a non-conforming bid to develop 400 MW of wind-generated electricity that would be delivered to Oahu via an undersea transmission cable. Hawaii Holding, LLC dba First Wind Hawaii was granted a similar non-conforming bid for a wind farm on Molokai. HECO was given until March 31, 2011 to submit term sheets for contracts on the non-conforming bids. First Wind was not able to secure the necessary property rights from Molokai Ranch; therefore, HECO was not able to submit a term sheet for a Molokai project. HECO requested that Castle & Cooke be allowed to assign 200 MW of its Lanai project to a new wind farm developer, Molokai Renewables (a joint venture between Molokai Ranch and Pattern Energy). DCA submitted a letter indicating that it did not agree that Castle & Cooke had a legally assignable right that it could assign to Molokai Renewables. On the other hand, in order to keep the Molokai wind farm project viable, DCA recommended that the PUC accept Molokai Renewable’s proposal. The PUC agreed with DCA that Castle & Cooke did not have a legally assignable right, but disagreed with DCA that it should accept Molokai Renewable’s proposal. The PUC then opened a new docket for RFPs for 200 MW of renewable energy to be delivered to Oahu.

*Kauai Island Utility Cooperative (“KIUC”) Financing*

On June 1, 2011, KIUC requested approval to obtain \$42 million in financing and security arrangements from the U.S. Department of Agriculture Rural Utilities Service for planned capital improvements. After reviewing the financial documentation and budgeted capital improvements, the DCA supported KIUC’s financing request. The PUC issued its Decision and Order on August 25, 2011 approving KIUC’s request.

*MECO’s Application for Approval of Power Purchase Agreement with Auwahi Wind Energy LLC, and Determination that the Maui Electric-Owned Interconnection Facilities be Constructed Above the Surface of the Ground Pursuant to HRS 269-27.6(a)*

On March 17, 2011, MECO filed an application for PUC approval of a purchase power agreement (“PPA”) with Auwahi Wind Energy LLC (“AWE”), in which AWE would furnish, install, operate and maintain an approximately 21 MW wind farm facility on ‘Ulupalakua Ranch, in the Hana, Kula and Kihei districts on the Island of Maui. After reviewing the Company’s responses to the IRs, the DCA filed its SOP on June 8, 2011, stating that it did not object to the PUC’s approval of the Company’s application. On June 15, 2011, the PUC issued its final Decision and Order, approving the instant application. However, the PUC stated in its Decision and Order that any requests for recovering MECO-caused cost overruns related to the MECO-owned Interconnection Facilities will be subject to review in MECO’s next rate proceeding or equivalent cost-recovery mechanism (e.g., decoupling) following the completion of the MECO-owned Interconnection Facilities. Also, due to the PUC’s concerns about lingering uncertainties in the PPA (i.e.: 1) the type, number and location of the turbines; 2) the type and configuration of the battery energy storage system; 3) progress of the permit process; 4) progress of interconnection costs; and 5) documentation of existing or, if necessary, establishment of acceptable post-project site restoration requirements; and 6) progress of project completion), it required MECO to file quarterly progress reports until the project’s completion.

*The Gas Company, Inc.’s (“TGC”) Feedstock Alternative to Producing Synthetic Natural Gas*

On December 22, 2010, TGC filed an application for approval to 1) expend in excess of \$2,347,367 to design, implement and install its Bio Synthesis Gas Pilot Project to test the feasibility of producing synthetic natural gas (“SNG”) from feedstock derived from canola oil or other virgin animal fats and oils (collectively, “Triglycerides”); and 2) include the project’s fuel cost in its fuel adjustment calculation. On March 3, 2011, the PUC issued an order denying intervention by Life of the Land. During the year, the DCA issued numerous IRs seeking further support and clarification from TGC. DCA acknowledges TGC’s efforts to support the State’s objectives of sustainability and recognizes that TGC is proposing a pilot program to further investigate the use of bio-feedstock. The PUC also issued IRs to TGC seeking additional information. The PUC has not yet filed a decision and order in this case.

*Pa Makani dba Sandwich Isles Wireless’s Application for Designation as an Eligible Telecommunications Carrier*

On June 3, 2011, Pa Makani dba Sandwich Isles Wireless (“Sandwich Isles Wireless”) filed an application for a certificate of registration (“COR”) in Docket No. 2011-0131. On June 27, 2011, while

Docket No. 2011-0131 was still pending, Sandwich Isles Wireless filed an application with the PUC for designation as an eligible telecommunications carrier (“ETC”). Soon after, Coral Wireless, LLC dba Mobi PCS (“Mobi”) filed a letter with the PUC raising the following issue: “Is the PUC required to dismiss without prejudice the application in HPUC Docket No. 2011-0145 due to fact that at the time of filing such application Sandwich Isles Wireless was not a Hawaii certificated public utility holding the requisite Certificate of Registration (COR)?” Sandwich Isles Wireless responded to Mobi’s letter. Also on that day, Mobi filed with the PUC a Motion to Intervene as a Party to the Proceeding. On August 25, 2011, the PUC filed an order granting: 1) the Motion to Strike Coral Wireless, LLC’s Memorandum in Response to Pa Makani’s Statement of Opposition filed on August 12, 2011, by Pa Makani, LLC dba Sandwich Isles Wireless; and 2) the Motion of Coral Wireless, LLC to Intervene as a Party to the Proceeding filed on July 18, 2011, by Mobi. The DCA submitted its IRs to Sandwich Isles Wireless and subsequently received the Company’s responses. The DCA filed its SOP on September 30, 2011, stating that it did not object to the PUC’s approval of Sandwich Isles Wireless’ designation as an ETC.

On November 10, 2011, Mobi filed a Motion for Summary Judgment recommending that the PUC dismiss Sandwich Isles Wireless’ application because: 1) the FCC’s rules do not permit wireless resellers to receive universal service support [47 C.F.R. § 54.201(1)]; and 2) Sandwich Isles Wireless leased spectrum without first notifying and receiving approval from the FCC. The final decision and order in this proceeding is pending.

### *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, Hawaii Revised Statutes (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 Clean Energy Initiative (“Hawaii Clean Energy Initiative”)*

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.

The DCA continued distributing its newsletter at public fairs and festivals throughout the State, and has vastly increased its electronic distribution list during the 2010 – 2011 fiscal year. DCA targets those events most likely to produce consumers interested in utility and conservation matters, increasing the overall number of consumers reached. The DCA also used other communications tools such as press releases, its web site, and other in-house produced publications to reach the public. These tools were used to highlight various utility issues and to encourage greater participation in PUC public hearings, energy conservation and efficiency efforts, and to help consumers make wise choices when purchasing telecommunications services.

### ***Interactive Participation with Other State Agencies***

#### *Department of Business, Economic Development and Tourism’s (“DBEDT”) Hawaii’s Electric Vehicle (“EV”) Rebate Program*

Hawaii residents and businesses may qualify for rebates of up to \$5,000 when purchasing and installing qualified electric vehicles and charging equipment. In May 2010, the DBEDT and the DCCA signed a Memorandum of Agreement (“MOA”), which outlined DCCA’s role in implementing DBEDT’s EV Rebate Program. In October 2010, the DCA’s Education Specialist was assigned as the Electric Vehicle Rebate Project Administrator. The administrator handles all public inquiries, rebate applications, mailing of rebate checks, record keeping, and reporting to DBEDT. On average, from October 2010 through October 2011, DCA used a little under 12.5 work hours per month related to the rebate program. It

should be noted; however, the workload started slow, but picked up dramatically starting in the second quarter of 2011 once electric vehicles became available in Hawaii. A more accurate representative monthly average runs closer to 20 hours per month. The time spent by 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 to run through January 31, 2012. Note that this date reflects the deadline for the public to submit an application. The processing and administering of the program and wrapping up the program with DBEDT will likely carry on for several weeks after January 31, 2012. In addition, the funding for the rebate program later increased to \$1,666,837 and DCCA Director, Keali'i Lopez, signed an amendment to the MOA on November 8, 2011.

To date (as of November 18, 2011), DCCA processed 404 rebates, totaling \$1,144,006.

**Document Management System**

The DCA, in partnership with the PUC, developed a new docket and document management system to improve internal efficiencies and to make documents filed with the PUC available to the public in electronic format. This new system may be found at: <http://dms.puc.hawaii.gov/dms/>.

**Financial Summary**

The CRF financial summary relating to DCA for FY 10-11 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$926,980	\$748,549	\$1,675,529	\$2,414,736

**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. Together, this places 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](http://www.hawaii.gov/dcca/dfi)

e-mail address for general matters: [dfi@dcca.hawaii.gov](mailto:dfi@dcca.hawaii.gov)

e-mail address for mortgage loan originator program: [dfi-nmls@dcca.hawaii.gov](mailto:dfi-nmls@dcca.hawaii.gov)

### OVERVIEW

The Division of Financial Institutions' (DFI) Mission: Ensure the safety and soundness of state-chartered and state-licensed financial institutions, and 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 community.

DFI is charged with the supervision and regulation of all Hawaii State-chartered and State-licensed financial institutions, including banks, foreign banking agencies and representative offices, savings and loan associations, trust companies, and financial services loan companies (both depository and non-depository), and credit unions. DFI also licenses and regulates 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, and the National Credit Union Administration.

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 and plans to undergo 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](mailto:dfi@dcca.hawaii.gov) or [dfi-nmls@dcca.hawaii.gov](mailto:dfi-nmls@dcca.hawaii.gov) (mortgage loan originators and mortgage loan originator companies).

