



DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

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

335 MERCHANT STREET, ROOM 310  
P.O. BOX 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

December 24, 2020

TRANSMITTED VIA LEGISLATIVE WEBSITE

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Enclosed is a copy of the 2020 Annual Compliance Resolution Fund Report, as required by section 26-9(o), Hawaii Revised Statutes (HRS).

In accordance with section 93-16(a), HRS, a copy of this report will be transmitted to the Legislative Reference Bureau Library and viewable electronically at [cca.hawaii.gov/reports/departmental/](http://cca.hawaii.gov/reports/departmental/). Copies will also be transmitted to the State Publications Distribution Center and the University of Hawaii pursuant to section 93-3, HRS.

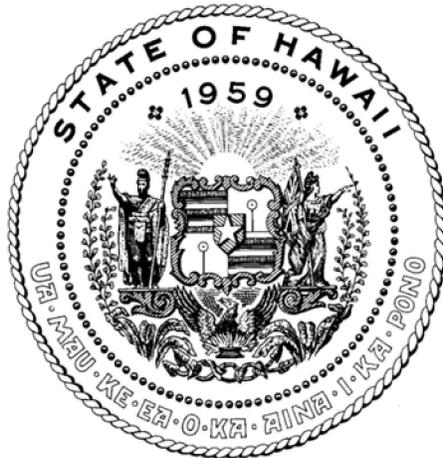
Sincerely,

CATHERINE P. AWAKUNI COLÓN  
Director

Enclosure

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# **Annual Compliance Resolution Fund Report**



**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII  
SUBMITTED DECEMBER 2020**

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## INTRODUCTION

The Department of Commerce and Consumer Affairs (DCCA or Department) submits its Annual Compliance Resolution Fund (CRF) Report pursuant to Hawaii Revised Statutes (HRS) section 26-9(o). The report describes the use of the CRF for the fiscal year (FY) beginning July 1, 2019, and closing June 30, 2020, by presenting an overview of the functions and activities of core DCCA programs funded by the CRF. In addition, the report provides a financial summary of expenditures from the CRF, including personnel and operating expenses and revenues received.<sup>1</sup> The report complies with Act 100, Session Laws of Hawaii (SLH) 1999, which requires all state departments and agencies to identify their goals, objectives, and policies to provide a basis for determining priorities and allocating limited public funds and human resources.

As a special-funded department, the DCCA's primary funding source is the CRF, and the Department relies upon the fees and fines assessed by its programs instead of general tax revenues. Pursuant to HRS section 26-9(o), fees shall be assessed and deposited into the CRF for issuance of a license, permit, certificate, registration, and subsequent renewals, together with all other fines, income, and penalties collected or reimbursement of costs or attorneys' fees assessed from actions brought by the Department. The director of the DCCA may use the moneys in the CRF to employ and train hearings officers, investigators, attorneys, accountants, and other necessary personnel for CRF-funded operations, and the CRF shall defray all other administrative costs, including costs to operate the supporting offices of the DCCA. The CRF may also fund any other activity relating to compliance resolution.

"Compliance resolution" is defined in HRS section 26-9(o) and means a determination of whether:

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

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

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<sup>1</sup> The CRF summary figures in this report are pre-close numbers.

## OFFICE OF THE DIRECTOR

### OVERVIEW AND COMPOSITION

The Office of the Director (Director's Office) provides general policy and administrative leadership in supervising and coordinating various department activities. The Director's Office also includes the **Hawaii Post-Secondary Education Authorization Program**, which authorizes accredited post-secondary degree-granting institutions to operate in the State, and the **Personnel Office**, which provides personnel management services to the Department.

#### **Contact information:**

Office address:	335 Merchant Street Room 310 Honolulu, Hawaii 96813
Mailing address:	P.O. Box 541 Honolulu, Hawaii 96809
Phone:	(808) 586-2850
Website:	<a href="http://cca.hawaii.gov">cca.hawaii.gov</a>
Email:	<a href="mailto:dcca@dcca.hawaii.gov">dcca@dcca.hawaii.gov</a>

### GOALS AND OBJECTIVES

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

- Ensure effective and timely oversight of regulated industries and greater promotion of consumer education by providing the Department's divisions with adequate resources to carry out their responsibilities.
- Improve and upgrade existing operating systems and technologies the Department uses to advance its capabilities in responding to consumer issues and helping businesses navigate the regulatory environment.
- Provide transparency and accountability in the Department's operations.
- Improve the regulatory environment for businesses and consumers by collaborating with other agencies to provide effective and efficient regulation, as well as safe and appropriate economic development.

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<sup>2</sup> The Public Utilities Commission (PUC or Commission) is funded by the PUC Special Fund pursuant to HRS section 269-33 and not in any part by the CRF. HRS section 269-5 requires the Commission to submit its own annual report to the Legislature. Please see the 2020 Public Utilities Commission Annual Report for information on PUC operations.

## **ACCOMPLISHMENTS OF THE DIRECTOR'S OFFICE AND INFORMATION SYSTEMS AND COMMUNICATIONS OFFICE IN FY 2020**

### **Consumer Education Program**

The Consumer Education Program (CEP) has a team of education specialists who provide the community with information about various issues relating to consumer protection. In FY 2020, the CEP participated in fewer outreach events than it had anticipated due to the COVID-19 pandemic. Between July 1, 2019, and March 19, 2020, the CEP participated in 17 events, including senior fairs, wellness fairs, and disaster preparedness fairs, and scheduled seven additional events through the end of the FY. Ultimately, these seven events were cancelled due to the pandemic.

On March 6, 2020, the CEP sponsored an in-person event to celebrate the 16<sup>th</sup> Annual National Consumer Protection Week Fair at the King Kalakaua Building in downtown Honolulu. At this event, over 24 organizations provided information about services that help consumers make educated decisions in the marketplace. This was one of the last events that the CEP was able to coordinate for the public in FY 2020.

During the pandemic, the CEP made its information available to consumers via the DCCA's website and other social media. For example, "Consumer Wise Wednesdays" is a weekly post on Facebook and Twitter that provides tips on various consumer issues, such as identity theft, condominium owners' rights and responsibilities, and hurricane preparedness.

The CEP also offers two consumer education publications in hard copy and on the DCCA website. The first, the Military Consumer Fraud Guide, is a 44-page booklet that offers comprehensive guidelines to protect against fraudulent activities, as well as necessary information for military families to live and work in the State. The guide provides information about consumer topics that often affect Hawaii's military community, including housing, buying a car, payday lending, and identity theft. It also explains laws and regulations governing professional licensure or starting a business in Hawaii. The second publication, the Consumer Guide to Healthcare Providers, is a 14-page booklet that focuses on issues relating to Hawaii's health care providers. It provides descriptions of the health care provider licenses issued by the DCCA; contact information for the health care provider boards and programs; tips on how to select a health care provider; and information on how to resolve health care concerns or complaints.

The CEP developed and airs a public service announcement to highlight the Business Check website at <http://businesscheck.hawaii.gov/>. This campaign encourages consumers to protect themselves against unlicensed activity by using Business Check to identify the status of companies, individuals, and licensed professionals with whom they intend to do business or hire. This public service announcement is viewable on local broadcast networks and the DCCA's YouTube channel at <https://youtu.be/eSQSliNWNqU>.

The CEP continues its partnerships with the Consumer Financial Protection Bureau, the Federal Trade Commission, the U.S. Postal Service, and other national and local agencies to increase the amount of helpful consumer information disseminated in the State.

**Hawaii Post-Secondary Education Authorization Program**

The Hawaii Post-Secondary Education Authorization Program (HPEAP) authorizes accredited post-secondary degree-granting institution to operate in the State. In FY 2020, HPEAP issued a new school authorization for Touro University Worldwide. HPEAP also continued issuing transcripts for former students of Argosy University – Hawaii, which closed in 2019, Heald College Honolulu, which closed in April 2015, and World Medicine Institute, which closed in April 2018.

HPEAP is the designated state portal entity for the State Authorization Reciprocity Agreement (SARA). SARA is an agreement among member states that establishes comparable national standards for interstate offering of post-secondary education distance courses. In FY 2020, HPEAP added Chaminade University, Hawaii Community College, Leeward Community College, and University of Hawaii – West Oahu to its list of SARA institutions.

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

Because of the COVID-19 pandemic, starting in March, HPEAP's operations were carried out through both teleworking and working onsite. HPEAP encouraged the submission of inquiries and transcript requests electronically for fastest response. The program also asked authorized institutions to submit information on their operational plans and distribution of any funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act funds to students. HPEAP provided institutional contact information on its website for students interested in obtaining CARES Act emergency student cash grants.

**Office of the Director's Legislative Coordination**

In FY 2020, the Director's Office, including multiple DCCA administrative services and support offices, oversaw the Department's legislative activities concerning budgetary, fiscal, personnel, and administrative matters. The Director's Office assisted with the legislative operations of each division and liaised with other state departments, agencies, branches of government, and community and business groups on legislative matters.

During the Regular Session of 2020, the Department submitted 341<sup>3</sup> testimonies and comments and recommendations pertaining to consumer and commerce matters. In addition, the Department supported various nominees for the boards and commissions attached to the DCCA. Due to the COVID-19 pandemic, the legislative session was suspended on March 17, 2020, and reconvened on May 11, 2020, to focus on stabilizing the state budget and budget-related bills in anticipation of a massive shortfall in state revenues. Several of the Department's legislative proposals, which were introduced as part of the Governor's administration package, received favorable consideration by the Legislature and were enacted.

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<sup>3</sup> This total does not include testimonies submitted by the Commission.

Following the adjournment of session, the Department’s legislative coordinator/government affairs attorney continued to support the DCCA in implementing legislative directives and coordinating departmentwide activities for the 2021 legislative session.

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

The Information Systems and Communications Office (ISCO) assists the Department with information technology hardware, software, and custom programming support, departmental website support, and telephone and other communication services support. During FY 2020, ISCO enabled the Department to respond effectively to statewide office closures by supporting telework flexibility departmentwide. ISCO rapidly expanded its remote access/telework capacity from 50 to 300 users, allowing the majority of DCCA staff to telework and maximizing available services during the COVID-19 pandemic.

In addition, ISCO assisted with multiple enterprise projects, including: replacing the Application/Licensee Integrated Automated System and the MyPVL portal for the Professional and Vocational Licensing Division; replacing the Business Registration Information Management System and Registration Documents Processing Management System for the Business Registration Division; defining a new Salesforce system for the Captives branch of the Insurance Division; and replacing the Hawaii Insurance Database System for the Insurance Division.

### **CRF FINANCIAL SUMMARY FOR FY 2020**

The following is the Department’s CRF financial summary for FY 2020:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$39,184,261	\$13,280,929	\$52,465,190	\$54,590,692

As a special-funded department, the DCCA requires that revenue-generating divisions secure revenues to cover their expenses and contribute equitably to overhead costs, while ensuring that they can address anticipated major improvements and expenditures and maintain adequate reserves. Maintaining an adequate reserve ensures fund solvency and continuation of mandatory public services. Since the onset of the CRF, the Department’s primary fiscal goal has been to implement this strategy through conservative spending and adjusting its expenses to align with projected revenues. Accordingly, the Department’s financial planning accounts for current FY year expenses, as well as future major projects and expenditures.

The DCCA anticipates incurring additional expenses to CRF accounts in the amount of \$2,000,000 in FY 2021, and an additional \$1,000,00 in FY 2022, for the following facilities improvement projects:

- Replacement of building cooling towers;
- Repair of roof damage sustained by Hurricane Lane; and
- Repair of supporting columns.

In addition, if the Department is successful in obtaining a pre-disaster mitigation grant from the Federal Emergency Management Agency, it will be required to provide matching funds.

The following is the Director's Office's (includes the Administrative Services Office, CEP, HPEAP, ISCO, Office of Administrative Hearings, and Personnel) CRF financial summary for FY 2020:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,779,344	\$2,887,616	\$8,666,960	\$1,925,129

## BUSINESS REGISTRATION DIVISION

### OVERVIEW AND COMPOSITION

The Business Registration Division (BREG) has three primary functions: (1) ministerial business registration, processing, and maintenance of business registration documents for public access, including corporations, general and limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies, cooperatives, trade names, trademarks, service marks, and publicity rights; (2) one-stop assistance to businesses applying for state business and employer registrations and state taxpayer IDs; and (3) regulatory oversight over the securities industry and franchises in the State in the following areas: registration of broker-dealers, securities agents, investment advisers, investment adviser representatives, investment companies, and securities and franchise offerings for sale in the State; field examinations of broker-dealers and investment advisers in the State; review of securities and franchise offerings for sale in the State; and enforcement of the Hawaii Uniform Securities Act and state franchise laws. BREG also conducts statewide outreach through its Investor Education Program, which provides free presentations and resources relating to investment fraud protection.

### **Contact information:**

Main office address:	335 Merchant Street Room 203 Honolulu, Hawaii 96813
Mailing address:	P.O. Box 40 Honolulu, Hawaii 96810
Phone:	(808) 586-2744
Website (Business Registration):	<a href="http://cca.hawaii.gov/breg">cca.hawaii.gov/breg</a>
Website (Securities):	<a href="http://cca.hawaii.gov/sec">cca.hawaii.gov/sec</a>
Email:	<a href="mailto:breg@dcca.hawaii.gov">breg@dcca.hawaii.gov</a>
Business Action Center – Oahu:	Relocated to BREG’s main office in October 2019.
Business Action Center – Maui:	Wells Professional Center 2145 Wells Street, Suite 106 Wailuku, HI 96793 Phone: (808) 243-8679
Business Action Center – Hilo*:	25 Aupuni Street, Suite 1301 Hilo, Hawaii 96720 Phone: (808) 961-8947

(Business Action Center – Hilo’s resource days are held on the 1<sup>st</sup> and 3<sup>rd</sup> Thursday of each month. Please call Business Action Center – Oahu to confirm hours.)

\*The last resource day was held on 3/5/20, with future resource days on hold until further notice, due to the COVID-19 pandemic.

The **Documents Registration Branch (phone: (808) 586-2727)** consists of the Documents Information Section, Documents Processing Section, and Records Section. The branch maintains the State’s business registry for corporations, limited liability companies, general partnerships, limited partnerships, limited liability limited partnerships, and limited liability partnerships conducting business activities in the State. In addition, the registry contains filings for trade names, trademarks, service marks, and publicity rights.

The **Business Action Center (phone: (808) 586-2545)** provides information and assistance with state business and employer registrations, state taxpayer IDs, and more. The center has offices on Oahu and Maui and holds regular resource days in Hilo. Services are delivered in-person and via phone, email, mail, fax, and Live Chat, an instant messaging system that allows customers on the Hawaii Business Express website to obtain real-time assistance from a customer service representative. Public computers are available at all Business Action Center locations, enabling customers to access the Hawaii Business Express.

The **Securities Enforcement Branch (phone: (808) 586-2740)** enforces state laws governing the securities industry under the Hawaii Uniform Securities Act and franchises under the Franchise Investment Law. The branch investigates and prosecutes cases involving state securities law and franchise law violations.

The **Securities Compliance Branch (phone: (808) 586-2722)** is responsible for the registration of securities broker-dealers, securities agents, investment advisers, investment adviser representatives, investment companies, securities offerings, and the filing of franchise offering circulars in the State. The branch also conducts field examinations of broker-dealers and investment advisers in Hawaii.

The **Investor Education Program (phone: (808) 587-7400)** falls under the Securities Compliance Branch and provides investor education and financial literacy outreach statewide. The program maintains outreach programs in the areas of: kupuna (seniors) and caregivers; working families and union members; keiki (youths); industry professionals; military; and Hawaiian and other ethnic communities. The program’s free educational materials, presentations, and exhibits help consumers and investors detect and prevent securities fraud and report securities law violations.

## GOALS AND OBJECTIVES

- **Documents Registration Branch:** Maintain an accurate and efficient state business registry.
  - Review and implement policies and procedures that process document filings and information requests efficiently.
  - Develop and improve its online services to better assist the public.
  - Enhance information systems to improve retrieval, processing, and recording of public filing information while protecting the integrity of the data system.
- **Business Action Center:** Be a responsive and helpful center for business registration and licensing for all businesses in Hawaii.
  - Provide practical information and efficient customer service to the public.
  - Develop relationships with the business community and seek ways to reach communities in need of business registration assistance.
- **Securities Enforcement Branch:** Be an effective state securities regulatory agency that is responsive, appropriately aggressive, and efficient.
  - Investigate and prosecute state securities law violations under the Hawaii Uniform Securities Act.
  - Investigate and prosecute consumer complaints timely.
  - Reduce case backlog.
  - Inform consumers of enforcement matters and investment scams through participation in the Investor Education Program.
  - Attend and develop training to keep staff current on emerging investigative techniques, legal analyses, and securities issues.
- **Securities Compliance Branch:** Be a state securities regulatory agency that is responsive, effective, and efficient.
  - Efficiently and timely review and approve securities and franchise applications and/or filings.
  - Maintain a regular field examination cycle for registered broker-dealers and state registered investment advisers.
  - Develop and implement internal procedures to process applications efficiently.
  - Keep current with regulatory changes and updates by providing ongoing training for professional staff.
- **Investor Education Program:** Develop meaningful investor education programs, materials, and active outreach programs that respond to the public's needs and address the financial problems that investors face. Develop and expand:
  - Partnerships with federal, state, and county agencies, nonprofit organizations, and private companies to provide outreach to various audiences throughout Hawaii.
  - Outreach through fraud prevention presentations and investor education materials at various community events.
  - The use of multimedia technology to reach audiences in a current and relevant manner.

- An industry training program to help financial professionals report financial exploitation and securities fraud.
- A securities training program for law enforcement agencies to build partnerships to help prosecute financial fraud.

## **ACCOMPLISHMENTS IN FY 2020**

### **Impact of COVID-19 on BREG Operations**

The COVID-19 pandemic pushed BREG to conduct more of its business virtually, whether online or by phone. From business registration assistance to securities-related matters to outreach, BREG made significant adjustments to continue its operations under everchanging circumstances. BREG substantially improved its websites to ensure that information and assistance is readily available to the public. Before resuming modified in-person services in June, BREG assessed its service lobby (i.e., public service counters) and developed new systems to serve the public with enhanced safety measures. In addition to increasing its sanitization procedures, BREG placed social distancing cues inside and outside its lobby, strategically posted informational posters about COVID-19, and made forms and other information easily accessible to reduce the time customers were in the building and interacting with staff. Since the “stay-at-home” orders, BREG staff have adapted to teleworking, working in the office under new safety protocols, or a combination of both. BREG continues to adapt and serve the public in these extraordinary times.

### **Updating 3<sup>rd</sup> Edition of Hawaii’s Fraud Prevention and Resource Guide**

The comprehensive guide provides information on frauds and scams, fraud prevention tips, and resources for Hawaii residents. The Investor Education Program, Department of the Attorney General, and Department of Health partnered once again to update and refresh the guide. The third edition is a complete redesign from previous editions, with updated information and new layouts and graphics. The Investor Education Program coordinated all DCCA-related information for the guide and funded the publication of 4,750 copies. The guide is also accessible online to [view](#) or [download](#) at: <https://cca.hawaii.gov/sec/materials/investor-education-resource-and-materials/>.

### **Hawaii LifeSmarts Program Receives Top National Honor**

LifeSmarts, a youth program run by the National Consumers League and sponsored locally by the Investor Education Program, is a national consumer education program that teaches students critical life skills through online quizzes and in-person competition in five key areas: Personal Finance; Consumer Rights & Responsibilities; Health & Safety; the Environment; and Technology. In May 2020, the National Consumers League named the Investor Education Program’s Theresa Kong Kee and Gloryana Akapo the 2020 LifeSmarts State Coordinators of the Year. LifeSmarts state coordinators implement the national consumer education program at the local level by promoting the program, advising and providing support to educators and their teams, and running the State’s online and in-person competitions. Ms. Kong Kee and Ms. Akapo were recognized for their commitment to the program and for bringing together volunteers and community partners to run a robust, successful program. They were also recognized for having the second highest junior varsity (middle school) program in the nation. LifeSmarts continues to grow statewide and has reached 1,410 students, 78 coaches, and 67 schools in the past seven years. The Hawaii LifeSmarts website is available at: <https://cca.hawaii.gov/lifesmarts/>.

**Law Enforcement Outreach Training Program**

The Securities Enforcement Branch and Investor Education Program continue to develop and implement an outreach training program for local law enforcement agencies to help them understand what securities are, how securities fraud can be detected and prevented, and the role of BREG. The first presentation was held in July 2019 for the Maui Police Department. The second presentation was held in March 2020 for the Kauai Police Department. The presentation for the Hawaii Police Department was cancelled due to the Maunakea protests and will be on hold until circumstances surrounding the pandemic improve. Feedback has been positive, and BREG hopes to further strengthen this program by building partnerships and providing awareness of the expertise and educational resources BREG offers to better protect the community from fraud.

**CRF FINANCIAL SUMMARY FOR FY 2020**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,985,456	\$1,436,120	\$7,421,576	\$11,661,968

## CABLE TELEVISION DIVISION

### OVERVIEW AND COMPOSITION

The Cable Television Division (CATV) supports the DCCA director in the issuance of cable franchises, regulation of cable operators, and facilitation of expanded access and usage of broadband services throughout the State. The CATV's primary regulatory function is to determine whether the issuance, renewal, or transfer of a cable franchise is in the public interest. In so doing, the CATV carefully considers the: (1) public need for the proposed service; (2) legal, technical, financial, and operational ability of the applicant or franchisee to provide safe, adequate, and reliable service at a reasonable cost to subscribers; (3) comments arising from public hearing and from the Cable Advisory Committee (CAC) appointed by the Governor pursuant to HRS chapter 440G; and (4) other matters deemed appropriate under the circumstances.

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

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

To the extent permitted by federal law, the CATV is also responsible for expanding the State's Institutional Network (INET) in a manner that is efficient and effective for the State. INET provides broadband telecommunications capabilities to government and educational organizations and is constructed for two-way operation as part of the State's current communications network. The tremendous growth in the State's telecommunications, information processing, storage, and retrieval needs requires high transmission capacity with a more flexible network configuration. INET is a valuable and substantial benefit of the cable television franchises that includes network capacity and service connections that provide communications services to state and county government and educational facilities. The DCCA/CATV negotiates these INET benefits and

administratively manages INET while other INET Partners<sup>4</sup> manage and operate the State's communications networks.

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

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

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

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

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

carriers, and telecommunication common carriers file with the DCCA confidential annual reports on broadband service availability and pricing.

**Contact information:**

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

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

Phone: (808) 586-2620

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

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

**GOALS AND OBJECTIVES**

- Ensure consistent cable television regulatory policies and practices.
  - Conduct regularly scheduled franchise fee and PEG reviews.
  - Designate access organizations to provide PEG access services.
  - Collaborate and assist in the INET deployment process.
  - Convene CAC meetings upon the DCCA director's request.
- Monitor and participate in federal telecommunications legislation and rulemaking.
  - Provide support to Hawaii's congressional delegation on applicable federal legislation.
  - Participate in relevant FCC proceedings on universal service support, broadband, and other cable- and telecommunications-related matters.
  - Protect and advocate the State's interests in federal funding programs for broadband infrastructure and services and equivalent enhanced services for the State.
  - Monitor other relevant government programs to identify potential funding for the State's broadband-related activities.
  - Monitor federal issues that may impact Hawaii cable television subscribers and broadband consumers.
- Use the DCCA's regulatory function to strengthen INET and provide benefits for the State and counties to the extent permitted by federal law.
  - To the extent permitted under federal laws and regulations, require cable operators to invest in infrastructure as part of a cable franchise to provide capacity and connections for public, educational, and government facilities to expand and strengthen INET.
  - Provide efficient management of INET and use negotiated INET benefits for the optimal benefit of state and county government and educational facilities.

- Bridge the broadband availability gap by facilitating broadband infrastructure deployment and supporting a competitive marketplace.
  - Work with federal, state, and county agencies, broadband providers, and other stakeholders to identify policies and programs to facilitate deployment of broadband infrastructure and expand access to broadband services.
  - Assist with identification of broadband service gaps in unserved and underserved areas of the State.
  - Assist with identification of funding methods to extend broadband infrastructure and service in unserved and underserved areas of the State.
  - Work with the BAAC to identify means to streamline government permitting and approval processes.
  - Monitor development and deployment of new advanced services.
- Support and facilitate broadband adoption initiatives and programs to drive use of high-speed broadband.
  - Support and facilitate government broadband programs, as well as consumer-focused initiatives and applications.
  - Support other state agencies' efforts to increase use of broadband through digital literacy and other adoption programs.
  - Work with the BAAC to identify programs and policies to advance broadband adoption and use of applications.

## **ACCOMPLISHMENTS IN FY 2020**

### **Impact of COVID-19 on CATV Operations**

Since the initial shutdown of state offices in March 2020 due to the COVID-19 pandemic, CATV staff have been operating primarily by telework. Fortunately, due to the smaller staff size and communication practices with the regulated entities and the public, adjustments necessitated by the pandemic have minimally impacted the CATV's operations. Through telework, the CATV was able to continue responding to cable subscribers complaints and public inquiries in a timely manner, as well as work with cable companies on relevant issues and filings.

### **FCC Rulemaking and Appeals**

The CATV monitors developments in Congress and at the FCC relating to cable television, telecommunications, and broadband. In FY 2020, the CATV continued to take an active role in FCC proceedings and appeals that directly impact cable television subscribers in Hawaii:

- **Cable Franchise Fees (MB Docket No. 05-311)**

On September 25, 2018, the FCC issued its Second Further Notice of Proposed Rulemaking, which changes how local franchising authorities (LFAs) may regulate incumbent cable operators. Among other matters, the FCC proposed that cable-related "in-kind" contributions required by franchising agreements, including costs associated with the construction, maintenance, and services of INETs, are franchise fees subject to the 5% cap and are to be valued at fair market value. As this determination would significantly impact the distribution of franchise fees for the State, the DCCA/CATV, along with numerous LFAs, government agencies, and PEG organizations across the country, submitted

comments opposing the proposed rules. Throughout this proceeding, the CATV sent notices and updates to the INET Partners and the counties to prepare them for potential changes in cost and application of INET connections that have historically been negotiated with the cable operators to be provided at no cost or “at-cost” (i.e., discounted).

On August 1, 2019, the FCC voted to adopt the new rules and issued its order on August 2, 2019. In addition to “in-kind” contributions falling under the franchise fee cap and valued at fair market value, the new rules also clearly state that any existing franchise order terms to the contrary will be automatically preempted, thereby prospectively negating any such previously negotiated benefits for the State. The FCC’s new rules on franchise fees were made effective on September 26, 2019. A number of appeals by various LFAs and entities have been filed since the effective date of the order, including an appeal by the DCCA/CATV, on behalf of the State, filed on October 24, 2019, in the United States Court of Appeals for the Ninth Circuit. The various appeal proceedings were consolidated and moved to the Sixth Circuit for adjudication.

On December 5, 2019, the State, along with other LFAs, filed a Motion for Stay of the new FCC rules. Although the Motion for Stay was filed as part of a multi-LFA coalition, the motion largely focused on the potential harm to the State if in-kind services, such as INET, were considered part of the franchise fees. Oral arguments on the motion were held in Cincinnati, Ohio on March 11, 2020. As the State’s experience and use of in-kind services played a major role in the motion, members of CATV staff attended the proceeding to provide additional support and information to the attorneys for the multi-LFA coalition.

Although the Motion for Stay was denied by the court in March 2020, briefs on the overall appeal are scheduled to be filed through the end of October 2020, with oral arguments potentially scheduled for early 2021. The CATV will continue to represent the State’s interest on appeal and monitor developments regarding this matter.

- **Cable Television Rate Regulation (MB Docket Nos. 17-105 & 02-144; MM Docket Nos. 92-266 & 93-215; CS Docket Nos. 94-28 & 96-157)**

On October 2, 2018, the FCC released a draft Notice of Proposed Rulemaking seeking to update and “streamline” the FCC’s rules for rate regulation of the cable basic tier and also proposing to eliminate rate regulation for the rental of equipment used to receive cable television service. After reviewing the Notice of Proposed Rulemaking and discussing with various consultants, the CATV filed its comments with the FCC on February 8, 2019, supporting the streamlining of rules in a manner that would not unnecessarily burden LFAs or cable providers’ resources. The CATV continues to monitor this proceeding and awaits the FCC’s decision.