### Composition

DFI is lead by the Commissioner of Financial Institutions, 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 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 financial institutions. 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 Field Examination Branch also conducts examinations and investigations of escrow

depositories, money transmitters, mortgage loan originators and mortgage loan originator companies when warranted. The *Licensing and Regulatory Analysis Branch* is responsible for licensing activities and other regulatory approvals, the off-site monitoring program, responding to complaints and inquiries, and investigating alleged violations of state law. The Licensing and Regulatory Analysis Branch Manager also assists the Deputy Commissioner in administrative matters such as legislation, training, and budgetary items.

## **GOALS and OBJECTIVES**

Division Goals. 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 that 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., gift cards), providers (e.g., Wal-Mart), economic conditions (e.g., the "global credit crisis"), regulatory changes (e.g., the Dodd-Frank Act), 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's strategic plan calls for it to:

- Recognize the Continuing Need for Dramatic Change
- Broaden Its Focus
- Expand Skill Sets
- Identify the Client
- Become Totally Client Centric
- Improve the Speed of the Organization

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

Action Plan. DFI's action plan is built around its strategic plan. The timetable calls for realization of short term training related goals in a one to two year time frame with longer range goals relating to experience and recruitment in a five year time frame.

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 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 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. It continues to be under review for possible modification or replacement.

## **ACCOMPLISHMENTS**

The Banking Industry in Hawaii. The national mortgage crisis that began in 2007, evolved into a full-scale financial crisis in 2008 that continued into 2011. Unprecedented economic disruptions both nationally and globally resulted in the failure, government take-over, government-assisted acquisition, or government assistance of some of the world's largest financial companies ranging from the government-sponsored enterprises such as Federal National Mortgage Association and Federal Home Loan Mortgage Corporation; AIG, the nation's largest insurance company; investment banks such as Bear Stearns and Lehman Brothers; to a large number of depository institutions including IndyMac Bank and Washington Mutual. Despite sweeping federal legislation and regulatory actions to restore liquidity and stability to the U.S. financial system, the number of bank failures in the U.S. in 2010 was at its highest level since 1992. Although the number of bank failures in the U.S. has decreased in 2011, problems in the banking industry continued through 2011 as the financial crisis in Europe continued to threaten the global financial system. While Hawaii-chartered financial institutions were not immediately impacted by the national financial market disruptions, the increasing rate of residential mortgage loan foreclosures, disappointing business conditions sparked by precipitous declines in visitor arrivals, the earthquake and tsunami in Japan, and falls in stock and other monetary asset values resulted in deteriorating balance sheets at a number of these institutions. In 2011, DFI continued to monitor the impact of the disruptions and of numerous federal initiatives on the overall industry and on individual Hawaii institutions, and actively worked with these institutions and the federal banking regulators to proactively address emerging issues. Heightened supervisory oversight will continue through 2012 as additional laws and regulations are finalized in response to the financial crisis faced locally, nationally and globally.

Implementation of New Federal Laws Continues to Expand and Impact DFI's Regulatory Role. The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") was enacted in 2010 in response to the global financial crisis and is considered the most sweeping change to financial regulation in the United States since the Great Depression. It affects almost every aspect of the U.S. financial services industry, including consumer protection; systemic risks; large, complex institutions; liquidation procedures for systemically significant financial companies; executive compensation and corporate governance; mortgage practices; proprietary trading; hedge funds; credit rating agencies; and the structure and powers of the federal financial regulatory agencies. It has been estimated that the Dodd-Frank Act requires various federal agencies to adopt over 200 rules. In addition, a major overhaul of the global capital standards, Basel III, is being proposed by the international financial regulators to strengthen capital requirements and address the risk of systemically significant institutions. The Consumer Financial Protection Bureau (CFPB) that was established by the Dodd-Frank Act, began operations on July 21, 2011. DFI expects that it will be coordinating examinations and supervisory activities with the CFPB for the large depository state-chartered financial institutions and for nondepository financial service providers in Hawaii.



DFI manages its programs and trains its staff to ensure compliance with statutes such as the Dodd-Frank Act as along with federal laws relating to money laundering, privacy for consumer financial information, and corporate governance. DFI must monitor the implementation of all federal statutes and the numerous new rules related to those statutes as well as any changes to the Basel capital standards to determine what the impacts are on the institutions DFI regulates and supervises. DFI then develops the necessary procedures and trains its staff to effectively ensure compliance and the safety and soundness of the institutions DFI regulates. The new laws, rules and regulations, the evolution of the industry, radical shifts in economic conditions and the continuous impact of key drivers such as corporate governance concerns, advances in financial service products, delivery channels, providers, and the attendant opportunities and risks associated with these developments, mandate that DFI's regulatory and supervisory roles must constantly adapt to meet the new regulatory challenges associated with the changing conditions.

After the 2011 legislative session concluded, the Commissioner, along with other members of the Department, embarked on a public education speaking tour. The Commissioner discussed the new provisions that were enacted with affected licensees, trade associations, industry associations, and attorneys who have client/licensees. The educational sessions were provided to share information and receive comments from the different groups in order to clarify how the new laws affected the industry.

Supervision of the Money Transmitter Industry in Hawaii. As noted in previous reports, with the passage of Act 153 (SLH 2006), money transmitters were required to be licensed by DFI on or before July 1, 2007. There are currently 39 money transmitters, operating from approximately a thousand locations, licensed to do business in Hawaii, a large and diverse population attesting to the impact of this segment of the financial services industry on Hawaii's consumers. In 2011, DFI's Field Examination Branch staff performed examinations of five money transmitters, two of which were joint examinations with other states and performed at the licensees' principal offices outside the State of Hawaii. Three of the examinations also included brief reviews of some of the money transmitter's authorized delegate locations.

Mortgage Loan Origination Regulation. 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 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 late 2010 and continuing in 2011 to initially license over 800 MLOs, 191 MLOCs and 100 MLOC branches as of September 30, 2011. Beginning May 15, 2011, 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. Since this is a new report, the licensing examiners have spent considerable time with companies who did not file the report correctly. Starting in November, 2011, DFI began the first annual renewal of the MLO, MLOC and MLOC branch licenses. 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 began licensing mortgage servicers under Chapter 454M, HRS, effective July 1, 2010 and conducted the first annual renewal of these licenses in 2011. While consolidation in the mortgage servicing industry indicated an initial estimate of approximately 20 mortgage servicers that would be licensed under this new law, as of year-end 2010, DFI had licensed a total of 56 mortgage servicers and that number had increased to 63 as of November 2011, with additional applications still being received.

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.

To ensure that DFI's staff has the ability to work remotely during emergencies, including an H1N1 pandemic, DFI has replaced nearly all of its desktop computers with laptops. The laptops, coupled with VPN access to the Department's network via a browser and wireless broadband access to the Internet, provide for establishment of remote work sites and/or telecommuting operations in the event of an emergency, permitting the continuation of secure communication with city, county, state and federal agencies, and the private sector, to facilitate the financial industry's ability to respond to and recover from disastrous situations.

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 Federal Emergency Management Agency Community Emergency Response Team (FEMA CERT) 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 December 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 DFI is now actively working toward an on-site review in 2012.

Bank, Financial Services Loan Company, and Escrow Depository Examination Programs. During the period that furloughs were imposed in the final quarter of 2009 through the first quarter of 2011, DFI examiners were only able to take a limited lead role in one examination in late-2010. However, DFI continued to work closely with the Federal Reserve Bank of San Francisco and with the FDIC in developing and coordinating the year-round examination program for Hawaii’s two largest banks and continued to participate in consumer compliance examinations conducted by the Federal Reserve Bank of San Francisco and the FDIC. Despite continuing staff shortages, DFI is currently coordinating with the FDIC to take the lead role in two examinations in 2012. In 2011, DFI also independently conducted several escrow depository compliance examinations and nondepository financial services loan company compliance examinations, as well as investigations arising out of complaints. Due to the continuing economic stresses affecting the local economy and the financial industry in 2011, DFI was involved jointly with federal agencies in monitoring progress in ongoing formal and informal supervisory actions imposed in 2009 and 2010, as well as taking new supervisory actions in 2011 against various regulated institutions.

The CRF financial summary relating to DFI for FY 10-11 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$2,094,405	\$362,448	\$2,456,853	\$3,429,771

**CONCLUSION**

During 2011, 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. 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](http://www.hawaii.gov/dcca/ins)

e-mail address: [insurance@dcca.hawaii.gov](mailto: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, 2011	Licenses as of June 30, 2010
Adjuster	1,296	1,071
Captives	169	162
Certificate of Authority (Insurer)	1002	998
Foreign Risk Retention Groups (Registered)	50	53
Fraternal Benefit Society	7	7
HMO (Health Maintenance Organizations)	2	2
Independent Bill Reviewer	24	19
Limited Lines Motor Vehicle Rental Company Producer	24	24
Limited Lines Producers	960	904
Managing General Agent	22	19
Mutual Benefit Society	6	6
Nonresident Producers	33,164	31,755
Producers	6,775	6,523
Reinsurance Intermediary Broker	18	16
Service Contract Provider Registration	122	120
Surplus Lines Broker	1,323	1,242
Vehicle Protection Product Warrantor Registration	14	14
<b>TOTAL:</b>	<b>44,978</b>	<b>42,935</b>

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](mailto: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, SSLH 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) 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 regulations in an effort to safeguard consumer interests and maintain integrity in the industry. The FS&E functions also include licensing and renewing more than 1,000 domestic, foreign and alien insurers; processing and collection of more than \$140 million of Premium and Surplus Lines taxes on behalf of the 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; authorization and monitoring of accredited and trusted reinsurers; registration of purchasing groups and foreign risk retention groups; self-insurance regulation; maintenance of security deposits; and monitoring of market share and competitive standards of foreign mergers and acquisitions.