### **Designation of WiFi Hotspots**

On December 17, 2015, the DCCA/CATV issued Decision and Order No. 366, which conditionally approved the Charter Communications (Charter)/Time Warner Cable merger completed on May 18, 2016. The conditional approval required Spectrum Oceanic (Spectrum), which is owned and controlled by Charter, to, among other things, provide 1,000 new public WiFi access points (Designated Spectrum Hotspots) throughout the State, with 100 of these new access

points designated at public parks, civic and community centers, and other public gathering places at the DCCA/CATV's direction.

During FY 2020, the DCCA/CATV sought input from various government agencies and stakeholders on desired locations for the 100 Designated Spectrum Hotspots to provide WiFi internet access primarily in rural, underserved communities and also in gathering places that would benefit the public. By the end of FY 2020, all 100 Designated Spectrum Hotspots were designated, installed, and activated for public use. These Designated Spectrum Hotspots currently provide the general public with one hour of free WiFi service per device, per day. From mid-March through the end of June 2020, Charter opened the Designated Spectrum Hotspots, along with all other Spectrum hotspots, for unlimited public use, in participation with the FCC's Keep America Connected pledge in response to the COVID-19 pandemic.

The 100 Designated Spectrum Hotspots were distributed across the islands as follows:

Kauai:	20 hotspots
Oahu:	10 hotspots
Molokai:	18 hotspots (10 at Kalaupapa)
Lanai:	2 hotspots
Maui:	15 hotspots
Hawaii Island:	35 hotspots

The locations include, among others: bus stops across Kauai; locations in and around Hana, Maui; locations in Kalaupapa, Molokai; locations in the Princess Ruth Keelikolani Building on Oahu for use by residents doing business with the Department of Taxation and the Department of Labor and Industrial Relations; gathering spots in Kaunakakai, Maunaloa, and East Molokai; and parks and community and health centers across Hawaii Island, including the Hamakua Coast, Volcano, Pahoa, Kapaau, Hilo, Papaikou, Kamuela, Captain Cook, Kailua-Kona, Naalehu, and Pahala.

### **Broadband Projects/Activities**

In FY 2020, the DCCA/CATV conducted broadband-related activities that included:

- Working with the FCC and internet service providers on Hawaii's participation in the FCC's Measuring Broadband America program, which can expand the amount of data gathered about subscriber broadband service performance across the State.
- Gathering data on unserved and underserved areas and broadband performance across the State to enhance policymakers' understanding of the State's broadband landscape and to better inform their policies and strategies to advance the State's broadband goals. The DCCA/CATV continued to improve its No Internet Service application that gathers and maps consumer-provided data on locations where no internet service is available. Specifically, the DCCA/CATV made changes to its application to collect and map more data on the availability of wireless service. The DCCA/CATV also developed an "Internet Speed Map" tool to allow residents to report their home wireline internet speeds to create a crowd-sourced map. This tool was launched in June 2020 and is available at: <http://cca.hawaii.gov/broadband/speedmap/>. This tool supplements the data provided through the DCCA's issued 2018 and 2019 reports on fixed wireline speeds in the State

using data obtained from Ookla, proprietor of Speedtest.net, available at: <http://cca.hawaii.gov/broadband/report-on-fixed-wireline-broadband-speeds-in-hawaii-july-2019/>.

- Connecting with stakeholders to identify possible opportunities to partner on, facilitate, or support projects to extend broadband access and increase broadband adoption.
- Implementing a DCCA/CATV pilot WiFi project on Hawaii Island, undertaken in partnership with the County of Hawaii to provide community access to WiFi at county facilities in unserved and underserved areas around the island (Hi-WiFi Pilot Project). Seven pilot locations were selected with input from the County of Hawaii and will provide access to broadband-level internet services. At the end of FY 2020, routers were purchased and service installations ordered. The Hi-WiFi Pilot Project may serve as a model for implementing similar WiFi projects across the State.
- Disseminating information to stakeholders on funding opportunities for broadband projects and best practices for broadband infrastructure deployment.
- Supporting and facilitating provider efforts to extend and improve broadband infrastructure, including serving as a liaison with other government entities and the public.
- Supporting and facilitating discussions and activities of the BAAC and soliciting recommendations to expand broadband access and use.
- Assisting the public with broadband-related inquiries.
- Monitoring and updating stakeholders on the electric utility pole replacement project, which will allow providers to close the fiber optic network gap on Hawaii Island.
- Maintaining the CATV broadband website to support statutory duties under HRS chapter 440J and Act 151, SLH 2011; providing access to broadband coverage information and broadband deployment resources; and providing digital literacy resources and consumer information.

### **Continued Reduction of Cable Administration Fees**

Pursuant to federal law, LFAs such as the DCCA/CATV can require cable operators to pay franchise fees in an amount equal to 5% of their annual gross revenues of their respective cable systems. Previously, the 5% franchise fee was allocated as follows: 3% to the PEG organizations; 1% to the Hawaii Public Television Foundation, dba PBS Hawaii; and 1% in annual fees to the DCCA/CATV to administer its responsibilities under HRS chapter 440G. As permitted by federal law, these fees are passed onto cable television subscribers and included in their monthly bills. Through discussions and analysis of available funds, the DCCA/CATV determined that over time, it accumulated more funds than currently required to cover the cost of administering HRS chapter 440G. Therefore, on May 9, 2019, the DCCA/CATV issued Decision and Order No. 375, which reduced the annual fee from 1% to zero as of July 1, 2019. This reduction in annual fees continued in FY 2020 and resulted in the lowering of monthly cable television bills for cable television subscribers throughout the State.

### **CRF FINANCIAL SUMMARY FOR FY 2020**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$853,383	\$798,581	\$1,651,965	\$532,572

## DIVISION OF CONSUMER ADVOCACY

### OVERVIEW AND COMPOSITION

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 or Commission). 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 Commission, the DCA must analyze financial and statistical data, prior docketed material, industry standards, and the information provided by the utility and transportation companies to support their applications. Based upon analyses of this information, the DCA files either written statements of position or testimonies explaining its analyses, findings, and recommendations with the Commission. When necessary, DCA analysts provide oral testimony, subject to utility company cross-examination, in contested case evidentiary hearings to resolve differences among the parties in utility proceedings.

#### **Contact information:**

Office address:	335 Merchant Street Room 326 Honolulu, Hawaii 96813
Mailing address:	P.O. Box 541 Honolulu, Hawaii 96809
Phone:	(808) 586-2800
Website:	<a href="http://cca.hawaii.gov/dca">cca.hawaii.gov/dca</a>
Email:	<a href="mailto:dca@dcca.hawaii.gov">dca@dcca.hawaii.gov</a>

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

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

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

## **GOALS AND OBJECTIVES**

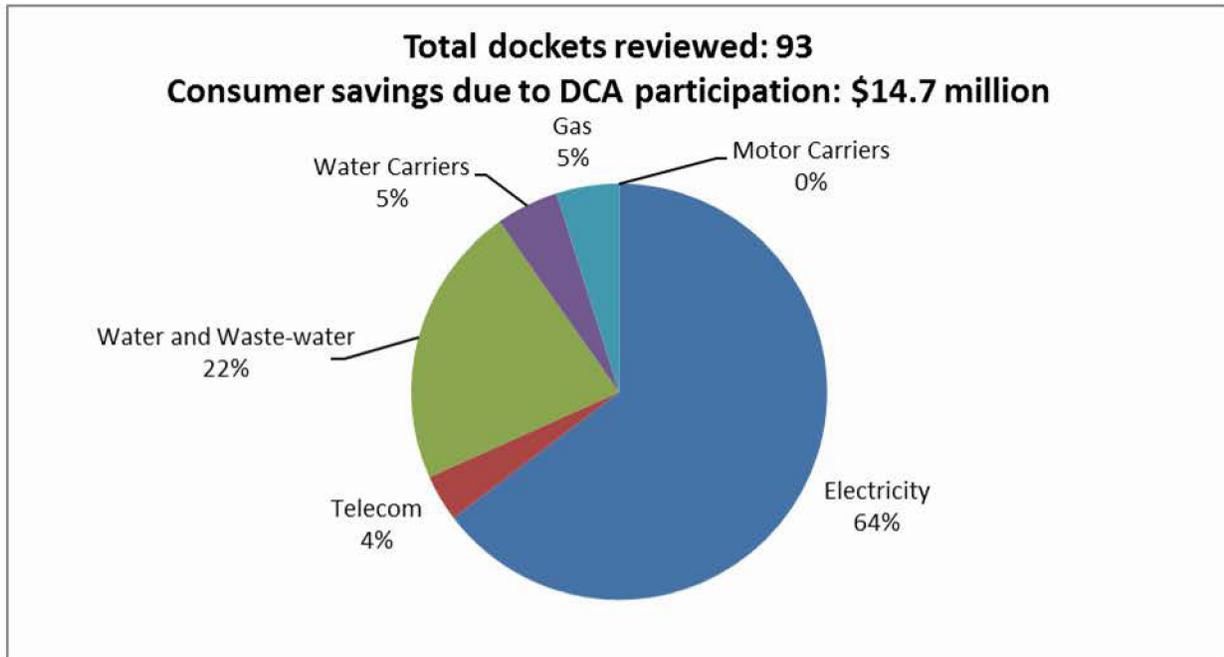
### **Consumer Advocacy**

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

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

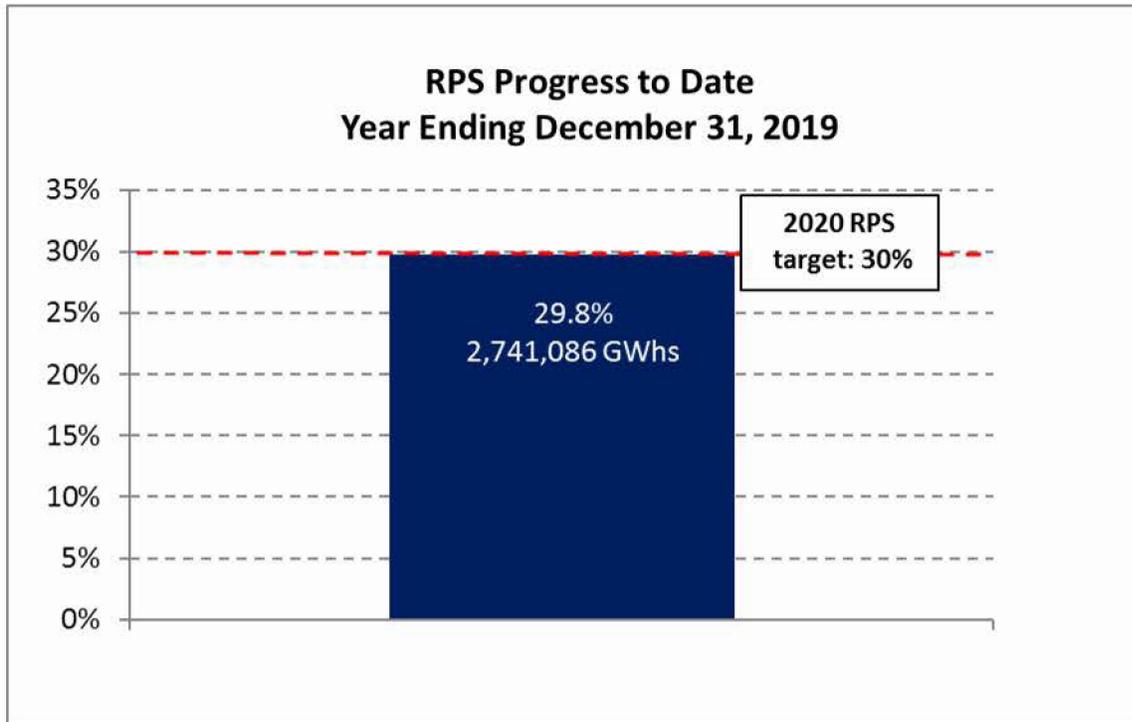
- Review of applications to ensure compliance with regulations.
- Participation at PUC public hearings.
- Procurement of consultant services to manage workload and for complex cases.
- Completion of discovery.
- Analysis of applications and supporting documents to determine the accuracy and reasonableness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

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

**Chart 1: Dockets Reviewed by Area and Overall Consumer Savings, FY 2020****Policy Advancement**

The DCA seeks to promote policies to protect and advance the interests of utility and transportation consumers on the local, state, and national levels. The division will continue to promote and facilitate Hawaii's transition from using imported fossil fuels to clean renewable energy, as well as advance federal and state broadband initiatives. Chart 2 reflects Hawaii's progress on its Renewable Portfolio Standard (RPS) goals. As of December 31, 2019, Hawaii's percentage of renewable generation increased to 29.8% of sales, which is very close to the 2020 RPS goal of 30%.<sup>5</sup>

<sup>5</sup> The Puna Geothermal Venture facility, which shut down in May 2018 after fast-moving lava threatened the facility, remained closed throughout 2019. The facility is expected to return online in late 2020. See <https://www.westhawaii.com/2020/09/08/hawaii-news/pgv-primed-for-restart/> and <https://www.hawaiitribune-herald.com/2020/09/24/hawaii-news/doh-no-further-environmental-review-needed-for-pgv-permit/>. The eight projects consisted of two projects on Maui, two projects on Hawaii Island, and four projects on Oahu.

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

Regarding energy efficiency, work is currently underway to evaluate the State's energy efficiency potential as well as its Energy Efficiency Portfolio Standard goals.

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

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

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

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

The DCA is actively involved with the Legislature and provides testimonies that detail consumer benefits or detriments of specific proposals and bills being considered by various legislative committees. In 2020, the DCA monitored and/or testified on 126 bills and resolutions and submitted written testimony on 43 occasions.