The FS&E introduces legislation and administrative rules to ensure that the Insurance Division has adequate statutory and administrative authority and the resources necessary to carry out that authority. Accredited 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.<sup>4</sup> The FS&E is comprised of a manager, nine examiners, a certification specialist, and an office assistant.

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<sup>4</sup> 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 ID was first accredited by the NAIC in 1996 and re-accredited in 2001, 2006 and 2011.

**Health Insurance Branch.** The Health Insurance Branch (HI) is responsible for regulating health insurers, including health maintenance organizations and mutual benefit societies. The HI'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; and to conduct financial surveillance of health insurers. The HI also reviews advertising materials of long term care insurers. The HI 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 motor vehicle insurance fraud cases and complaints relating to motor vehicle insurance fraud. Effective July 1, 2009, the jurisdiction of the IFIB was 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 believe 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 IFIB also employs special deputy attorneys general to initiate criminal prosecutions. By employing deputies who are trained in criminal prosecution, 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 is 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; researches insurance issues, provides interpretations of the laws and rules, and reviews and analyzes administrative decisions and rulings; prepares legislative bills, legislative testimonies, administrative rules, and requests for formal and informal legal opinions; assists the branches in enforcing compliance provisions within Title 24, HRS; and provides 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 2010, consumers and the Insurance Industry saved or recovered \$5,893,726.97 from insurers and agents with the assistance of the Compliance and Enforcement Branch. Four hundred and eighty four (484) complaints were received for the following classes of insurance:

**Motor Vehicle Insurance:** Received the largest number of complaints with 266 or 55% of the total. Of this amount complaints involving no-fault coverage for medical and other related benefits accounted for 178 cases. Sixty five (65) cases involved claims handling in the following categories: fourteen (14) for material damage claims, twelve (12) for claim payment or settlement/resolution delays, twelve (12) concerning coverage and liability disputes, and twenty seven (27) for claim denials and other miscellaneous claim issues. Complaints other than claims total 23 in the following categories: nine (9) in the area of premiums and underwriting, three (3) for policy cancellations or non-renewals, and eleven (11) miscellaneous ones. Two hundred and sixty three (263) cases were resolved or referred to the appropriate agency for resolution. Three (3) cases remain pending.

**Life/Annuity Insurance:** There were 48 complaints received or 10% of the total. Of this amount, 20 involved misrepresentations and marketing issues, thirteen (13) involved policy servicing, two (2) involved claims handling, seven (7) involved underwriting issues, three (3) involved the inappropriate replacement of existing policies and three (3) involved miscellaneous issues. Forty five (45) cases were resolved or referred to the appropriate agency for resolution. Three (3) cases remain pending.

**Workers' Compensation:** There were 16 complaints received or 3% of the total. Of this amount, thirteen (13) involved claim handling and payment delays, one (1) involved underwriting or premium billings and two (2) involved miscellaneous issues. All 16 cases were resolved or referred to the appropriate agency for resolution.

**Fire/Homeowners Insurance:** There were 30 complaints received or 6% of the total. Of this amount, seventeen (17) involved claims, nine (9) involved underwriting, rating, cancellations, or non-renewals, three (3) involved policyholder service and sales, and one (1) involved a miscellaneous issue. All cases were resolved or referred to the appropriate agency for resolution.

**General Liability:** There were 10 complaints received or 2% of the total. Of this amount, eight (8) involved claims and the remaining 2 cases involved miscellaneous issues. Nine (9) cases were resolved or referred to the appropriate agency for resolution. One (1) case remains pending.

Miscellaneous: In addition to the above categories, there were 114 complaints received or 24% of the total, relating to other classes of insurance (disability, marine, surety, and miscellaneous). Eighty (80) cases were resolved or referred to the appropriate agency for resolution. Thirty four (34) cases remain pending.

Assigned Claims Program: There were 48 applications for benefits under the assigned claims program that were received and reviewed. Of this amount, twenty six (26) applications were assigned to servicing carriers for further handling; nineteen (19) applicants did not meet eligibility requirements and three (3) applications remain under review.

Review of Licensee's Criminal and Regulatory History: 1,046 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 34 formal actions involving the Compliance and Enforcement Branch. Of this amount, twenty-six (26) were letters of caution, three (3) were stipulated agreements, three (3) were revocations, one (1) was a consent order, and one (1) was a suspension. A total of \$52,250.00 was levied in fines.

**Financial Surveillance and Examination Branch.**

Financial statements and reports submitted by 21 domestic insurers and five mutual benefit societies are subject to in-depth analytical procedures on a quarterly basis and financial examinations are conducted at least once every five years. Analytical procedures and examinations provide a means to detect early warning signs of financial difficulty and allow for the introduction of remedial measures and prevention of future insolvencies. Analytical and examination procedures are subject to accreditation review by the NAIC.

The following is a summary of other activities of FS&E during 2010 and 2009 (dollar amounts are rounded to the nearest thousand):

	2010	2009
Number of Active Licensees*	1,067	1,066
Direct Premiums Written in Hawaii**	\$4,986,925,000	\$4,934,028,000
Surplus Lines Premiums Written in Hawaii	\$ 220,624,000	\$ 224,593,000
Foreign Risk Retention Group Premiums	\$ 5,208,000	\$ 5,079,000
Premium Tax Returns Processed	8,400+	7,000+
Premium Taxes & Levies Collected***	\$ 141,010,000	\$ 109,322,000
Total Hawaii Investments****	\$5,636,645,000	\$5,568,686,000

\* 2009 restated to include Foreign Risk Retention Groups, Health Maintenance Organizations and Mutual Benefit Society's.

\*\* Includes annuities.

\*\*\* Net of premium tax credits.

\*\*\*\* Includes bank balances.



**Health Insurance Branch.** From July 1, 2010 to June 30, 2011, the Health Insurance Branch received 192 complaints pertaining to federal and state laws governing health insurance, including long-term care insurance. Of the 192 complaints, 132 were resolved and 21 are still pending. Of the remaining 39 complaints, the Health Insurance Branch had no jurisdiction for 34 complaints, four were withdrawn, and one was referred to the appropriate agency for resolution. Of the total complaints, 110 involved reimbursement timeliness; 21 involved claims appeals; eight involved policy coverage; eight involved denial of coverage; eight involved rate increases; six involved obtaining health insurance; four involved drug formularies; three involved provider networks; two involved termination of coverage; one involved unfair marketing; and the remaining 21 involved miscellaneous issues. The complaints during this period resulted in consumers saving over \$775,000.

In addition, the Health Insurance Branch reviews premium rate filings of managed care plans pursuant to Hawaii Revised Statutes (HRS), chapter 431, Article 14G. The Health Insurance Branch received 20 rate filings during the period July 1, 2010 through June 30, 2011. 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 60 policy form filings for the period July 1, 2010 through June 30, 2011.

The Health Insurance Branch also 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 10H (Long-Term Care Insurance). The Health Insurance Branch received and reviewed 158 long term care advertising filings during the period July 1, 2010 through June 30, 2011.

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, 2010 to June 30, 2011, 34 requests for an external review were received.

**Insurance Fraud Investigations Branch.** During the fiscal year 2010-2011, the Fraud Branch received 280 referrals from insurance companies, various agencies, and the public. Of the referrals accepted for prosecution, criminal indictments were obtained against 27 individuals with a fraud amount totaling \$910,810.41 for the fiscal year. The Fraud Branch obtained restitution orders totaling \$21,175.18 for the cases that reached final disposition. In addition, the Fraud Branch obtained fines payable to the State of Hawaii totaling \$15,605.00, payments in the amount of \$4,540.00 to the Crime Victim Compensation Fund, probation services fees in the amount of \$1,425.00, and community service totaling 2,125 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 State Farm Insurance, GEICO, the National Insurance Crime Bureau, and Farmer's Insurance. Prosecutors and investigators received training in arson investigations, medical provider fraud, social networking, medical billing and coding errors, and attended the National Health Care Anti-Fraud Association's Annual Training Conference.

**Rate and Policy Analysis Branch.** During fiscal year 2010-2011, 3,854 filings were reviewed; in the preceding year (fiscal year 2009-2010), 4,049 filings were reviewed.

Hawaii participates in the National Association of Insurance Commissioners' (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 3,611 electronic filings were processed through SERFF during the fiscal year; in the preceding fiscal year, 3,135 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 75 product standards on life and annuity products and has reviewed 264 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. One new insurer filed to transact long term-care insurance business. There are 57 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 eight 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:

Commercial Multiperil: On September 1, 2011, Hawaii Insurance Bureau, Inc. (HIB) submitted loss costs associated with the major business owners coverage's with an overall impact of -0.4%.

Commercial Property: On May 27, 2011, HIB's advisory loss costs for class-rated and specifically-rated properties were approved with an overall impact of -12.3%. The filing was based on AIR-Worldwide Corporations' Hawaii Tropical Cyclone Model.

Homeowners: On March 4, 2011, revisions to HIB's homeowners loss costs excluding the peril of hurricane were approved with an overall impact of -3.9%.

Workers' Compensation: On September 1, 2010, revisions to the National Council on Compensation Insurance, Inc.'s workers' compensation loss costs, to reflect experience and statutory

benefits as of January 1, 2010, were approved with an overall impact of 0.0%. This was the seventh consecutive year that advisory loss costs did not increase based on Hawaii employers' claims experience.

Motor Vehicle: On May 20, 2011, HIB's revised personal auto advisory loss costs were approved with an overall impact of -11.0%.