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

### **Education and Outreach**

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

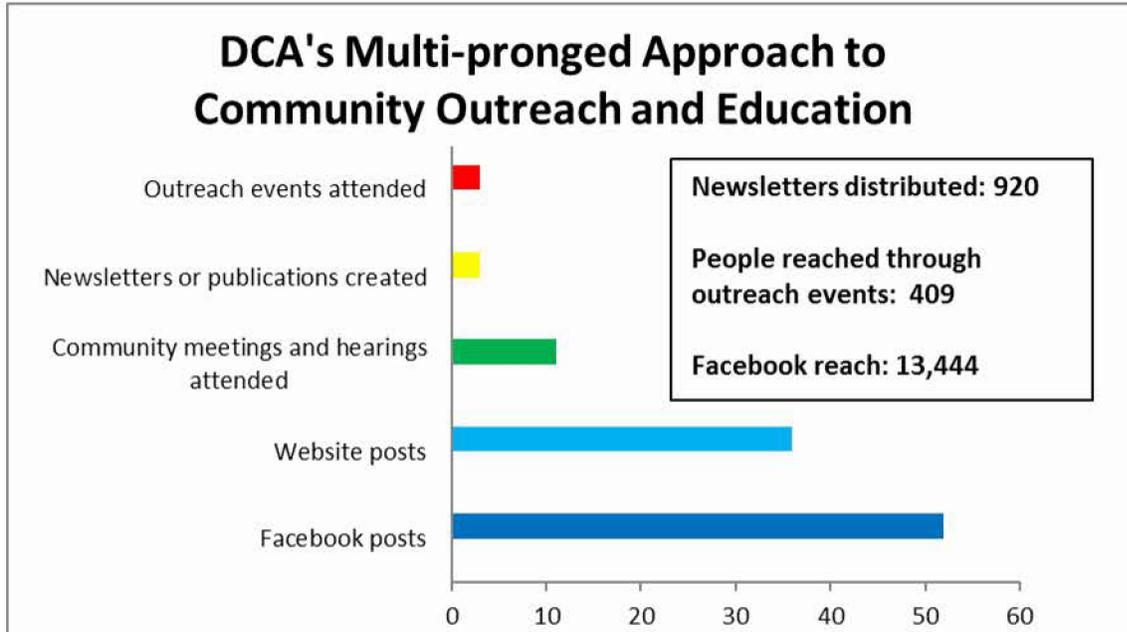
The DCA can accomplish its goal of positively affecting the habits of consumers statewide through its website and public outreach activities. The DCA established the following action plan to accomplish its goals and objectives:

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

To measure its performance and progress on education and outreach activities, the DCA tracks the number of people reached through education and outreach events, newsletters and other publications distributed, and consumers assisted with complaints and other issues. Chart 3 illustrates various ways the DCA engaged in community outreach and education in FY 2020.<sup>6</sup>

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<sup>6</sup> The COVID-19 pandemic resulted in the cancellation of several large, in-person outreach events, as well as the vacancy of the education specialist position for six months of FY 2020.

**Chart 3: DCA's Multi-pronged Approach to Community Outreach and Education****ACCOMPLISHMENTS IN FY 2020****Impact of COVID-19 on DCA Operations**

In FY 2020, the DCA successfully transitioned to telework in accordance with stay-at-home orders and departmental guidance. The DCA has organized and coordinated telework and structured, staggered schedules for in-office work once allowed. To date, the division's employees have remained safe from the pandemic, and the office has managed to timely address its workload on the variety of ongoing and pandemic-related proceedings. The division also filed a request with the Commission in FY 2020 to suspend the termination of utility services due to the pandemic's impact on customers' ability to pay their utility bills. The Commission implemented the requested moratorium.

## Advocacy Before the Public Utilities Commission

The DCA's primary activities consist of its advocacy before the Commission. The following are some of the division's key accomplishments in FY 2020.

### Energy Dockets

#### **(1) Resource Planning**

Throughout most jurisdictions, energy utility companies are required to conduct long-term planning processes to efficiently plan on how to meet customer needs with an optimal mix of resources, such as central station generation, distributed generation, and demand-side resources. The need for energy planning is heightened in Hawaii since Hawaii's RPS and Energy Efficiency Portfolio Standard objectives require careful planning to ensure that Hawaii's energy rates do not unreasonably escalate or the reliability and resiliency of electric services do not suffer. Although such planning was historically done through Integrated Resources Planning proceedings, and more recently as Power Supply Improvement Plans proceedings, the Hawaiian Electric Companies (HECO Companies) continued hosting a series of Integrated Grid Planning meetings and workshops as part of Docket No. 2018-0165. The DCA will continue to actively review and provide recommendations regarding the utilities' resource planning efforts.

#### **(2) Renewable Energy Procurement**

In Docket No. 2017-0352, the Commission provided the forum through which the HECO Companies could issue requests for proposals to acquire new renewable energy projects. The DCA was an active party in this proceeding and sought to ensure that the procurement of new resources would benefit all consumers and be at reasonable costs. In this docket, the use of new contract terms addressed concerns raised by the DCA. These concerns related to seniority curtailment issues, where the energy from newer and cheaper sources of renewable energy would be queued behind older projects that had seniority but were possibly more expensive and less helpful in meeting grid needs. As a result of Phase 1, eight projects with a potential capacity of over 274 megawatts were selected by the HECO Companies, reviewed by the Consumer Advocate, and approved by the Commission.<sup>7</sup>

#### **(3) Distributed Energy Resources, Grid Modernization, Microgrids, and Advanced Rate Design**

The Commission opened Docket No. 2014-0192 to review various issues related to distributed energy resources (DER) (e.g., photovoltaic rooftop systems) and the measures required to both facilitate the continued adoption of DER and ensure that a sustainable market for DER will exist that does not adversely affect other renewable energy markets or consumers. The Commission subsequently opened Docket No. 2019-0323 to comprehensively investigate technical, economic, and policy issues associated with DER, including those associated with the provision of demand response and grid services.

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<sup>7</sup> In doing so, the Commission closed Docket Nos. 2014-0192 and 2015-0412. Docket No. 2015-0412 was established when the HECO Companies applied for approval of demand response program portfolio tariff.

The Commission opened Docket No. 2018-0141 to investigate grid modernization, including the need to upgrade the grid to facilitate DER, among other things. The anticipated result is having the grid provide more information to the utilities to better manage resources, as well as provide the opportunity for customers to manage their use and/or work with third-party providers of energy services. The DCA provided comments regarding data privacy and access issues, including advocating for customer access to their own usage data, compliance with nationally recognized data standards, and access to anonymized data for research and planning.

Pursuant to Act 200, SLH 2018, the Commission opened Docket No. 2018-0163, a proceeding to establish a microgrids services tariff to address concerns with disasters and grid resiliency. The DCA has been participating in this proceeding and seeking to ensure that the docket focuses on resiliency issues and determining what barriers exist, including the need for grid modernization and updated rate designs to facilitate microgrids.

To facilitate market-based transactions and to provide better pricing signals to consumers and producers, the DCA continues to participate in various dockets to ensure that fair rate design is being advanced. This work spans a number of different dockets, such as those for DER, microgrid, grid modernization, and rate cases. The DCA will continue to seek necessary modifications to address concerns with outdated rate design principles.

#### **(4) Performance-Based Ratemaking**

Act 5, SLH 2018, required the Commission to establish performance incentives and penalty mechanisms to tie revenues to performance instead of investments. In addition, the Commission opened Docket No. 2018-0088, which is investigating performance-based ratemaking. In Docket No. 2018-0088, the Commission set forth the plan to look at performance-based ratemaking in two phases, where the first phase was completed in May 2019 and the second phase started in June 2019. The DCA has been actively participating in this proceeding to protect consumers' interests, as the possible outcomes could be favorable to the HECO Companies and/or third-party special interests – to the detriment of the consumers. At the end of FY 2020, there were several remaining steps in phase 2, including the filing of positions statements, evidentiary hearings, post-hearing briefs, and the Commission's decision and order.

#### **(5) Community-Based Renewable Energy Program**

In November 2015, the Commission suspended a HECO Companies' tariff to open a proceeding to investigate Community-Based Renewable Energy (CBRE) issues. Subsequently, the Commission filed its staff proposal for a CBRE program and requested comments on that proposal. The DCA's proposal supported the need for a CBRE program but noted the proposal did not include sufficient customer safeguards and may have been too favorable to industry and developer interests. The DCA highlighted the need for low-cost options for renters, multi-unit dwelling residents, and low-income customers and for an initial program that would be relatively simple, rather than a complex program that might doom any future CBRE efforts. The Commission approved a CBRE framework, which the DCA and other stakeholders analyzed and offered comments. The DCA continues to provide comments and participate in technical conferences for the CBRE

program, which is now in phase 2 and will include solicitations for projects dedicated to serve low- and moderate-income customers. The DCA also continues to advocate for a CBRE Customer Bill of Rights and an online portal that would be customer-friendly and allow customers to easily compare and identify their best options.

#### (6) Young Brothers Rate Case

In 2019, interisland shipper Young Brothers applied for a general rate increase. During the case, the impacts of the ongoing pandemic affected Young Brothers' operations, and its parent company cut off further financing. This resulted in a series of events, such as a decreased sailing schedule and a temporary suspension of the proceeding to evaluate options to ensure continued service. Since the close of FY 2020, there were a number of additional actions, and further procedural steps are anticipated.

#### Dockets Involving Other Industries

The Consumer Advocate participated in various dockets involving regulated water, wastewater, telecommunications, utility gas, and transportation companies. These dockets included ongoing rate proceedings for water/wastewater utility companies, and eligible telecommunications carrier certification for various telecommunications companies. Several utilities have filed for deferred cost accounting for pandemic-related costs. The Consumer Advocate also handled various dockets relating to Hawaii Gas.

#### **Advocacy through Participation on Committees and Boards**

The DCA seeks to represent, protect, and advance customers' interests by participating in various committees and boards that are related to regulated utility and transportation services. Some of the committees and boards that the DCA served on in FY 2020 include the following:

- **Enhanced Wireless 911 Services:** Pursuant to Act 168, SLH 2011, the Enhanced Wireless 911 (E911) Board and the E911 Fund were created to ensure that the State's E911 system can meet emergency needs.
- **One Call Center Advisory Committee:** Pursuant to Act 141, SLH 2004, the One Call Center Advisory Committee seeks to properly educate contractors and customers about procedures and services available to help avoid damaging underground utility facilities and associated injuries.
- **Hawaii Energy Policy Forum:** The Hawaii Energy Policy Forum is an organization that brings together various entities from government, education, industry, and other interested stakeholders to discuss energy-related issues and how to best pursue changes that are consistent with the State's goals and objectives.
- **Hawaii Clean Energy Initiative:** Initiated by a memorandum of agreement between the U.S. Department of Energy and the State of Hawaii, the Hawaii Clean Energy Initiative is a key driving factor in Hawaii's clean energy transition efforts.

#### **Education and Outreach**

In FY 2020, the DCA continued its education and outreach activities to better educate consumers and extend its reach to communities throughout the State. The DCA attended community fairs to distribute its own newsletter and information materials until the COVID-19 pandemic necessitated

restrictions on large-scale gatherings and events. The DCA participated in community meetings and events to the extent that virtual opportunities were available.

The DCA continued to use its website to provide relevant information and informative news, and to use Facebook to reach consumers more quickly through social media. In FY 2020, the DCA's Facebook posts included notifying consumers of changes in utility disconnection, as well as late fee policies and resources available during the COVID-19 pandemic. Through Facebook, the DCA also educates consumers by posting energy and water-saving tips and notifying consumers of pertinent, utility-related online newspaper articles, blog posts, and radio and television programs. The Facebook page is also used to announce upcoming utility-related public hearings, consumer fairs, utility and green energy conferences, and media events.

### **CRF FINANCIAL SUMMARY FOR FY 2020**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,848,126	\$1,507,564	\$3,355,690	\$4,851,337

## DIVISION OF FINANCIAL INSTITUTIONS

### OVERVIEW AND COMPOSITION

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

The major functions of the DFI are to:

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

The DFI is recognized by two accreditation organizations for appropriately licensing, supervising, and examining chartered and licensed companies, providing consumer protection to individuals, and providing the highest standards of training for its staff. The DFI was first accredited by the Conference of State Bank Supervisors (CSBS) in 1990 and reaccredited in 1995, 2000, 2005, 2012<sup>8</sup>, and 2018. The CSBS accreditation program sets high standards for state banking regulators nationwide. Forty-seven out of 52 states<sup>9</sup> meet CSBS accreditation requirements.

In 2Q FY 2015, the DFI was the eighteenth state in the nation to be accredited by the CSBS/American Association of Residential Mortgage Regulators (AARMR)<sup>10</sup> for mortgage supervision. The CSBS/AARMR accreditation program sets high standards for state mortgage regulators nationwide. Currently, 27 of 66 mortgage regulatory agencies meet CSBS/AARMR accreditation standards. The accreditation program includes mortgage loan originators, mortgage loan originator companies, and mortgage servicer programs. Hawaii was also recognized for its robust regulatory scheme and oversight, as well as for its mature examination program.<sup>11</sup>

<sup>8</sup> Hawaii did not seek reaccreditation in 2010. A new commissioner was appointed in 2011.

<sup>9</sup> Includes the District of Columbia and Puerto Rico.

<sup>10</sup> The AARMR is a trade organization for mortgage regulators.

<sup>11</sup> In 2009, the Hawaii Secure and Fair Enforcement for Mortgage Licensing, or SAFE, Act was passed, giving the DFI authority to supervise, regulate, and examine mortgage loan originators and mortgage loan originator companies.

**Contact information:**

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

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

Phone: (808) 586-2820

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

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

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

The **Administrative Section** coordinates and facilitates activities within the DFI, with other divisions, and with other state and federal agencies regarding regulatory and supervisory oversight issues.

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

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

## **GOALS AND OBJECTIVES**

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

- Achieve the DFI’s strategic objectives, which center on the orientation, training, and effective deployment of the division’s examiners and providing best practices to licensees in a professional manner.
  - Federal training programs administered by the FDIC and the Federal Reserve System are regularly used for this purpose, as are web-based programs provided by the CSBS, Risk Management Association, and Hawaii Bankers Association.
  - The DFI seeks to recruit new staff who, through on-the-job training, will be able to adjust to the rapidly changing landscape of the financial services industry. New financial service products continue to be created, modified, and initiated by licensees that the DFI regulates and supervises.
  - DFI examiners aim to stay up-to-date with the latest iteration of financial products, services, and delivery methods, which have greatly expanded through technology and impact cybersecurity.

## **ACCOMPLISHMENTS IN FY 2020**

### **Impact of COVID-19 on DFI Operations**

The DFI was well-prepared for the COVID-19 pandemic. Since 2012, DFI staff have been using laptops instead of desktops, and the division periodically conducts exercises to ensure its staff can work remotely during an emergency. The DFI’s digital filing system and electronic processing of examinations also enable its staff to work from any location. Consequently, during the stay-at-home orders, the DFI continued to timely process applications, respond to inquiries and consumer complaints, and examine licensees off-site. The division also continued to deliver training to licensees through webinars and live presentations on WebEx, Zoom, and Microsoft Teams.

### **Digital Currency Innovation Lab**

In conjunction with the Hawaii Technology and Development Corporation, the DFI launched the Digital Currency Innovation Lab to study cryptocurrency companies who provide money transmission activities for consumers. Through the lab, the DFI will study the services offered by the digital currency companies and determine if it should regulate this activity. If regulation is warranted, the DFI will determine what and how the activity should be regulated and whether any activity causes consumer harm.

### **New Database to Monitor Financial Institutions; Pilot Testing**

The DFI successfully implemented phase II of a new database to track and monitor financial institutions. Phase II allowed the DFI to more efficiently use the workflow function of the database software. The DFI anticipates implementing phase III to run reports on licensees and allow the division to monitor nondepository companies in late 2021.

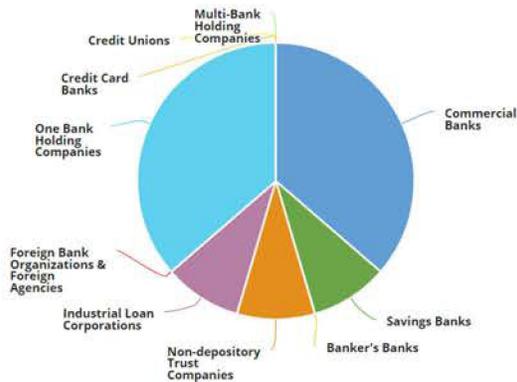
In addition, through the DFI, Hawaii is one of six states (and the District of Columbia) piloting a complaints portal of a multi-state examination system with the CSBS. The State Examination System is used to conduct off-site examinations of nondepository licensees. The DFI is also testing an online consumer complaints platform that will allow consumers to submit a complaint against a licensee for investigation by multiple states.

### Supervision of Depository and Non-Depository Institutions

The DFI used the NMLS to license and register nondepository financial service providers (i.e., mortgage industry, money transmitters, and escrow companies). See below charts for the number of institutions the DFI regulated and supervised in 2020<sup>12</sup>.

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

Depository Institutions

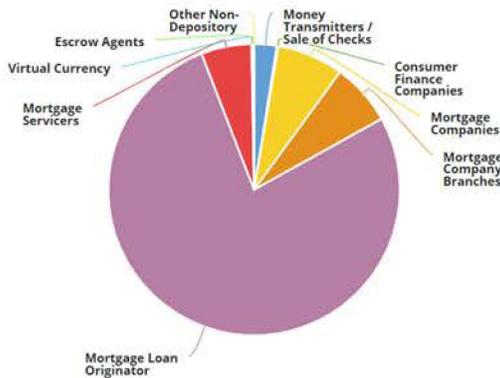


Institution	Number of Supervised Institutions
Commercial Banks	4
Savings Banks	1
Banker's Banks	0
Non-depository Trust Companies	1
Industrial Loan Corporations	1
Foreign Bank Organizations & Foreign Agencies	0
One Bank Holding Companies	4
Multi-Bank Holding Companies	0
Credit Unions	0
Credit Card Banks	0

1 - 10 of 10

**Chart 2: Number of Non-Depository Institutions Regulated and Supervised**

Non-Depository Institutions



Institution	Number of Supervised Institutions
Money Transmitters / Sale of Checks	77
Consumer Finance Companies	5
Mortgage Companies	226
Mortgage Company Branches	211
Mortgage Loan Originator	2367
Mortgage Servicers	172
Virtual Currency	0
Escrow Agents	8
Other Non-Depository	0

1 - 9

Although the DFI’s partnership with other agencies and training is ongoing, every effort the DFI undertook sought to ensure the safety and soundness of the financial system, protect consumers, and encourage economic growth — all while promoting innovative and responsive supervision.

<sup>12</sup> Data from the CSBS annual accreditation report as of December 31, 2019.

Lastly, through the efforts of state banking agencies, including the DFI, state regulators were represented through the State Liaison Committee on the Federal Financial Institutions Examination Council, which: issued updated Bank Secrecy Act examination procedures; issued new customer due diligence and beneficial ownership examination procedures; and identified areas of the supervisory process that could be modernized to reduce burden and improve efficiency.

**CRF FINANCIAL SUMMARY FOR FY 2020**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$4,174,182	\$495,736	\$4,669,918	\$5,052,160

## INSURANCE DIVISION

### OVERVIEW AND COMPOSITION

The Insurance Division (INS) is responsible for overseeing the State's insurance industry, which includes insurance companies, insurance agents, self-insurers, and captives. The division ensures that commercial and individual consumers are provided with insurance services that meet acceptable standards of quality, equity, and dependability at fair rates by establishing and enforcing appropriate service standards and by monitoring the solvency of insurers. The INS licenses, supervises, and regulates all insurance transactions in the State under HRS title 24. Legal service plans also fall under the division's duties.

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

<u>Type of License</u>	<u>Licenses as of June 30, 2020</u>	<u>Licenses as of June 30, 2019</u>
Adjuster	3,708	3,236
Captive	238	232
Certificate of authority (insurer)	1,055	1,045
Foreign risk retention group (registered)	65	59
Fraternal benefit society	7	7
Health maintenance organization	4	4
Independent bill reviewer	28	31
Life settlement broker	26	24
Life settlement provider	21	21
Limited lines motor vehicle rental company producer	41	40
Limited lines portable	18	16
Limited lines producer	1,570	1,608
Limited lines self-service storage producer	49	0
Managing general agent	45	48
Mutual benefit society	5	5
Nonresident producer	64,966	61,037
Pharmacy benefit manager registration	38	34
Producer	7,926	7,826
Purchasing group (registered)	242	230
Reinsurance intermediary	40	37
Service contract provider registration	190	184
Surplus lines broker	2,172	2,127
Third party administrator	162	0
Vehicle protection product warrantor registration	49	44
<b>TOTAL:</b>	<b>82,665</b>	<b>72,445</b>

The INS administers HRS chapters 431 (Insurance Code), 431C, 431K, 431L, 431M, 431P, 431S, 432, 432C, 432D, 432E, 435C, 435E, 448D, 481R, 481X, and 488, which relate to the licensing, supervision, and regulation of all insurance transacted in the State by all insurance entities.

**Contact information:**

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

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

Phone: (808) 586-2790

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

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

The **Captive Insurance Branch** handles all aspects of licensing, regulating, and developing the State's captive insurance industry. With 238 active licenses as of June 30, 2020, Hawaii's captive insurance domicile is ranked eighth worldwide and fifth in the U.S. for the largest captive domiciles. Pursuant to Act 1, SLH 2005, the Captive Insurance Administrative Fund defrays funds expended for the INS' captive insurance program. Accordingly, the CRF does not fund the cost of this program.

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

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

- Licenses more than 1,300 domestic, foreign, and alien insurers.
- Processes and collects more than \$169 million in premium and surplus lines taxes on behalf of the General Fund and workers' compensation levies on behalf of the Department of Labor and Industrial Relations.
- Processes and administers tax credits claimed against insurance premium taxes.
- Authorizes and monitors accredited, certified, and trustee reinsurers.
- Registers purchasing groups and foreign risk retention groups.
- Regulates self-insurers.
- Maintains security deposits.
- Monitors market share and competitive standards of mergers and acquisitions.

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

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

The **Insurance Fraud Investigations Branch** conducts a statewide program for the prevention, investigation, and prosecution of insurance fraud cases and complaints. Effective July 1, 2009, the branch's jurisdiction includes all lines of insurance, except workers' compensation, pursuant to Act 149, SLH 2009. The branch reviews referrals submitted by the insurance industry, other agencies, and the public and initiates an investigation when a crime may have been or is being committed. State law requires that any insurer, insurer's employee, or insurer's agent that believes a fraudulent claim is being made refer the case to the Insurance Fraud Investigations Branch within 60 days.

The **Legal Branch** advises the INS on all legal matters and serves as the interface between the INS and the Department of the Attorney General. The branch serves as hearings officers for administrative hearings as assigned by the insurance commissioner; researches insurance issues; interprets statutes and rules; reviews and analyzes administrative decisions and rulings; prepares legislative bills, legislative testimonies, and administrative rules; responds to requests for formal and informal legal opinions; assists other INS branches in enforcing compliance with the Insurance Code; and provides assistance to other branches in supervision, rehabilitation, and liquidation proceedings.

The **Licensing Branch** reviews, issues, extends, inactivates, and activates insurance licenses and registrations and administers continuing education (CE) programs. The branch maintains records of the licenses and registrations of producers, nonresident producers, surplus lines brokers, adjusters, service contract providers, vehicle protection product warrantors, and pharmacy benefit managers, among others. In addition, the branch issues CE deficiency notices and notifications; processes remittance checks, amendments, renewals, appointments, and terminations of appointment; prepares and updates fee schedules; addresses licensing inquiries from the public; and provides online confirmation to licensees. The branch also works with the insurance commissioner's CE advisory board to approve or deny CE providers or courses.

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

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

For a comprehensive report on the INS' activities, please visit [cca.hawaii.gov/ins/reports/](https://cca.hawaii.gov/ins/reports/) to view the 2020 Annual Report of the Insurance Commissioner of Hawaii.

## **GOALS AND OBJECTIVES**

- Continue meeting its statutorily mandated requirements.
  - The INS will continue complying with the Insurance Code and the Hawaii Administrative Rules (HAR) through proper personnel and caseload management.
- Maintain accreditation status with the NAIC.
  - Accreditation of state insurance regulators is administered by the NAIC and requires state insurance departments and divisions to maintain adequate statutory and administrative authority, as well as sufficient resources to effectively regulate the financial solvency of insurance companies. To maintain its accreditation status, the INS will ensure the required level of funding for its financial surveillance resources. In addition, the INS will review and submit to the Legislature, when necessary, proposed legislation for the adoption of NAIC model laws required for accreditation.

- Improve Hawaii’s world ranking as a leading captive insurance domicile.
  - Hawaii has long been an attractive domicile for the captive insurance industry because of its rigorous standards and geographical location. The INS continued to review its marketing strategy and amend existing components to remain competitive with the maturing and dynamic captive market in the United States. Hawaii actively pursues opportunities in Asia and has maintained its standing as a captive insurer domicile world leader.
- Transition to a new INS database.
  - As the INS looks to the future, it is focused on implementing system solutions to replace its outdated legacy Hawaii Insurance Database System. During FY 2020, INS evaluated various options and chose to license the NAIC’s State Based System that 30 additional state insurance departments already utilize. This transition will begin in FY 2022 and will not only improve the INS’ efficiency, but also provide better online services and information to consumers and insurance licensees.

## **ACCOMPLISHMENTS IN FY 2020**

### **Impact of COVID-19 on INS Operations**

During the COVID-19 pandemic, the INS created a primarily remote workforce to serve Hawaii consumers and licensees, while protecting the health and safety of that workforce. The transition was implemented as efficiently as possible without sacrificing performance, productivity, and morale. Remote-meeting technology was used to conduct staff meetings, public board meetings, and interviewing of witnesses in fraud investigations. Less than 10% of staff need partial access to INS physical offices to perform their work and assist walk-in customers. Additionally, this transition has helped expedite the modernization of certain paper processes to electronic format, thus improving efficiencies.

### **Savings to Hawaii Consumers**

Through a combination of the rate review process and the complaint investigation process, the INS helped consumers save a total of \$63.5 million in FY 2020. The INS reviewed and issued dispositions on 3,754 rate filings and handled 687 complaints. The Rate and Policy Analysis Branch recorded \$8.8 million of long-term care premium savings and \$2.8 million of property and casualty premium savings. An additional \$35 million of premium was returned to consumers, primarily by private passenger auto insurers in response to the COVID-19 crisis. Review of health rate filings resulted in consumers savings of \$16.4 million.

### **Implementation of New License Types and License Law Changes**

The INS successfully implemented new laws pertaining to trade name approval on October 1, 2019, and eliminated producer-to-producer appointments on January 1, 2020. The division added two new licenses, a third party administrator license and a limited lines self-service storage producer license, on January 1, 2020. These implementations required coordination with the insurance industry and other DCCA divisions.

**CRF FINANCIAL SUMMARY FOR FY 2020**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$7,434,051	\$2,392,746	\$9,826,797	\$11,682,147

## OFFICE OF ADMINISTRATIVE HEARINGS

### OVERVIEW AND COMPOSITION

The Office of Administrative Hearings (OAH) is a support office under the Director's Office and is responsible for conducting administrative hearings and issuing recommended decisions for all DCCA divisions that are statutorily required to provide contested case hearings under chapter 91, HRS. The OAH's primary CRF caseload includes cases involving:

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

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

- Procurement cases from all agencies and divisions of the State, its four counties, and the University of Hawaii that arise under the Hawaii Public Procurement Code;
- Certain kinds of motor vehicle dealer, distributor, and manufacturer disputes under HRS chapter 437, part 2;
- Appeals of benefit determinations from the Employer-Union Health Benefits Trust Fund under a memorandum of understanding; and
- Appeals of benefits determinations from the Hawaii Employees' Retirement System under a memorandum of understanding.

Another integral part of the OAH's responsibilities is its administration of the Medical Inquiry and Conciliation Panel (MICP) and the Design Claim Conciliation Panel (DCCP). The MICP conducts informal conciliation hearings on inquiries regarding health care providers before any claims against those providers can be filed as lawsuits. Similarly, the DCCP conducts informal conciliation hearings on claims against design professionals (i.e., engineers, architects, surveyors, and landscape architects) before those claims can be filed as lawsuits. The MICP does not make any decisions on the merits of the parties' positions. The decisions of the DCCP are advisory and not binding on the parties, should a party decide to pursue the matter in court.

For a comprehensive report on MICP and DCCP activities, please visit [cca.hawaii.gov/oah/reports/](https://cca.hawaii.gov/oah/reports/) to view the 2020 Annual Report on the Medical Inquiry and Conciliation Panel and Design Claim Conciliation Panel.