### **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 requirement; (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. The ID developed a database named the Hawaii 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. The ID has completed its HIDS enhancement project which modified existing applications and developed an Examination application. The Examination application allows for the electronic submittal 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 2011, the ID was reaccredited for another five years, the most that a state can achieve. 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 introduce 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 Hawaii 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 awarded a \$1 million dollar grant from the federal Department of Health and Human Services ("DHHS") in 2010 to study the idea of creating a health insurance exchange in Hawaii. 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 formed a task force to study exchange-related issues and expects to procure at least one consultant to assist its effort. Enabling legislation to implement the Exchange in Hawai'i was passed in 2011.

8. The Insurance Division received another \$1 million dollar grant from DHHS in 2010 to build a computer system that can report data relating to health premium rate regulation. The Division is exploring various options to meet this goal including using the National Association of Insurance Commissioner's System for Electronic Rate and Form Filing and modifying the Division's current database to enable the reporting. The Division does not expect to spend the entire \$1 million on this project.

9. The Insurance Division also received a \$3 million dollar grant from DHHS to establish or enhance a meaningful and comprehensive effective rate review program that is transparent to the public, enrollees, policyholders and to DHHS. The program is to thoroughly evaluate rate filings and, to the extent permitted by applicable State law, approve or disapprove those filings.

10. The passage of the Nonadmitted Reinsurance and Reform Act of 2010, required states to have in place by July 21, 2011, a working mechanism in place whereby surplus lines premium taxes are collected and distributed in a uniform manner. Enabling legislation to implement a mechanism in Hawai'i

was passed in 2011. The Division is working with other states through the NAIC to coordinate this mechanism.

**Financial Summary**

The CRF financial summary relating to INS for FY 10-11 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,234,461	\$2,479,140	\$6,713,601	\$5,938,937

**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/](http://www.hawaii.gov/dcca/oah/)

e-mail address: [oah@dcca.hawaii.gov](mailto:oah@dcca.hawaii.gov)

### OVERVIEW

The Office of Administrative Hearings (OAH) is a support office under the Director's Office and is responsible for conducting administrative hearings and issuing recommended decisions, for all 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-A, and 4) appeals of benefit determinations from the Employer-Union Health Benefits Trust Fund under a Memorandum of Understanding.

As of May 5, 2011, the OAH became responsible for the administration of Mortgage Foreclosure Dispute Resolution Program (MFDRP) established in 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. 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 of 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 M CCP/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/](http://www.hawaii.gov/dcca/oah/); and e-mail address: [oah@dcca.hawaii.gov](mailto:oah@dcca.hawaii.gov).

**ACCOMPLISHMENTS**

The following table summarizes the CRF-related activities conducted by OAH for the 2010-2011 fiscal year:

Type of Proceeding Conducted	Number
Pre-hearing conferences	64
Status conferences	87
Motions	26
Hearings	113

The following table summarizes the number of cases and the relative percentage of CRF-related activities conducted by OAH for the 2010-2011 fiscal year.

DCCA Divisions Referring Matters to OAH	Cases Filed	%
Insurance Division (denial of personal injury protection benefits)	196	59%
Regulated Industries Complaints Office (disciplinary proceedings and citations for unlicensed activities)	82	25%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, violations of securities laws)	13	4%
Professional and Vocational Licensing (license denials)	18	5%
Office of Administrative Hearings (condominium disputes)	7	2%
Office of Administrative Hearings (procurement protests)	8	3%
Other CRF-related hearings	8	2%

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. While decisions in other areas had been posted online since January 2005, they were taken off line in 2009. The Office of Administrative Hearings is working with the DCCA's Information Systems and Communications Office to have these decisions posted online again in a more up to date format. New software has been purchased that will redact decisions of personal information protected by privacy laws and also make the online decisions ADA complaint. These decisions should be posted on line, using the new software, by the end of 2011.

### ***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](http://www.hawaii.gov/dcca/ocp)

E-mail address: [ocp@dcca.hawaii.gov](mailto:ocp@dcca.hawaii.gov)

### OVERVIEW

The Office of Consumer Protection (OCP) is empowered by statute to enforce the state's consumer protection laws. Functionally, this means that OCP has jurisdiction over a wide range of businesses and activities, including both regulated and unregulated industries. OCP handles many different types of complaints, such as those involving: advertising violations, door-to-door sales, solar energy devices, gift certificates, offers of gifts and prizes, going out of business sales, charitable solicitations, refunds and exchanges, collection practices, credit sales, health clubs, towing, fine prints and motor vehicle rentals. See Table 1, Laws Enforced by OCP. OCP is also the primary government agency in the State of Hawaii responsible for reviewing and investigating allegations of unfair or deceptive trade practices in consumer transactions. Finally, OCP also provides general information on the Residential Landlord-Tenant Code to consumers.

OCP has adopted a number of different strategies to ensure that its mission is achieved in a meaningful and cost-effective manner. First, the staff tries to prioritize 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 throughout the foreseeable future, including during the next five years.

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 345 Kekuanaoa Street, Suite 12. OCP's website address is [www.hawaii.gov/dcca/ocp](http://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 division 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 10-11 statistics.

***The Landlord-Tenant Section - phone: (808) 586-2634; Consumer Dial (808) 587-1234; website [www.hawaii.gov/dcca/ocp](http://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. 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 consumers and businesses alike. 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 will include:

- Maintaining fiscal responsibility on behalf of DCCA/OCP;
- Support innovative legislation designed to protect consumers in the State of Hawaii;
- Proactively initiate cases against problematic business practices before there is widespread consumer harm;
- Disseminate consumer education to the largest possible populace;
- Facilitate the exchange of information with a wide array of law enforcement agencies;
- Develop access to investigative data bases; and
- Provide 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.

Most 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 2011 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, marketing protection, living trusts, door-to-door sales, refund and exchanges, and unfair or deceptive trade practices. OCP's involvement successfully resulted in recovering approximately 1.6 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, including those relating to mortgage foreclosures, Uniform Information Practices Act, gift certificates, Automatic Contract Renewal Clauses Act 139, Motor Vehicle Rental Fees and Insurance Act 104, and credit practices.

The CRF financial summary relating to OCP for FY 10-11 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,196,485	\$174,409	\$1,370,894	\$1,649,073

**CONCLUSION**

OCP continues to receive a large number of requests for assistance. Consumer complaints are diverse in nature and range from an isolated case to problems that affect every Hawaii citizen. Through regular training and information exchange, OCP’s staff attempts to keep abreast of the latest consumer problems and “rip-offs,” in order to prevent them from occurring and, if this is not possible then to limit their impact. 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 meet the consumer protection needs of this community, and fulfill its mission.

**Table 1: Laws Enforced by OCP**

HRS §209-9	Price Gouging
HRS §290-11	Towing
HRS §437	Motor Vehicle Sales – Spot Delivery
HRS Chapter 437D	Motor Vehicle Rental
HRS Chapter 446	Debt Adjusting
HRS Chapter 446E	Unaccredited Degree Granting Institutions
HRS Chapter 457G	Occupational Therapists
HRS Chapter 467B	Charitable Solicitations
HRS Chapter 476	Credit Sales <sup>5</sup>
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices <sup>6</sup>
HRS Chapter 480D	Collection Practices <sup>7</sup>
HRS Chapter 480E	Mortgage Rescue Fraud Prevention Act
HRS Chapter 480F	Check Cashing
HRS Chapter 481A	Uniform Deceptive Trade Practice Act
HRS Chapter 481B	Unfair and Deceptive Practices, including Unsolicited Goods; Commercial Mail Order Buying Clubs; 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 <sup>8</sup>
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 <sup>9</sup>
Act 282 (1997)	Assistive Device Warranty Act
Act 137 (2008)	Mortgage Rescue Fraud Prevention Act

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> See also, Collection Agencies HRS §443B-20.

<sup>8</sup> E.g. Motor vehicle advertising, HRS §437-4.

<sup>9</sup> 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.

Act 222 (2000)	Service Contracts
Act 45 (2010)	Health Clubs
Act 122 (2010)	Towing
Act 162 (2010)	Mortgage Foreclosure
Act 48 (2011)	Mortgage Foreclosures
Act 139 (2011)	Contracts

**Table 2: OCP Information Requests**

REQUEST AND INQUIRIES	FY 08-09	FY 09-10	FY 10-11
Requests for Prior Complaint History	5,183	4,916	4,367
Requests for Landlord/Tenant Information	7,783	7,286	7,561
Complaint Inquiries	15,897	10,120	16,102
Requests for Records Review	8	20	7
<b>TOTAL</b>	<b>28,871</b>	<b>22,342</b>	<b>28,037</b>

OCP' WEBSITE INQUIRIES	FY 08-09	FY 09-10	FY 10-11
Website inquiry General Information	N/A	N/A	120,785
Website inquiry Landlord/Tenant Information	N/A	N/A	157,850
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>278,635</b>

**Table 3: Number of OCP Complaints Filed**

COMPLAINANT	FY 08-09	FY 09-10	FY 10-11
Public	1,773	1,904	1,787
OCP	67	85	54
<b>TOTAL</b>	<b>1,840</b>	<b>1,989</b>	<b>1,841</b>

**Table 4: Numerical Breakdown of Dispositions of All OCP**

DISPOSITIONS	FY 08-09	FY 09-10	FY 10-11
Complaint Withdrawn	8	14	15
Legal Action & Referrals to Legal	292	170	103
Advisory Contact	38	37	27
Civil Dispute/Personal Matter	52	66	83
Monetary Threshold	1	1	0
Complainant Uncooperative	17	43	32
Consumer Complaint Resolved	47	65	69
Respondent Died or Bankrupt	44	298	63