**Contact information:**

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

Phone: (808) 586-2828

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

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

**GOALS AND OBJECTIVES**

- Conduct contested case hearings and issue consistent and well-reasoned, recommended decisions in a fair and impartial manner and as expeditiously as possible.
  - The OAH implements processes and procedures to ensure all cases are timely processed, from the date of filing to the issuance of a final order. These processes and procedures include: entering additional data fields in the OAH’s database so that all pending cases can be tracked for timeliness throughout the entire hearings process; inventorying all OAH cases every February and August of each year; and disposing of cases where no party has taken any action.
  - Make available to the public an efficient means of submitting their hearing and related requests to the OAH electronically.
  - When appropriate, conduct hearings and other proceedings remotely.
- Make available to the public all decisions issued by CRF-related boards, commissions, programs, and divisions.
  - The OAH makes available online all procurement protest decisions shortly after it notifies the parties of the decisions. Since January 2009, the OAH has posted on its website all decisions in other areas.
  - Through new software, the OAH redacts personal information protected by privacy laws from decisions and makes decisions compliant with the Americans with Disabilities Act.
  - The OAH routinely publishes all decisions shortly after they are issued to foster greater awareness of state laws, encourage voluntary resolution of disputes, and maintain consistency in rendering decisions.
- Make available to the public various forms and detailed written instructions to access and initiate the contested case hearing process.

**ACCOMPLISHMENTS IN FY 2020****Impact of COVID-19 on OAH Operations**

As a direct result of the public health emergency caused by COVID-19, the OAH closed its doors to the public beginning on March 20, 2020, and arranged for its employees to work remotely. However, the OAH remained accessible to the public during this time by conducting all conferences and proceedings by telephone or videoconference and by allowing parties to submit their documentation and questions to the OAH by email. In August, the OAH reopened its office to walk-in traffic on an abbreviated schedule. However, in September, the OAH was again forced to close its office to the public and have its employees resume teleworking due to a surge in infections.

Notwithstanding its office closure, the OAH has been able to continue its operations after making several adjustments to its procedures. These adjustments include devising a system that has allowed the parties to submit their cases and pleadings electronically. In addition, the hearings officers were trained in conducting hearings and conferences remotely, and the OAH's case management system allowed the OAH to track cases, assign tasks, generate calendars and schedules, and issue decisions—all electronically. As a result, the daily operations of the OAH have experienced minimal interruption by the pandemic.

The below grid summarizes CRF-related activities the OAH conducted in FY 2020:

<b>Type of Proceeding Conducted</b>	<b>Number</b>
Pre-hearing conferences	77
Status conferences	109
Motions	9
Hearings	131

The below grid summarizes the number of cases and relative percentage of CRF-related activities the OAH conducted in FY 2020.

<b>DCCA Divisions Referring Matters to the OAH</b>	<b>Cases Filed</b>	<b>%</b>
Insurance Division (denial of personal injury protection benefits and enforcement actions)	183	72%
Regulated Industries Complaints Office (petitions for discipline and appeals from citations for unlicensed activities)	25	10%
Business Registration Division (trade name revocation proceedings, corporate name abatement proceedings, and violations of securities laws)	7	3%
Professional and Vocational Licensing (license denials)	16	6%
Hawaii Employees' Retirement System	15	6%

(retirement benefit denials)		
Procurement administrative reviews (protest denials)	7	3%
Other CRF-related hearings	0	0%

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

## OFFICE OF CONSUMER PROTECTION

### OVERVIEW AND COMPOSITION

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

The OCP's enforcement jurisdiction encompasses a wide range of businesses and commercial activities, including, but not limited to: advertising violations, door-to-door sales, gift certificates, offers of gifts and prizes, going-out-of-business sales, refunds and exchanges, collection practices, credit sales, health clubs, towing, fine prints, and motor vehicle rentals. More recently, the OCP has investigated and initiated enforcement actions on price gouging and unlawful rent increases while the governor's emergency declarations were in effect and to protect consumers from the misleading and deceptive practices in the sale and manufacturing of consumer products. See Table 1: Laws Enforced by OCP.

The OCP received more than 750 consumer complaints in FY 2020. The actual number of OCP complaints varies from year to year depending on circumstances. Many factors influence the number of complaints to the OCP in any given year, such as the number of victims impacted by a business' illegal conduct. During the past several years, the OCP averaged approximately 600 consumer complaints per year. However, the number of consumer complaints increased in FY 2020 because of the effects the COVID-19 pandemic had on the economy during the second half of the FY.

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

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

**Contact information:**

Main office address:	Leiopapa A Kamehameha Building (State Office Tower) 235 South Beretania Street Suite 801 Honolulu, HI 96813 (808) 586-2630
Maui office address: (new location)	Wells Professional Center 2145 Wells Street Suite 106 Wailuku, HI 96793 (808) 243-4648
Hilo office address:	Bank of Hawaii Building 120 Pauahi Street Suite 212 Hilo, Hawaii 96720 (808) 933-8845
Website:	<a href="http://cca.hawaii.gov/ocp">cca.hawaii.gov/ocp</a>
Email:	<a href="mailto:ocp@dcca.hawaii.gov">ocp@dcca.hawaii.gov</a>

The **Consumer Resource Center (phone: 808-587-4272)** performs intake of complaints for the OCP. The center is staffed by intake investigators at the Regulated Industries Complaints Office who answer consumers' questions, distribute OCP complaint forms to consumers, receive written consumer complaints, and forward cases to the OCP for review, closure, or further investigation. In FY 2020, the center resolved approximately 862 OCP complaint inquiries without a formal complaint. In addition, a section of the center answers phone requests for prior complaint history. If circumstances permit, consumers can also visit the OCP's Honolulu office to view hard copies of case files. Prior to the release of any file, the OCP reviews its contents to ensure legally protected private information is not disclosed.

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

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

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

The OCP also provides the following services:

### **Consumer Education**

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

### **Neighbor Island Assistance Requests**

The OCP offers assistance to neighbor island residents in DCCA-related matters and other areas. See Table 5 for statistics on OCP's Neighbor Island Assistance in FY 2020.

## **GOALS AND OBJECTIVES**

- Fulfill the OCP's statutory mandate of fostering a fair and safe marketplace for consumers and businesses.
- 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.
- Maintain fiscal responsibility on behalf of DCCA and OCP operations.
- Support innovative legislation designed to protect consumers in Hawaii.
- Proactively initiate cases against problematic business practices before widespread consumer harm occurs.
- Disseminate consumer education to the largest possible populace.
- Facilitate the exchange of information with a wide array of civil and criminal law enforcement agencies.
- Provide in-house training to OCP investigators and attorneys.

**ACCOMPLISHMENTS IN FY 2020****Impact of COVID-19 on OCP Operations**

During the COVID-19 pandemic, the OCP maintained a hybrid schedule of onsite work and telework for its staff and modified its office hours. These adjustments minimally impacted the OCP's ability to serve consumers during the pandemic. Although COVID-19 prevented the OCP from holding in-person educational events, the division reached out to consumers, community organizers, and businesses virtually through webinars, social media, television interviews, and press releases regarding consumer protection issues and the OCP's role in enforcing Hawaii's consumer protection laws.

Following the governor's proclamations that suspended rent increases and evictions for non-payment of rent during the pandemic, the OCP experienced a significant increase in both calls to its Residential Landlord-Tenant Information Center and searches on its website for COVID-19 information, such as price gouging, illegal rent increases, and evictions while an emergency proclamation is in effect. Accordingly, the OCP focused its efforts on educating residential tenants and landlords of their obligations under the Residential Landlord-Tenant Code and consumers on identifying and avoiding coronavirus scams.

In FY 2020, the OCP responded to 117,084 requests and inquiries from the public, including 9,563 requests for landlord/tenant information through its Residential Landlord-Tenant Information Center. See Table 2: OCP's Information Requests.

**Legislation**

The OCP testified and provided input on numerous measures related to consumer protection during the Regular Session of 2020, including bills relating to the Residential Landlord-Tenant Code, peer-to-peer motor vehicle sharing, towing, advertisements, privacy, and service charges for the sale of food and beverages.

**Cases**

The OCP's cases in FY 2020 involved nearly every area of consumer protection. These cases involved alleged violations of Hawaii's consumer protection laws governing price gouging, mortgage rescue fraud, data breaches, gift certificates, door-to-door sales, wire transfers, refunds and exchanges, advertising, and unfair or deceptive trade practices, including complex multistate enforcement actions based on unfair or deceptive marketing practices by pharmaceutical companies and consumer reporting companies.

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

**CRF FINANCIAL SUMMARY FOR FY 2020**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,945,658	\$341,984	\$2,287,632	\$1,517,216

**TABLES****Table 1: Laws Enforced by OCP**

HRS section 127A-30	Rental or sale of essential commodities during a state of emergency; prohibition against price increases
HRS section 290-11	Vehicles left unattended on private and public property; sale or disposition of abandoned vehicles
HRS chapter 437D	Motor Vehicle Rental Industry Act
HRS chapter 446	Debt Adjusting
HRS chapter 446E	Unaccredited Degree Granting Institutions
HRS chapter 476	Credit Sales <sup>13</sup>
HRS chapter 477E	Fair Credit Extension
HRS section 480-2	Unfair competition, practices, declared unlawful <sup>14</sup>
HRS chapter 480D	Collection Practices <sup>15</sup>
HRS chapter 480E	Mortgage Rescue Fraud Prevention Act
HRS chapter 480F	Check Cashing
HRS chapter 481A	Uniform Deceptive Trade Practice Act
HRS chapter 481B	Unfair and Deceptive Practices, including: Unsolicited Goods; Commercial Mail Order Buying Clubs; Unlawful Offers of Gifts or Prizes; Misrepresentation as to Aid to Handicapped; Returns for Refunds, Merchandise Credits, and Exchanges; Sale of Solar Energy Devices; Sale of Computers; Sensitivity-Awareness Group Seminars; Credit Repair Organizations; Gift Certificates; and Ticket Brokers and Fees
HRS chapter 481C	Door-To-Door Sale
HRS chapter 481D	Going Out of Business Sales
HRS chapter 481F	Sale of Prints
HRS chapter 481H	Water Treatment Units
HRS chapter 481K	Assistive Technology Warranty Act
HRS chapter 481L	Motor Vehicle Lease Disclosure Act
HRS chapter 481M	Lease-Purchase Agreements for Personal Property
HRS chapter 481P	Telemarketing Fraud Prevention Act
HRS chapter 481X	Service Contracts
HRS chapter 486N	Health Clubs
HRS section 487-5	General functions, powers, and duties of director of OCP
HRS chapter 487A	Language of Consumer Transactions
HRS chapter 487J	Personal Information Protection
HRS chapter 487N	Security Breach of Personal Information
HRS chapter 487R	Destruction of Personal Information Records
HRS chapter 506	Mortgages of Real Property or Fixtures

<sup>13</sup> HRS section 476-31. The OCP has also filed cases based upon the Federal Truth in Lending Act and the State's usury statute, HRS chapter 478.

<sup>14</sup> The OCP also has enforcement power over certain lemon law agreements under HRS section 481I-4 and has filed lawsuits under HRS section 486-119 (Hawaii-made products; Hawaii-processed products). Also, HRS chapter 514E sets forth a comprehensive regulatory scheme for time-share development, sales, and maintenance and establishes 13 specific types of conduct that constitute *per se* violations of HRS section 480-2. Under HRS section 490:2A-104, Uniform Commercial Code leases are explicitly subject to state consumer protection statutes and case law.

<sup>15</sup> See also HRS section 443B-20 (Unfair competition, unfair or deceptive acts or practices of collection agencies).

HRS chapter 521

Residential Landlord-Tenant Code<sup>16</sup>**Table 2: OCP's Information Requests**

<b>REQUEST AND INQUIRIES</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Requests for prior complaint history	5,959	4,671	4,559
Website inquiry general information	35,229	32,780	52,200
Website inquiry landlord/tenant information	13,980	10,326	37,149
Requests for landlord/tenant information	10,577	9,717	9,563
Complaint inquiries	8,333	5,545	13,600
Requests for records review	0	5	13
<b>TOTAL</b>	<b>74,078</b>	<b>63,044</b>	<b>117,084</b>

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

<b>DISPOSITIONS</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Complaint withdrawn	1	3	3
Legal action and referrals to Legal Section	135	78	102
Advisory contact	3	4	5
Civil dispute/personal matter	36	23	37
Monetary threshold	4	0	0
Complainant uncooperative	7	14	8
Consumer complaint resolved	24	8	8
Respondent died or bankrupt	11	12	5
Business vs. business	10	15	13
No jurisdiction	4	13	3
Refer to investigation	143	241	305
Other	1	0	4
Warning letter	0	3	5
Insufficient evidence	34	62	31
Transferred to other government agency	118	111	114
No violation	25	19	31
Information only/inquiry	77	140	102
<b>TOTAL</b>	<b>633</b>	<b>746</b>	<b>776</b>

<sup>16</sup> HRS section 521-74.5 provides that a landlord who recovers possession of a dwelling unit by willful interruption of utilities or other essential services violates HRS section 480-2. In addition, HRS section 521-77 provides that the OCP may receive, investigate, and attempt to resolve any dispute arising under HRS chapter 521.

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

<b>SUBJECT</b>	<b>FY 2018</b> (rank/total)	<b>FY 2019</b> (rank/total)	<b>FY 2020</b> (rank/total)
Price gouging		#8.38	#1.234
Scams	#3.50	#5.62	#2.49
Internet crime complaints (National White Collar Crime Center)	#6.28	#4.80	#3.44
Travel/vacation	#2.74	#1.171	#4.41
Hotels & Motels			#5.34
Food/drink service	#9.20	#3.84	#6.33
Vacation Rentals			#6.33
Towing		#10.31	#7.31
Cosmetics/ Beauty Products			#8.30
Internet transactions (PC/software/server)	#4.37	#6.55	#9.28
Refunds		#7.52	#10.26
Transportation (sale/repair/rent/tow/parking)	#1.127	#2.131	
Insurance		#9.33	
Gift certificate		#10.31	
Identity theft/security breach	#5.34		
Education (trade, vocational, home study, unaccredited degree-granting institution)	#7.25		
Investment/financial	#8.21		
Appliances (purchase/repair)	#9.20		
Medical (hospital, clinic, convalescence, equipment, service company, laboratory)	#9.20		
Professional services (attorney, accountant, bookkeeper, Regulated Industries Complaints Office)	#9.20		
Utilities (electric, telephone, cable)	#10.19		

**Table 5: OCP's Neighbor Island Assistance in FY 2020**

<b>DIVISION</b>	<b>HILO</b>	<b>MAUI</b>	<b>TOTAL</b>
Division of Financial Institutions	3	2	5
Business Registration	3	3	6
Cable Television	0	0	0
Insurance Division	1	0	1
Division of Consumer Advocacy	0	0	0
Professional and Vocational Licensing	2	0	2
Regulated Industries Complaints Office	17	3	20
Non-DCCA related	15	15	30
Other DCCA divisions	11	0	11
<b>TOTAL</b>	<b>52</b>	<b>23</b>	<b>75</b>

## PROFESSIONAL AND VOCATIONAL LICENSING DIVISION

### OVERVIEW AND COMPOSITION

The Professional and Vocational Licensing Division (PVL) is responsible for implementing the licensing regulations of 52<sup>17</sup> different professions and vocations. The division: provides support to licensing regulatory boards, commissions, and programs; handles applications and licenses; reviews and processes renewals; maintains license records; provides guidance to properly implement licensing laws and administrative rules; and responds to consumer inquiries on whether a person or an entity is properly licensed, to help them decide whether to use the services of that person or entity.

The **PVL website** ([cca.hawaii.gov/pvl](http://cca.hawaii.gov/pvl)) provides consumers: licensing information for all of its licensing areas; fillable license applications; publications; licensing laws and administrative rules; FAQs; a link to the division's online services ([cca.hawaii.gov/pvl/e\\_services](http://cca.hawaii.gov/pvl/e_services)); board meeting schedules, agendas, and meeting minutes; and a geographical report that lists current active or inactive licensees by county.

The PVL's **Business Check website** ([cca.hawaii.gov/businesscheck/](http://cca.hawaii.gov/businesscheck/)) allows new applicants or existing licensees to monitor, in real-time, the status of their initial license application or renewal application. Business Check also helps consumers verify the licenses of businesses or individuals, including their: license identification number; whether a license is active or inactive; current status of the license; original date of licensure; expiration date of licensure; current and former persons, businesses, or tradenames; information on "conditional license" codes and descriptions; and any formal disciplinary action taken against the licensee.

The public can create a customized list of licensees using the PVL's **List Builder website** ([pvl.ehawaii.gov/pvllistbuilder/](http://pvl.ehawaii.gov/pvllistbuilder/)). The list is sortable by license number, name, status, and initial date of licensure. Lists are available for download within 24 hours of making the request.

The division's **MyPVL website** ([pvl.ehawaii.gov/mypvl](http://pvl.ehawaii.gov/mypvl)) allows licensees to access information and services from a single dashboard, including: managing or renewing<sup>18</sup> their existing licenses; making address changes; and printing license pocket identification cards<sup>19</sup> and wall certificates online at no cost. Applicants for licensure can also: submit their initial license applications and supporting documents; pay fees; monitor their application status; and receive correspondence. As of FY 2020, MyPVL has over 157,371 individual accounts managing 184,552 licenses.

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<sup>17</sup> Twenty-five licensing regulatory boards, including one commission, are administratively attached to the DCCA/PVL, as well as twenty-seven licensing programs whose board duties and functions are vested in the DCCA director.

<sup>18</sup> While the PVL still accepts and processes renewals mailed by licenses, a majority of renewals are now submitted online.

<sup>19</sup> The pocket ID card has a QR code that consumers can scan to verify a licensee's current status.

**Contact information:**

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

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

Phone: (808) 586-3000

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

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

The **Licensing Branch (phone: 808-586-3000)** is comprised of the Applications Section and the Records Section. The Applications Section reviews and processes applications for licensure, issues licenses, and maintains records of licensing applications. The Applications Section, on behalf of the boards, commissions, and programs, conducts highly intensive reviews of all initial licensing applications, determines the status of those applications, and, in some instances, makes the final determination to either issue or defer issuance of licenses. The Applications Section also performs customer service duties by answering the PVL's main public call-in line, which answered approximately 72,467 calls in FY 2020, or approximately 6,039 calls per month. To address the high call volume, a call center pilot program was established in April 2019 and will continue as it has provided clear evidence of increased efficiencies for the Applications Section staff. The call center has also provided phone support to our Administration Branch during the COVID-19 pandemic by addressing routine inquiries, such as where to obtain and file applications. The Records Section is responsible for renewing, restoring, and reactivating licenses and maintaining records of all licensees. The Records Section is also involved with performing customer service duties by assisting the public with licensing information at the main PVL walk-in counter, as well as responding to phone inquiries. Both sections of the Licensing Branch use the PVL's computerized licensing database to obtain immediate information about applicants and licensees. Inquirers may request information on whether a person or entity is licensed, the original date of licensure, the status of licensure, the expiration date of the license, Hawaii disciplinary sanctions imposed on the licensee, and, if applicable, whether mandatory insurance (e.g., workers compensation, liability insurance) is current and in effect.

The **Administration Branch (phone: 808-586-2690)** handles board affairs such as coordinating, preparing, facilitating, and recording board meetings; ensuring board compliance with applicable laws that guide and direct its conduct; and implementing board decisions on applications, policies and procedures, and disciplinary actions. The branch also responds to requests for interpreting licensing laws and rules, oversees licensing and examination activities, and guides and assists with regulatory compliance issues. The same activities are done for the 27 programs (absent the necessity of board meetings) on behalf of the DCCA director. The Administration Branch also

performs substantial coordination and facilitation activities with other state, county, and federal agencies involved with licensing and regulatory issues.

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

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

All four branches within the PVL work collectively toward efficient and expedient processing of applications, licenses, and renewals to ensure the public has choices among competent and licensed practitioners. In FY 2020, 91.71% or 57,022 licensees renewed their licenses online, as compared to 91.56% or 59,348 licensees who renewed online in FY 2018. The PVL encourages licensees to use its online renewal system, which helps them save valuable time and effort. The continued success of this system is attributed to the user-friendliness and efficiency of the PVL's online processing, which reduces the processing of renewals from 14 to 21 business days to three to five business days.

For a statistical summary of key PVL activities, see:

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

## **GOALS AND OBJECTIVES**

- Replace the PVL's antiquated Application/Licensee Integrated Automated System database with a new system that will: process license applications, license renewals, and change transactions; monitor the status of applications; and issue licenses, wall certificates, pocket identification, and other required documentation.

**Licensing Branch**

- Focus on improving customer service by changing how staff process their work and through increased use of technology.
- Continue to have the PVL Working Group meet monthly to discuss ways to streamline processes.
- Store documents electronically until they are ready for processing, as this will decrease the amount of time staff spend to manually file paper and will allow greater staff access to the documents.
- Implement other means of reducing paper transactions, such as processing high-volume transactions online.

**Examination Branch**

- Improve the transmission and maintenance of exam-related documents to the Licensing Branch.
- Where new opportunities to increase efficiencies in the exam area are identified, such as the increased use of direct registrations for examinations, identify appropriate ways to improve the exam portion of the licensing process to benefit both the applicant population and the PVL's own operations.
- Maintain COVID-19 exam protocols, including increasing the number of available exam rooms (to assure social distancing), requiring candidates to complete COVID-19 health questionnaires, and performing temperature checks prior to admitting exam candidates to the examination rooms.

**Real Estate Branch<sup>20</sup>**

- Further enhance online public access to condominium projects and Association of Unit Owners registrations and further develop its communication efforts with unit owners, developers, boards, associations, and the public.
- Streamline internal processes for greater efficiency by reviewing and reassessing existing online systems and reevaluating existing forms, logs, and filing systems.

**ACCOMPLISHMENTS IN FY 2020****Impact of COVID-19 on PVL Operations**

Since the initial shutdown of state offices in March 2020 due to the COVID-19 pandemic, PVL staff have been operating primarily by telework to serve Hawaii consumers and licensees while protecting the health and safety of the PVL workforce and the public. PVL staff, licensees, consumers, and the board members of the 25 licensing boards under the Department have all had to quickly learn and acclimate to remote-meeting technologies to conduct staff meetings, board meetings, and public hearings. The PVL continues to ensure that board members and division staff have the appropriate infrastructure to participate in virtual meetings and to improve upon all aspects of PVL operations to continue serving applicants, licensees, and consumers.

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<sup>20</sup> For a comprehensive report on the goals and objectives of the Real Estate Branch and the Real Estate Commission, please visit [cca.hawaii.gov/reb/reports/](https://cca.hawaii.gov/reb/reports/) to view the 2020 Annual Report of the Real Estate Commission.

Significantly, on April 27, 2020, the PVL launched a new feature on MyPVL that allows new license applicants to: submit their initial license applications and supporting documents; pay fees, monitor their application status; and receive correspondence – all through their MyPVL account. This deployment was a tremendous effort that was accomplished in under four weeks and that allows the submission of 155 different application types across all 52 licensing areas.

### **Conversion of Licensing Documents to Electronic Format**

The PVL continued its scanning and imaging project of converting licensing documents into electronic format. Conversion protects historical documentation from damage or destruction and has allowed PVL staff to retrieve and review documents electronically, thereby eliminating the delay that comes with physically retrieving files. The division also moved toward incorporating a documents management system to more easily manage scanned documents enabling its filing to appropriate licensing files.

### **Licensing Branch Accomplishments**

The Licensing Branch received approximately 18,748 new applications and issued 14,189 licenses in FY 2020. In addition, the branch processed approximately 220,769 license-related changes, such as address changes, name changes, and broker changes. The branch answered 72,467 calls in FY 2020, or approximately 6,039 calls per month. To address complaints from members of the public (applicants and licensees), the branch established a call center as a pilot program. The pilot program consists of four call center employees who are responsible for receiving all incoming calls to the branch's main line. Since the establishment of this pilot program, staff members in this branch have become more efficient and timelier in processing initial applications and records requests.

### **Examination Branch Accomplishments**

The Examination Branch processed applicant eligibility for testing, as well as post-examination results, in a timely manner, and in most cases, within five to seven days of key triggering dates. The branch worked closely with testing organizations, applicants, and affected PVL staff, such as the executive officers and the Licensing Branch, to process requests from applicants for special testing accommodations. The PVL handled all requests in a timely and professional manner.

As in previous years, the Examination Branch continued making necessary adjustments to incorporate new database and program requirement changes implemented in FY 2020 by national organizations and testing agencies.

### **Real Estate Branch Accomplishments**

The Real Estate Branch continued improving the offering and delivery of real estate pre-licensing and CE courses. The branch continued HAR chapter 99 rulemaking for real estate brokers and salespersons and HAR chapter 119 rulemaking for condominiums. The branch also continued to implement proposals to repeal the voluminous HAR chapter 99 and to replace it with three separate, shorter chapters (HAR chapters 99.1, 99.2, and 99.3) and HAR chapter 119, to facilitate future rulemaking. For the condominium program, the Real Estate Branch solicited and collected

suggestions from stakeholders in the condominium community and developed a working document that will undergo the formal rulemaking process to implement HRS chapter 514B. Additionally, the branch continued its outreach to stakeholders who may be affected by the repeal of HRS chapter 514A.

For a comprehensive report on matters addressed by the Real Estate Branch and the Real Estate Commission in FY 2020, please visit [cca.hawaii.gov/reb/reports/](http://cca.hawaii.gov/reb/reports/) to view the 2020 Annual Report of the Real Estate Commission.

### **CRF FINANCIAL SUMMARY FOR FY 2020**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,339,867	\$2,349,326	\$7,629,193	\$9,138,171

### **TABLES**

**Table 1: PVL Statistical Overview**

	<b>FY 2019</b>	<b>FY 2020</b>
Applications received	19,351	18,748
Applicants licensed	15,524	14,189
Licenses renewed	66,014	65,132
Permits issued	1,809	1,662
Changes processed	266,213	220,769
Calls received by Licensing Branch	147,477	72,467
Current licensees	163,484	161,951
<b>Total licensee population (all statuses, i.e., current, forfeited, delinquent)</b>	<b>459,965</b>	<b>473,230</b>

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

<b>Boards and Commissions (shown by asterisks) and Programs</b>	<b>FY 2019</b>	<b>FY 2020</b>
Accountants*	3,699	3,487
Activity desks	958	899
Acupuncturists*	776	758
Appraisal management companies - license effective 1/1/2018	72	75
Athletic trainers	225	196
<b>Barbering and cosmetology*</b>		
Barbers	1,533	1,504
Barber shops	250	236
Beauty operators*	9,505	9,148
Beauty instructors	129	113
Beauty schools	12	12
Beauty shops	1,554	1,406
Behavior analysts	278	338
Boxing (all categories)*	8	21
Cemeteries and pre-need funeral authorities	23	21
Chiropractors*	640	602
Collection agencies	659	678
Contractors*	12,854	12,883
Dentists*	1,581	1,514
Community service dentists	27	22
Dental hygienists	1,197	1,117
Community service dental hygienists	2	1
Dispensing opticians	197	205
Electricians (all categories)*	3,773	3,907
Plumbers (all categories)*	1,218	1,287
Electrologists	16	17
Elevator mechanics*	219	239
Employment agencies	64	71
<b>Engineers, architects, surveyors, and landscape architects*</b>		
Engineers	7,338	7,029
Architects	2,551	2,333
Surveyors	204	194
Landscape architects	153	142
Hearing aid dealers and fitters	127	105
Marriage and family therapists	539	540
Massage therapists*	8,222	8,558
Massage establishments	913	993