DISPOSITIONS	FY 08-09	FY 09-10	FY 10-11
Business vs. Business	42	26	25
No Jurisdiction	18	13	10
Refer to Investigation	396	151	76
Other	0	2	4
Warning Letter	48	56	39
Insufficient Evidence	378	379	391
Transferred to Other Gov't. Agency	709	1,123	959
No Violation	14	26	26
Information Only/Inquiry	130	136	244
<b>Total</b>	<b>2,234</b>	<b>2,606</b>	<b>2,166</b>

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

SUBJECT	FY 08-09	FY 09-10	FY 10-11
Animals	4	7	9
Breeders	1	0	2
Pet Grooming	1	0	0
Pet Shops	3	2	3
Kennels/Boarding	0	0	1
Refund Law – Refunds/Exchanges/Merchandise Credit	39	68	39
Gift Certificates	26	19	28
Rebate	5	4	2
Apparel/Accessories	17	5	4
Laundry/Dry Cleaning/Laundromats	2	3	1
Dressmaker/Tailors	1	2	0
Fabric/Notions/Etc.	1	0	0
Shoes/Etc.	5	3	3
Clothes	10	3	3
Appliances	8	22	33
Refrigerator/Freezer/Stove/Range	25	11	19
Water Heaters/Air Conditioners	0	2	1
Washer/Dryer	14	7	4
Radio/Stereo/Tape Deck/CD Player	5	1	3
TV/VCR	7	3	4

*2011 Compliance Resolution Fund Report*

SUBJECT	FY 08-09	FY 09-10	FY 10-11
Sewing Machine	0	0	2
Vacuum Cleaner	6	4	7
Computers/Software	24	25	20
Health Services/Products	12	18	18
Exercise Devices	1	1	0
Exercise/Health Clubs/Clinics	10	10	5
Health Foods	2	1	1
Weight Reduction	3	0	0
Cosmetics/Beauty Products	3	4	3
Wigs/Hairpieces	0	1	0
Entertainment/Music	6	2	5
Concerts/Events	1	1	1
Ticket Sellers/Promoters	2	2	1
Theaters	1	0	0
Night Clubs/Discotheques	0	2	2
Musical Instruments/Lessons	4	0	1
Audio Records/Tapes/CD/Etc.	1	3	1
Video Records/Tapes/CD/Etc.	5	10	9
Florists/Nurseries	2	0	1
Food/Drink	16	10	8
Food Stores/Markets	10	10	2
Drive Inns	1	0	0
Caters/Deli	0	1	1
Restaurants	12	8	12
Energy/Fuels	0	0	1
Gas, Propane, Etc.	5	4	2
Identity Theft	24	48	30
Identity Theft – Security Breach Notification	36	19	18
Identity Theft – Social Security Theft	2	0	1
Identity Theft – Destruction of Personal Information/Records	4	1	0
Identity Theft – Security Freeze	2	0	0
House Materials/Goods/Services	8	8	7
Beds & Mattresses	6	2	2
Furniture	9	14	9



*2011 Compliance Resolution Fund Report*

SUBJECT	FY 08-09	FY 09-10	FY 10-11
Cookware	1	3	1
Drapery	0	1	0
Carpet/Rugs	4	4	5
Clocks	1	1	2
House Hardware/Fixtures	9	4	4
Woodwork/Metal craft/Glass/Etc.	6	4	5
Interior Decorators	1	0	0
Lawn Care Products/Yard Service	2	1	4
Upholsters	0	1	0
Water Purifiers/Filters	26	23	2
Cleaning Services	8	3	8
House Construction/Remodeling	1	6	3
Vermin/Bug Extermination	2	0	0
Tools	0	4	0
Insurance	18	16	10
Extended Warranties	16	13	6
Service Agreements/Contracts	44	55	27
Jewelry	16	9	11
Precious Stone & Metals	4	2	3
Watches	2	1	1
Medical	9	6	49
Hospitals/Clinics	13	8	4
Pharmacies	2	2	3
Convalescent/Nursing Homes	0	1	0
Medical Equipment	4	2	1
Medical Service Companies	5	1	6
Medical Laboratories	2	0	0
Home Care Facilities	0	0	4
Morticians, Cemeteries & Other	0	0	1
Moving & Storage	8	17	10
Private Storage Company	0	1	0
Delivery Service	218	5	25
Air Cargo Service	1	0	0
Multi-Product Retailer/Wholesalers	15	5	7

**2011 Compliance Resolution Fund Report**

SUBJECT	FY 08-09	FY 09-10	FY 10-11
Buying Clubs	0	1	0
Department Stores	2	3	2
Photography	2	3	1
Camera/Equipment	1	2	3
Photographic Services	2	6	4
Professional Services	6	7	2
Attorneys/Legal Services	4	14	10
Accountants/Bookkeeping	2	0	1
Tax Services	3	2	4
Medical Professional	3	8	4
Printers	2	2	1
Regulated Services (Trade & VO Caption)	13	1	3
Protection Devices	3	0	0
Fire/Burglar Alarms	1	3	5
Locks (Windows, Doors, Etc.)	2	2	3
Recreation/Toys/Game/Etc.	9	11	7
Arts & Crafts	6	4	3
Boats & Airplanes	2	4	4
Toys	9	6	3
Surfboards	0	1	0
Video Games	7	2	0
Sporting Goods	3	5	3
Recreational Rentals	0	1	0
Transportation	1	3	4
Cabs	1	5	1
Moving Companies/Storage	3	8	5
Automobiles	29	7	3
Car/Truck Rental	18	20	19
Car/Truck Lease	1	1	1
Moped Rentals	1	2	0
Other Transportation Rentals	0	2	1
Towing	27	39	24
Parking	10	10	8
Body/Paint Shops	4	8	4

**2011 Compliance Resolution Fund Report**

SUBJECT	FY 08-09	FY 09-10	FY 10-11
Auto Parts/Repair	17	18	14
Rust proofing/Undercoating	0	1	0
Glass Tinting	1	1	0
Vehicle (Incl Mopeds) New & Used Sales	22	13	33
Warranties	21	11	4
Travel/Vacations	40	64	24
Air Travel Services (Airlines, Etc.)	19	7	14
Ocean Travel Services (Cruises & Ships)	3	0	2
Discounted Tickets - Travel/Entertainment	5	14	2
Hotels & Motels	13	20	8
Bed & Breakfast	6	3	5
Tour Services	7	4	7
Utilities	0	1	0
Gas Provider	2	2	4
Electric	1	1	1
Telephone/Cellular/Pagers	56	54	42
Water	3	3	1
Cable	1	6	3
Telecommunications/Electronic Devices	8	4	1
Dating Services	4	6	1
Investment/Financial	5	3	7
Consumer Credit	9	114	96
Credit Card	56	43	34
Checking Accounts	7	6	3
Debit Accounts	3	3	3
Promissory Notes	0	0	2
Buying on Account	1	0	0
Information to Obtain Credit/Credit Cards	1	0	0
Discount Coupons/Books	3	1	0
Financial Institutions	5	4	8
Credit Reporting Agency	4	3	5
Credit Repair	3	6	3
Collection of Debts	22	9	15
Advance Fee Loans	3	3	4

**2011 Compliance Resolution Fund Report**

<b>SUBJECT</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>
Bank/Savings & Loan/Industrial Loan Companies	3	6	118
Escrow Services	2	1	2
Loan/Mortgages	31	204	251
Investment/Opportunity Scheme	14	12	0
MLM/Pyramids/Endless Chain Schemes	1	3	10
Referral Sales	1	0	0
Get Rich Programs	1	0	1
Work-at-Home Programs	0	1	0
Coins/Currency	4	5	4
Stocks & Bonds	0	1	2
Art	6	2	1
Securities	2	1	3
Tax Planning/Devices	0	2	0
Contract Sellers	0	0	1
Auctioneers	1	1	1
Second Hand Dealers	1	3	1
Real Estate	39	52	42
Sweepstakes/Lottery/Games of Chance	26	16	42
Contests	1	2	1
Education/Information	3	1	8
Schools (Elementary, High)	1	1	0
Degree Granting Schools	2	6	8
Unaccredited Degree Schools	8	6	4
Trade/Vocational Schools	28	6	5
Dance Schools	0	1	1
Modeling Schools	1	1	1
Day Care Centers	1	1	0
Employment	6	5	6
Magazine	9	4	3
Subscription Services	12	13	4
Newspaper	1	1	3
TV Broadcasting	1	1	0
Radio Broadcasting	0	0	0
Computer Information Services	2	1	1

**2011 Compliance Resolution Fund Report**

SUBJECT	FY 08-09	FY 09-10	FY 10-11
Internet Transactions	257	423	426
Internet Fraud Complaint Center	358	717	667
Books/Encyclopedia	2	4	2
Self-Improvement Seminars	2	1	0
Charitable Solicitations	2	4	1
Environmental Claims	1	0	0
Religious	0	0	1
Rent to Own	1	0	0
Elderly Issues	13	11	5
Civil Procedures/Statutory Constructions	1	0	0
Multistate Projects	11	15	8
Spamming	0	1	5
MS – Newspaper Advertisement	7	8	8
MS – Other Regular Printed Media Ad (Magazine, Etc.)	4	4	4
MS – Television/Cable	4	4	9
MS – Info Commercial	1	3	0
MS – Telemarketing	13	10	5
MS – Direct Mail	5	0	0
MS – Information Brochure	1	0	0
MS – Response Card/Letter	1	2	1
MS – Home Presentation (Door-to-Door)	2	3	5
MS – Radio	0	1	2
MS – Product Show	1	1	1
MS – Information/"How To" Seminar	1	2	6
MS – Mail Order	4	6	3
<b>TOTAL COUNT</b>	<b>2,258</b>	<b>2,771</b>	<b>2,664</b>

Subjects previously reported, with no complaints covering FY 08-09; FY 09-10 and FY 10-11:  
 CB Radios; Buying Clubs – Record/Tape/CD/Video; Bakery; Banquet Halls; Bars/Cocktail Lounges; Solar Energy; Energy Saving Devices; Psychiatric Counseling/Group Therapy; Other Counseling/Group Therapy; Occupational Therapists (457G); Bill of Lading; In-transit Storage; Photo Studios; Film Processing; Adoption Agencies; Heat/Smoke Detectors; Fire Extinguisher; Camping Equipment; Pedi-Cabs; Tour Buses and Limos; Travel Clubs; Passports & Visas; Chain Letter; Mortgage; Oil/Gas Lottery; Pawn Shops; Gambling; Home Study; Correspondence Schools; Resume Preparation; Modeling Agency; Regular Periodic Information Service; Encounter Group Therapy; Emergency: Prize/Freeze/Gouging/Rent Termination; MS – 1-900 Numbers

**Table 6: OCP Neighbor Island Assistance FY 10-11**

<b>DIVISION</b>	<b>HILO</b>	<b>MAUI</b>	<b>TOTAL</b>
Division of Financial Institutions	5	0	5
Business Registration	25	21	46
Insurance Division	13	0	13
Division of Consumer Advocacy	1	2	3
Professional & Vocational Licensing	17	27	44
Regulated Industries Complaints Office	51	66	117
Other DCCA Divisions	9	6	15
Non-Departmental Related	99	135	234
<b>TOTAL</b>	<b>220</b>	<b>257</b>	<b>477</b>

## PROFESSIONAL AND VOCATIONAL LICENSING DIVISION (PVL)

website: [hawaii.gov/dcca/pvl](http://hawaii.gov/dcca/pvl)

e-mail address: [pvl@dcca.hawaii.gov](mailto:pvl@dcca.hawaii.gov)

### OVERVIEW

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations 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 offerings to promote accessibility for licensing information on the Internet 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 a Geographical Report of current licensees by licensee type, by island, and by type of entity. It 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.

Public accessibility to licensee information is enhanced by the PVL's 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 ordered 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](http://hawaii.gov/dcca/pvl/e_services).

This is the eleventh 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, a majority of the renewals are done online. Online renewals are available at [http://hawaii.gov/dcca/pvl/e\\_services](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 amongst 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.

### **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 Electrician, Journeyman (active and inactive); Electrician, Journeyman Industrial (active and inactive); Electrician, Journeyman Specialty (active and inactive); Electrician, Maintenance (active and inactive); Electrician, Supervising (active and inactive); Electrician, Supervising Industrial (active and inactive); Electrician, Supervising Specialty (active and inactive); Motor Vehicle Repair - Registered Mechanic (active); and Motor Vehicle Repair Dealer (active).

A new webpage for the Respiratory Therapist (RT) Program was added to the division's website. The implementation of the respiratory therapist program took effect on July 1, 2011. The webpage includes contact information, important announcements, the RT statute, and other pertinent information. The fillable application form is also available on the website.

#### *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 11, the online renewal user rate was 87.35%, while the corresponding FY 09 biennial renewal user rate was 81.29%, resulting in a

6.06% increase in the user rate. In FY 10, the online renewal user rate was 82.81%, while the corresponding FY 08 biennial user rate was 76.48%, resulting in a 6.33% increase in the user rate.

PVL continued its Customer Appreciation Credit (CAC) by offering licensees a 25% CAC discount through FY 11 online renewals. In FY 11, total savings to licensees was \$608,731; in FY 10, it was \$787,039; in FY 09, it was \$553,440; and in FY 08, it was \$689,983. In FY 07 and FY 06, a 10% CAC discount was offered. In FY 07, the total savings was \$109,024 and in FY 06, the total savings was \$188,140. Since the inception of the CAC in FY 06 through FY 11, total savings for licensees that renewed online amounted to \$2,945,962. The CAC discount was designed to serve as an appreciation to PVL licensees who used the online system and as an incentive for more licensees to adopt the online renewal process. The performance of this project will continue to be measured by the ability to afford the CAC discount to all licensees and by seeing an increase in our online renewal 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 11, PVL paid \$286,806 in service fees. The total to-date service fees paid by PVL since the inception of the online renewal system (FY 01) is \$2,050,477.

For PVL's License Search online system, there were 3,332,318 "page views" during FY 11. 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 Examination Branch was able to maintain processing of applicant eligibility for testing as well as post-examination results in a timely manner. Applicants who needed to meet an exam requirement for licensure were able to take an exam and, in some cases, receive his/her results within 24 hours. In addition, several professions made changes to their testing process by either going back to having fixed exam dates due to national security issues, while others broadened the availability of their exam by offering their exam daily. The Examination Branch worked closely with the testing organizations, the applicants, and the affected PVL staff such as its Executive Officers and its Licensing Branch, to ensure the transitions were as smooth and seamless as possible. The Examination Branch continued to work with the national board associations and the testing agencies regarding requests from applicants for special testing accommodations. Requests were handled in a timely and professional manner. The Examination Branch also streamlined internal processing procedures for greater efficiency by reviewing and re-assessing the necessity of certain forms, logs, and filing systems.

The Licensing Branch was able to continue the timely processing of new licenses and was able to attain an 88% on-time processing of renewed licenses even with the continued staff shortage in the Records Section. In addition, the time-frame for processing verifications requests went from approximately 4 weeks to 2 weeks. This improvement in timeliness has decreased the amount of calls pertaining to verification requests that are received. The processing time of the mail out of the pocket ID cards and the wall

certificates have also improved and, in turn, have resulted in a reduction of inquiries regarding the status of these items.

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](http://hawaii.gov/dcca/real/ce_online).

The REB/REC, with participation from industry representatives, continued its review and study of the potential impact of mandatory criminal history and background checks for licensure and renewal. Further, through a working relationship with industry groups, the number of CE hours licensees must complete to keep their real estate licenses on an active status were increased from 10 to 20 hours. For a comprehensive report on the FY 11 matters addressed by the Real Estate Commission and the Real Estate Branch, please refer to <http://hawaii.gov/dcca/real/main/reports> to view their Annual Report for fiscal year ending June 30, 2011.

#### *Significant Legislative Activities*

PVL had an engaging 2011 Legislative Session. While having introduced only one administration bill which passed (relating to national dental hygiene examinations), we also monitored and testified on numerous other bills that impacted PVL. These are described below.

#### Administration bill:

Act 44, SLH 2011, relating to national dental hygiene examinations, amends Chapter 447, HRS, by specifying that the passage of the National Dental Hygiene Examination is required for licensure. Act 44 took effect on May 4, 2011.

#### Other bills affecting PVL:

Act 13, SLH 2011, relating to the motor vehicle industry licensing act, amends Chapter 437, HRS, to reflect updated statutory cross-references and make non-substantive technical amendments. Act 13 took effect on July 1, 2011.

Act 65, SLH 2011, relating to service of process, repeals the sunset date of Act 158, SLH 2009, requiring condominium associations, planned community associations, and cooperative housing corporations to establish an access policy for civil process servers. Act 65 took effect on May 26, 2011.

Act 98, SLH 2011, relating to HRS Section 514B-153(E), amends Chapter 514B, HRS, by requiring a condominium association that includes time share units to list its name and address as the representative

agent for individual time share owners in the records that the association is required to maintain unless the individual time share owner requests the association to maintain the individual owner's name and address in the association's records instead. Act 98 took effect on June 9, 2011.

Act 110, SLH 2011, relating to advanced practice registered nurses, amends Chapters 323 and 457, HRS, by requiring hospitals to allow advanced practice registered nurses to practice within the full scope of allowable practice, including as a primary care provider. The law also authorizes advanced practice registered nurses with prescriptive authority to request, receive, and dispense samples of over the counter and non-controlled legend drugs. Act 110 took effect on June 14, 2011.

Act 115, SLH 2011, relating to owner-builders, amends Chapter 444, HRS, by clarifying that an owner with an open permit may be exempt, upon a showing of hardship, from the prohibition on sale or lease of a property constructed or improved under an owner-builder exemption within one year of the construction or improvement. Act 115 took effect on July 1, 2011.

Act 124, SLH 2011, relating to state funds, terminates certain funds for which the statutory authority has expired and deposits the residual amounts left in each fund into the general fund. All moneys in the Travel Agency Recovery Fund and the Travel Agency Education Fund, as of June 30, 2011, were transferred to the general fund of the State of Hawaii and the Travel Agency Recovery Fund and the Travel Agency Education Fund were repealed.

Act 212, SLH 2011, relating to broker price opinions, amends Chapter 466K, HRS, by exempting a real estate licensee who provides an opinion as to the estimated price of real estate from the requirement for licensure as an appraiser subject to certain conditions. Act 212 took effect on July 11, 2011.

Act 227, SLH 2011, relating to appraisals, amends Chapter 466K, HRS, by specifying required contents of the record of award when a certified real estate appraiser acts as an arbitrator in an arbitration proceeding to determine the fair market value, fair rental value, or fair and reasonable rent of real estate. The law also requires certification of compliance with the Uniform Standards of Professional Appraisal Practice. Act 227 took effect on July 12, 2011.

#### *Hawaii Administrative Rules Activities*

In FY 11, amendments to the following rule chapters were adopted: HAR Chapter 53, relating to Fees (for firm permits to practice); HAR Chapter 71, relating to Certified Public Accountants and Public Accountants; HAR Chapter 88, relating to Naturopaths; HAR Chapter 89, relating to Nurses; HAR Chapter 92, relating to Optometrists; and HAR Chapter 97, relating to Private Detectives and Guards.

#### *Significant Division Activity*

PVL continues to make progress in its scanning and imaging project that converts existing licensing document files into electronic format. The conversion of the documents into electronic format protects and preserves historical documentation from damage or destruction. The conversion also has allowed staff to retrieve and review documents in a more expeditious manner, at their desks, thereby eliminating the time delay that comes with physically pulling files. This subsequently provides for more effective and timely service to our clients. However, even with the scanning of files, the hardcopy file is still sometimes

required. Thus, PVL has started a massive project of reorganizing its licensee files into a more efficient and logical filing system. Currently, more than half of the entire population of files has been reorganized. In addition to the scanning of license files, the Licensing Branch is also making greater use of technology as a means to access and store/maintain documents that are high in volume. Some of our high-volume documents that previously needed to be searched for manually can now be accessed and retrieved electronically on a shared drive so multiple staff can access these documents from his/her workstation.

*Financial Overview*

The CRF financial summary relating to PVL for FY 10-11 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,323,905	\$850,334	\$4,174,239	\$4,434,382

**GOALS AND OBJECTIVES (Action Plan) for FY 2012**

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 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. There are more than 100 application forms that will be converted.

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 begin to post of all of its Board and Commission meeting minutes on its respective websites. While only the Real Estate Commission posts its meeting minutes on its website, we decided that the posting of all of the meeting minutes will be very beneficial to and easily accessible by the consuming public.

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.

PVL will also be exploring avenues to streamline the Licensing Branch and the Examination Branch functions and services for improved operational efficiency. PVL will be 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. PVL will also be reviewing the timeframes for the various steps in the licensure process to ensure greater accountability and consistency in staff performance.

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. REB will begin to offer all real estate licensing applications in a PDF form-fillable format for easy online completion and printing. 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. REB has collected data, worked with industry members, and is currently drafting proposed HAR Chapter 99 amendments. 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 2012 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, 2011.

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 Chapter 71, relating to Certified Public Accountants and Public Accountants, amendments to HAR Chapter 99, relating to Real Estate Brokers and Salespersons; and proposed new rules for Mixed Martial Arts Contests and Respiratory Therapists.

Finally, we are also hopeful we will be able to fill the remaining vacancies PVL has in the Records Section of the Licensing Branch so that the division can sustain its processing time for renewals at prior levels in the middle to high ninetieth percentile without the need for staff overtime. The Applications Section will continue as well, to strive to attain a higher processing time percentile for new licenses.

## **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**

	<b>FY 09-10</b>	<b>FY 10-11</b>
No. of applications received	11,568	11,757
No. of applicants licensed	9,788	9,221
No. of licenses renewed	62,096	68,418
No. of changes processed	203,365	215,738
No. of calls received by Licensing Branch	88,978	85,026
No. of current licensees	131,816	132,948
Total licensee population (all statuses - i.e. Current, forfeited, delinquent)	335,210	347,283

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

<b>Boards and Commissions (shown by asterisk *), and Programs</b>	<b>FY 09-10</b>	<b>FY 10-11</b>
Accountants*	2,663	3,259
Activity Desks	728	814
Acupuncturists*	626	687
Barbering and Cosmetology*		
Barbers	1,247	1,345
Barber Shops	178	186
Beauty Operator*	7,789	8,423
Beauty Instructor	87	98
Beauty School	11	12
Beauty Shops	1,174	1,295
Boxing (all categories)*	100	34
Cemeteries and Pre-Need Funeral Authorities	30	22
Chiropractors*	596	637
Collection Agencies	638	603
Contractors*	12,796	12,619
Dentists*	1,473	1,543
Dental Hygienists	921	38
Dispensing Opticians	198	185
Electricians (all categories)*	2,835	3,046
Plumbers (all categories)*	1,069	1,125
Electrologists	19	18
Elevator Mechanics*	220	223
Employment Agencies	84	68
Engineers, Architects, Surveyors, and Landscape Architects:*		
Engineers	5,497	5,977
Architects	2,164	2,310
Surveyors	204	211
Landscape Architects	152	159
Hearing Aid Dealers & Fitters	110	117
Marriage and Family Therapists	224	257
Massage Therapists*	7,603	7,436
Massage Establishments	845	788
Medical and Osteopathy*		
Physicians	8,081	8,599
Podiatrists	72	75
Osteopaths	717	741
Physician Assistants	176	235
Emergency Medical Technicians	561	671
Mobile Intensive Care Technicians	434	456
Mental Health Counselors	208	236

Professional and Vocational Licensing Division (PVL)

Mixed Martial Arts		192
Mortgage Brokers **	346	0
Mortgage Broker Branch Offices**	71	0
Mortgage Solicitors **	1,855	0
Motor Vehicle Dealers*	286	257
Motor Vehicle Salespersons	1,522	1,429
Motor Vehicle Repair Dealers*	812	859
Motor Vehicle Mechanics	1,852	1,955
Naturopaths*	106	127
Nursing*		
Registered Nurses (RN)	19,748	21,664
Licensed Practical Nurses (LPN)	2,695	2,992
Advanced Practice Registered Nurse (APRN)	957	1,047
APRN with Prescriptive Authority	211	278
Nurse Aides	7,340	7,770
Nursing Home Administrators	144	139
Occupational Therapists	605	557
Optometrists*	377	395
Pest Control Operators*	193	185
Pest Control Field Representatives	243	219
Pharmacists*	2,028	2,182
Pharmacies	244	254
Wholesale Prescription Drug Distributors	58	65
Miscellaneous Permit	312	342
Physical Therapists*	1,394	825
Port Pilots	10	10
Private Detective Agencies*	38	41
Private Detectives	112	113
Guard Agencies	79	79
Guards	99	101
Psychologists*	898	944
Real Estate Appraisers	547	594
Real Estate Brokers*	6,484	6,207
Real Estate Salespersons	13,319	11,358
Real Estate Branch Offices	92	69
Condominium Hotel Operators	26	26
Social Workers	2,719	1,660
Speech Pathologists*	507	584
Audiologists	63	71
Travel Agencies	1,213	1,310
Uniform Athlete Agents	2	5
Veterinarians*	428	444
<b>TOTAL</b>	<b>132,565</b>	<b>131,897</b>

\*\* Licensing and regulatory oversight transferred to the Division of Financial Institutions pursuant to Act 32, Special Session Laws of Hawaii 2010

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

License Types	FY 07-08	FY 08-09	FY 09-10	FY 10-11
Accountant	2,029 (84.8%)		2,203 (90.4%)	
Activity Desk	129 (69.5%)		170 (75.9%)	
Acupuncturist		478 (86.59%)		561 (93.81%)
Architect	1,888 (95.98%)		2,004 (97.6%)	
Audiologist	50 (83.3%)		55 (94.8%)	
Barber	627 (55.5%)		709 (62.6%)	
Barber Shop	87 (52.1%)		96 (58.5%)	



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

Beauty Operator	4,198 (64.2%)		4,832 (71.5%)	
Beauty Instructor	62 (91.2%)		61 (82.4%)	
Beauty Shop	599 (63.3%)		665 (65.5%)	
Chiropractor	407 (75.9%)		434 (80.7%)	
Contractor		5,927 (58.85%)		7,089 (74.53%)
Dental Hygienist	635 (81.5%)		747 (88.4%)	
Dentist	1,090 (79%)		1,257 (88.6%)	
Dispensing Optician	133 (83.65%)		151 (90.4%)	
Electrologist		10 (62.50%)		12 (70.59%)
Electrician				1,942 (71.9%)
Elevator Mechanic	128 (72.32%)		161 (81.3%)	
Emergency Medical Technician (basic)	414 (90.2%)		462 (86%)	
Emergency Medical Technician (paramedic)	319 (83.7%)		353 (86.5%)	
Guard			44 (62.9%)	
Guard Agency			35 (67%)	
Hearing Aid Dealer and Fitter	70 (84.3%)		86 (85.1%)	
Landscape Architect	135 (94.41%)		142 (97.9%)	
Land Surveyor	180 (96.77%)		193 (97.5%)	
Marriage and Family Therapist	120 (83.9%)			192 (86.1%)
Massage Establishment	442 (77%)		500 (79.5%)	
Massage Therapist	4,943 (80.24%)		5,130 (80.5%)	
Mental Health Counselor	133 (88.67%)			197 (92.92%)
Mortgage Branch Office		38 (74.51%)		
Mortgage Broker		355 (89.42%)		
Mortgage Solicitor		1,840 (89.41%)		
Motor Vehicle Auction	2 (66.67%)		4 (80%)	
Motor Vehicle Broker	1 (100%)		1 (100%)	
Motor Vehicle Branch	30 (85.71%)		27 (87%)	
Motor Vehicle Consumer Consultant	5 (71.43%)		4 (80%)	
Motor Vehicle Dealer	150 (73.89%)		175 (80.3%)	361 (54.86%)
Motor Vehicle Salesperson	1,049 (81.57%)		947 (86.7)	254 (48.94%)
Naturopath	71 (85.5%)		85 (94.4%)	
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	94 (78.33%)		101 (80%)	
Occupational Therapist		349 (81.54%)		392 (87.5%)
Optometrist			303 (89.1%)	
Osteopath	418 (83.1%)		432 (81.5%)	
Pest Control Field Representative	123 (86.62%)		146 (84.9%)	
Pest Control Operator (inactive status only)	6 (75%)		3 (30%)	
Pharmacist	1,540 (88.8%)		1,748 (90.9%)	
Pharmacy	166 (73.1%)		121 (52.6%)	
Pharmacy – Misc. Permit	149(63.4%)		188 (70.7%)	
Pharmacy – Wholesale Prescription Drug Dist.	34 (72.3%)		36 (70.6%)	
Physical Therapist		854 (80.41%)		1,015 (84.3%)
Physician	5,191 (76.6%)		5,820 (80.6%)	
Plumber		703 (73.60%)		
Podiatrist	41 (63.1%)		50 (71.4%)	
Private Detective			68 (73.9%)	
Private Detective Agency			22 (68.8%)	
Professional Engineer	4,751 (96.33%)		5,138 (97.7%)	
Psychologist	608 (82.14%)		715 (84.7%)	
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%)	

Professional and Vocational Licensing Division (PVL)

Speech Pathologist	340 (79.8%)		400 (90.3%)	
Travel Agency			593 (71.4%)	
Uniform Athlete Agent			1 (100%)	
Veterinarian	312 (82.32%)		340 (85.9%)	
<b>TOTAL</b>	<b>34,160 (79.27%)</b>	<b>42,638 (81.29%)</b>	<b>39,174 (82.81%)</b>	<b>46,713 (87.35%)</b>

**Table 4: Total Number of Email Inquiries**

<b>Boards and Programs</b>	<b>FY 09-10</b>	<b>FY 10-11</b>
Accountancy	792	930
Activity Desk	58	51
Acupuncture	103	199
Barbering and Cosmetology	668	735
Boxing	0	0
Cemetery and Pre-Need Funeral Authority	10	8
Chiropractor	219	326
Collection Agency	578	581
Contractor	1,038	1,614
Dentist and Dental Hygienist	292	196
Dispensing Optician	40	15
Electrician and Plumber	114	246
Electrologist	1	2
Elevator Mechanic	2	12
Employment Agency	19	6
Engineer, Architect, Surveyor, and Landscape Architect	428	340
Exam Branch	81	126
Hearing Aid Dealer and Fitter	19	31
Marriage and Family Therapist	196	146
Massage Therapy	961	919
Medical and Osteopathy	1,613	2,041
Mental Health Counselor	207	200
Mixed Martial Arts	256	445
Mortgage Broker and Solicitor	1,245	183
Motor Vehicle Industry	243	256
Motor Vehicle Repair	81	92
Naturopathy	176	134
Nurse Aide	106	223
Nursing	1,521	2,570
Nursing Home Administrator	8	15
Occupational Therapist	93	152
Optometry	284	191
Pest Control	18	113
Pharmacy and Pharmacist	1,563	1,750
Physical Therapy	658	562
Private Detective and Guard	71	119
Psychology	343	601
Professional Vocational Licensing (PVL)	1,679	2,293
Real Estate	5,410	5,970
Real Estate Appraiser	486	763
Respiratory Therapist		35
Social Worker	248	379
Speech Pathology and Audiology	118	148
Subdivision	3	50
Time Share	440	472
Travel Agency	108	75

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*Professional and Vocational Licensing Division (PVL)*

Uniform Athlete Agent	2	8
Veterinary	102	124
<b>TOTAL</b>	<b>22,701</b>	<b>26,447</b>

## REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)

website: [www.hawaii.gov/dcca/rico](http://www.hawaii.gov/dcca/rico)

e-mail address: [rico@dcca.hawaii.gov](mailto: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.<sup>10</sup> 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 587-3222 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](http://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.

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<sup>10</sup> 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 (587-3222) 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](http://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 46 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 activities are 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 2010-2011 fiscal year:

<b>RICO Proceedings Filed FY11</b>	
Petitions for Disciplinary Action	83
Settlement Agreement and Order	76
Citations (Unlicensed Activity)	51
Complaints (Unlicensed Activity)	43
Consent Judgments (Unlicensed Activity)	45
Assurance of Voluntary Compliance	10
Miscellaneous/Special Proceedings	8
<b>Total</b>	<b>316</b>

<b>RICO Proceedings Outcomes FY11</b>		
Board Orders (total)		186
Revocation Orders	64	
Suspension Orders	7	
Assurance of Voluntary Compliance		11
Unlicensed Activity Judgments and Orders		128
Fines Assessed	\$1,040,733	
Restitution Assessed	\$319,877	
<b>Total Proceeding Outcomes</b>		<b>325</b>

*Legislation:*

Act 121 (2010), Relating to Construction Sites. The Act required the Department of Commerce and Consumer Affairs to convene a Task Force to analyze the feasibility and potential complications of investigating and inspecting construction sites for unlicensed contractors, undocumented workers and workplace safety violations. The Task Force timely submitted its report to the Legislature in November 2010 and made a number of recommendations designed to facilitate collaborative enforcement in matters involving unlicensed contractors.

House Concurrent Resolution 286, House Draft 1 (2011), Relating to Unlicensed Contractor Law Enforcement. As a follow up to the work of the 2010 Task Force, the Legislature in 2011 requested that the Director of DCCA establish a task force to develop a collaborative enforcement, with a specific emphasis on information sharing and criminal law enforcement. This Task Force has been meeting in fiscal year 2012 and is expected to submit its findings and recommendations to the Legislature prior to the 2012 session.

*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 FY 10-11 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$3,978,584	\$559,688	\$4,538,272	\$5,666,784

**CONCLUSION**

With responsibility for the enforcement of the licensing laws of over 46 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

	2009	2010	2011
Telephone Requests for Complaints History, License Status and Business Registration	54,950	59,423	53,025
Complaint Inquiries & Forms issued by CRC	10,916	18,087	15,797
<b>TOTAL</b>	<b>65,866</b>	<b>77,510</b>	<b>68,822</b>

Table 2: Complaints Filed With RICO

	2009FY	2010FY	2011FY
Accountants	5	11	8
Activity Desks	21	37	2
Acupuncturists	4	0	0
Barbers & Cosmetologists	44	46	66
Boxing	1	2	0
Cemeteries and Pre-Need Funeral Authorities	3	4	5
Chiropractors	3	2	7
Collection Agencies	23	10	12
Contractors	397	363	363
Dentists and Dental Hygienists	18	21	16
Dispensing Opticians	2	2	6
Electricians & Plumbers	21	28	31
Electrologists	0	0	0
Elevator Mechanics	0	0	0
Employment Agencies	0	0	0
Engineers, Architects, Surveyors and Landscape Architects	26	17	31
Hearing Aid Dealers & Fitters	0	2	0
Marriage and Family Therapists	0	0	0
Massage Therapists	72	60	78
Medical (including Osteopathy)	80	49	53
Mental Health Counselors	0	0	0

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	2009FY	2010FY	2011FY
Mortgage Brokers & Solicitors	24	21	27
Motor Vehicle Industry	47	33	55
Motor Vehicle Repair	51	44	37
Naturopaths	4	1	1
Nursing	30	30	32
Nursing Home Administrators	1	2	1
Occupational Therapist	0	0	1
Optometrists	3	0	2
Pest Control	4	5	7
Pharmacy	15	42	18
Physical Therapists	2	2	2
Pilotage	0	0	0
Private Detectives & Guards	1	6	12
Psychologists	8	9	5
Real Estate Appraisers	4	4	10
Real Estate (including Condominiums)	181	180	159
Respiratory Therapists (effective 7/1/2011)	--	0	0
Social Workers	8	3	2
Speech Pathologists & Audiologists	0	1	0
Subdivision	0	0	0
Time Share	18	4	3
Travel Agencies	89	6	9
No Rules Combat (Chapter 440D repealed and replaced by Chapter 440E (Mixed Martial Arts, 7/1/2009)	33**	0	1
Uniform Athlete Agents (effective 7/1/08)	0	0	0
Veterinarians	7	2	4
	1,244*	1,049*	1,068*

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

Table 3: Assistance by Neighbor Island RICO Offices in FY 2011

AGENCY	HILO	KAUAI	KONA	MAUI	TOTAL
Division of Financial Institutions	17	0	17	1	35
Business Registration	448	552	722	197	1,919
Cable Television	2	0	0	0	2
Insurance Division	48	11	74	3	136
Division of Consumer Advocacy	28	16	26	0	70
Professional & Vocational Licensing	470	310	742	321	1,843
Office of Consumer Protection	224	355	189	233	1,001
Non-Department Related	343	658	459	142	1,602
<b>Totals</b>	<b>1,580</b>	<b>1,902</b>	<b>2,229</b>	<b>897</b>	<b>6,608</b>

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

TOTAL NO. OF COMPLAINTS January-December 2010	
<b>BMW</b>	<b>1</b>
<b>CHRYSLER (includes Dodge and Jeep)</b>	<b>4</b>
<b>FORD (includes Lincoln)</b>	<b>1</b>
<b>GM (includes Chevrolet, GMC and Buick)</b>	<b>2</b>
<b>HONDA ( includes Acura)</b>	<b>1</b>
<b>HYUNDAI</b>	<b>1</b>
<b>KIA</b>	<b>1</b>
<b>MAZDA</b>	<b>1</b>
<b>NISSAN (includes Infinity)</b>	<b>2</b>
<b>TOYOTA (includes Lexus)</b>	<b>1</b>
<b>TOTALS</b>	<b>15</b>
Cases arbitrated	10
Cases settled	5
Cases withdrawn/dismissed	2
<b>*Approximately \$240,000 was recovered by consumers.</b>	

\*Of the cases arbitrated, 4 arbitrations were in favor of the manufacturer and 1 was in favor of the consumer.