Medical and osteopathy*		
Physicians	9,950	9,543
Podiatrists	89	88
Osteopaths	972	1,047
Physician assistants	504	469
Emergency medical technicians	886	811
Mobile intensive care technicians	587	557
Mental health counselors	526	607
Mixed martial arts	292	247
Motor vehicle dealers*	284	287
Motor vehicle dealer branches	42	45
Motor vehicle distributors	35	37
Motor vehicle manufacturers	49	51
Motor vehicle salespersons	1,689	1,667
Motor vehicle others (auction, broker, consultant)	12	12
Motor vehicle repair dealers*	733	646
Motor vehicle mechanics	1,593	1,370
Naturopaths*	144	144
Nursing*		
Registered nurses (RN)	30,778	27,728
Licensed practical nurses (LPN)	2,972	2,219
Advanced practice registered nurses (APRN)	1,807	1,867
Nurse aides	7,927	7,730
Nursing home administrators	169	178
Occupational therapists	678	775
Occupational therapist assistants	151	176
Optometrists*	448	426
Pest control operators*	196	183
Pest control field representatives	213	238
Pharmacists*	2,908	2,823
Pharmacies	278	277
Wholesale prescription drug distributors	56	55
Miscellaneous permits	736	656
Physical therapists	1,760	1,952
Physical therapist assistants	374	427
Port pilots	9	9
Deputy port pilots	2	3
Private detective agencies*	38	41
Private detectives	105	107
Guard agencies	80	84
Guards	105	108
Guard employees	12,911	15,565
Psychologists*	1,248	1,317

Real estate appraisers	604	553
Real estate brokers*	6,450	6,667
Real estate salespersons	12,230	13,175
Real estate branch offices	103	117
Condominium hotel operators	29	30
Respiratory therapists	731	814
Social workers	2,502	2,260
Speech pathologists*	718	640
Audiologists	100	95
Travel agents	1,145	1,017
Uniform athlete agents	5	7
Veterinarians*	620	655
Veterinary Technicians	65	99
<b>TOTAL</b>	<b>171,154</b>	<b>169,352</b>

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

License Types	FY 2017	FY 2018	FY 2019	FY 2020
Accountants		2,533 (98.4%)		2,548 (98.7%)
Accountancy firm permits to practice		588 (94.8%)		653 (96.3%)
Activity desks		282 (96.6%)		279 (94.3%)
Acupuncturists	647 (94.59%)		642 (94.13%)	
Architects		2,237 (97.3%)		2,259 (98.65%)
Audiologists		78 (100%)		90 (97.8%)
Barbers		1,016 (77.3%)		1,072 (77.5%)
Barber shops		143 (78.6%)		165 (77.1%)
Beauty operators		7,129 (91.1%)		7,318 (87.9%)
Beauty instructors		92 (89.3%)		90 (90.9%)
Beauty shops		983 (89.4%)		1,100 (87.3%)
Behavior analysts		164 (98.2%)		236 (91.8%)
Chiropractors		542		542

## Professional and Vocational Licensing Division (PVL)

		(96.3%)		(94.6%)
Contractors	6,797 (61.36%)		7,290 (72.01%)	
Community service dentists		19 (100%)		18 (94.7%)
Dental hygienists		994 (95.9%)		1,029 (96.3%)
Dentists		1,381 (96.2%)		1,373 (93.7%)
Dispensing opticians		157 (94.01%)		171 (96.07%)
Electrologists	12 (85.71%)		14 (100%)	
Electricians	3,002 (90.37%)			3,362 (96%)
Elevator mechanics		194 (94.63%)		217 (96.44%)
Emergency medical technicians (basic)		523 (73.04%)		600 (79.7%)
Emergency medical technicians (paramedic)		418 (84.3%)		464 (87.7%)
Guards		71 (85.54%)		86 (89.58%)
Guard agencies		48 (76.19%)		62 (88.57%)
Guard employees		8,284 (92%)		
Hearing aid dealers and fitters		106 (95.5%)		96 (99%)
Landscape architects		135 (97.83%)		136 (100%)
Land surveyors		190 (98.45%)		192 (99.48%)
Marriage and family therapists	384 (94.58%)			454 (91%)
Massage establishments		649 (90.14%)		717 (93.48%)
Massage therapists		6,637 (91.42%)		7,002 (93.51%)
Mental health counselors	328 (93.71%)			531 (94.15%)
Motor vehicle auctions		4 (100%)		4 (100%)

## Professional and Vocational Licensing Division (PVL)

Motor vehicle branches		34 (97.14%)		36 (100%)
Motor vehicle consumer consultants		4 (100%)		5 (100%)
Motor vehicle dealers		224 (87.16%)		255 (95.15%)
Motor vehicle salespersons		1,294 (95.36%)		1,196 (95.22%)
Motor vehicle distributors		31 (100%)		33 (97.06%)
Motor vehicle manufacturers		40 (97.56%)		43 (100%)
Motor vehicle repair dealers	486 (82.37%)		506 (88.46%)	
Motor vehicle repair registered mechanics	267 (82.41%)		214 (84.25%)	
Nurses, advanced practice registered (APRN)	1,231 (92.14%)		1,419 (91.67%)	
Nurses, licensed practical (LPN)	1,917 (90.77%)		1,650 (89.63%)	
Nurses, registered (RN)	21,119 (94.46%)		21,760 (94.08%)	
Nursing home administrators		143 (95.33%)		152 (96.2%)
Occupational therapists	497 (95.39%)			
Optometrists		381 (97.4%)		396 (96.6%)
Osteopaths		659 (85.92%)		741 (85.07%)
Pest control field representatives		155 (92.81%)		181 (98.91%)
Pest control operators (inactive status only)		3 (37.5%)		2 (28.57%)
Pharmacists		2,596 (96.4%)		2,643 (96.5%)
Pharmacies		251 (92.3%)		257 (94.5%)
Pharmacy – miscellaneous permits		501 (83.1%)		476 (79.3%)

## Professional and Vocational Licensing Division (PVL)

Pharmacy – wholesale prescription drug distributors		41 (82%)		43 (79.6%)
Physical therapists	1,393 (98.38%)		1,515 (96.01%)	
Physical therapist assistants	210 (78.65%)		299 (93.73%)	
Physicians		6,829 (83.1%)		7,258 (82.7%)
Plumbers		1,097 (90.24%)		
Podiatrists		63 (79.7%)		70 (81.4%)
Private detectives		85 (88.54%)		83 (89.25%)
Private detective agencies		30 (88.24%)		32 (88.89%)
Professional engineers		6,522 (97.85%)		6,734 (98.99%)
Psychologists		1,093 (94.63%)		1,177 (96.08%)
Real estate branch offices	88 (94.62%)		84 (92.31%)	
Real estate brokers	5,698 (93.44%)		5,800 (94.93%)	
Real estate salespersons	10,144 (94.38%)		10,619 (95.88%)	
Respiratory therapists	500 (95.42%)			574 (96.15%)
Social workers			18.79 (90.70%)	
Speech pathologists		553 (97.5%)		568 (98.4%)
Travel agencies		692 (91.7%)		607 (82.6%)
Uniform athlete agents		3 (100%)		2 (100%)
Veterinarians		534 (96.39%)		588 (96.24%)
<b>TOTAL</b>	<b>54,720 (87.92%)</b>	<b>59,348 (91.56%)</b>	<b>54,364 (90.53%)</b>	<b>57,022 (91.71%)</b>

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

<b>Boards and Programs</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Accountancy	1,036	1,656	1,482	1,881
Activity desk	158	125	106	138
Acupuncture	305	194	321	393
Appraisal management company – effective 1/1/2018		402	124	123
Athletic trainer	114	92	200	285
Barbering and cosmetology	1,797	2,011	1,658	2,308
Boxing	67	83	90	124
Behavior analyst	82	85	135	257
Cemetery and pre-need funeral authority	78	55	101	50
Chiropractor	375	427	380	440
Collection agency	803	529	650	856
Contractor	4,257	3,226	3,860	4,319
Dentist and dental hygienist	37	454	670	2,005
Dispensing optician	66	59	94	74
Electrician and plumber	471	655	778	686
Electrologist	6	5	9	133
Elevator mechanic	55	81	167	192
Employment agency	48	60	33	149
Engineer, architect, surveyor, and landscape architect	904	1,152	1,715	2,169
Exam Branch	447	1,166	1,695	1,436
Hearing aid dealer and fitter	50	110	137	295
Marriage and family therapist	355	366	389	744
Massage therapy	1,777	1,400	1,085	1,826
Medical and osteopathy	5,988	6,957	9,131	8,905
Mental health counselor	646	447	781	1,184
Midwives – effective 7/1/2020				7
Mixed martial arts	419	209	280	144
Motor vehicle industry	653	432	210	301
Motor vehicle repair	102	213	134	89
Naturopathy	141	381	490	638
Nurse aide	55	149	525	620
Nursing	7,074	6,837	8,567	16,815
Nursing home administrator	49	73	151	462
Occupational therapist	425	208	166	222
Optometry	327	277	544	781
Pest control	494	368	404	387

## Professional and Vocational Licensing Division (PVL)

Pharmacy and pharmacist	2,238	2,247	2,430	4,717
Physical therapy	1,961	1,022	1,174	1,613
Port Pilot			13	8
Private detective and guard	1,038	1,099	863	968
Psychology	1,188	824	1,276	1,557
Professional and Vocational Licensing (PVL)	25,423	22,226	9,373	5,419
Real estate	4,847	5,810	8,141	13,271
Real estate appraiser	362	666	412	871
Respiratory therapist	182	155	284	371
Social worker	1,009	860	1,187	1,065
Speech pathology and audiology	336	262	320	382
Subdivision	105	61	49	106
Time share	430	453	457	466
Travel agency	150	150	106	198
Uniform athlete agent	0	6	18	132
Veterinary	455	372	463	647
Veterinary technician – license effective 7/1/2018		51	110	264
<b>TOTAL</b>	<b>69,385</b>	<b>67,208</b>	<b>63,936</b>	<b>83,561</b>

## REGULATED INDUSTRIES COMPLAINTS OFFICE

### OVERVIEW AND COMPOSITION

The Regulated Industries Complaints Office (RICO) investigates and prosecutes licensing law violations by Hawaii licensees and unlicensed persons engaging in professions and vocations<sup>21</sup> that require a license. As such, the division is the enforcement arm for the boards, commissions, and programs that are administratively attached to the PVL. RICO also assists the general public and licensees with understanding the importance of consumer protection and licensure compliance through an education campaign that interfaces with the community and is available online. In addition, RICO administers the State Certified Arbitration Program (SCAP) for “lemon” motor vehicle claims, which consumers of newer cars can bring against vehicle manufacturers for serious suspected defects covered by the car’s warranty.

RICO receives complaint-related information from a variety of sources, including individuals, businesses, professionals, consumers, competitors, government officials, other jurisdictions, other licensing authorities, out-of-state agencies, law enforcement agencies, professional affiliations and associations, hospitals, employers, workers and employees of organizations, and persons who choose to remain anonymous. The division receives tips or reports of unlicensed activity from industry members and the public. While most complaints are initiated by individuals, RICO itself can initiate complaints when, for example, based on information observed during compliance checks or site inspections, RICO has reason to believe that licensing violations may have occurred.

#### **Contact information:**

RICO is located in five separate offices throughout the State: Honolulu (Oahu), Hilo (Hawaii), Kailua-Kona (Hawaii), Wailuku (Maui), and Lihue (Kauai). The Hilo, Kailua-Kona, Wailuku, and Lihue offices are commonly referred to as RICO’s neighbor island offices. The Oahu location serves as RICO’s main hub.

Main office address:	State Office Tower Leiopapa a Kamehameha Building 235 S. Beretania Street, 9 <sup>th</sup> Floor Honolulu, Hawaii 96813 Phone: (808) 587-4272
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Kauai office address:	3060 Eiwa Street Room 204 Lihue, Hawaii 96766 Phone: (808) 241-3300
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Maui office address:	Wells Professional Center
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<sup>21</sup> Currently, 52 different industries require a professional or vocational license from the PVL. All 52 industries affect the health, safety, and welfare of Hawaii’s citizens.

2145 Wells Street  
Suite 106  
Wailuku, Hawaii 96793  
Phone: (808) 243-5808

Hilo office address: 120 Pauahi Street  
Suite 212  
Hilo, Hawaii 96720  
Phone: (808) 933-8846

Kona office address: Hualalai Center, Room C-309  
75-170 Hualalai Road  
Kailua-Kona, Hawaii 96740  
Phone: (808) 327-9590

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

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

RICO has a complaints and enforcement officer, intake investigators, field investigators, attorneys, and administrative and support staff. Approximately one-fifth of RICO's full-time positions are located in the four neighbor island offices.

#### **Intake Section (Consumer Resource Center)**

RICO's Intake Section, or the Consumer Resource Center (CRC), is often the first contact a consumer will have with the division. The CRC handles the intake functions for RICO and the OCP. CRC staff includes intake investigators and clerical support.

Consumers calling the CRC can speak directly with an intake investigator. If the call pertains to a matter outside RICO's jurisdiction, the intake investigator will refer the caller to a more appropriate agency. If the call is to seek more information about RICO matters or to file a RICO complaint, the intake investigator will answer questions, provide information, and walk the consumer through the complaints process. In FY 2020,<sup>22</sup> the CRC distributed 479 RICO complaint forms from the Oahu office alone. If the call is to file an OCP complaint, the intake investigator will walk the consumer through the OCP complaint process or refer the consumer to an OCP investigator for more information. In FY 2020, the CRC distributed 255 OCP complaint forms.

As part of the intake process, the CRC can assist consumers before they generate a formal complaint by providing consumers with a templated self-help letter to communicate their concerns to licensees or unlicensed persons. Frequently, following a complaint inquiry, an intake investigator will solicit an explanation or a response from a licensee; this response will often end

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<sup>22</sup> RICO transitioned to a new complaints management system, IMPACT, during the middle of FY 2020. Therefore, the data presented here and in the below tables are based on information extracted from the old system and data from IMPACT.

the dispute without the need for a formal complaint or an investigation, since the dispute often results from simple misunderstandings or inadvertent neglect. During FY 2020, the CRC closed approximately 3,083 complaint inquiries without a formal RICO complaint. In cases where the CRC receives a written complaint, an intake investigator may allow the parties more time to resolve their dispute. If the parties opt for additional time and subsequently resolve their dispute, the matter will end in the CRC without a formal investigation or review.

When the CRC receives a signed RICO complaint form, the intake investigators will conduct preliminary investigations or reviews to screen the formal complaints for possible further investigation by the Field Investigation Section. In addition, the intake investigators conduct limited investigations of complaints that cover certain subject areas and refer these matters to the Legal Section for possible enforcement action. Formal complaints can end in the CRC if, after further review: they are determined to be outside of RICO's jurisdiction; they lack a sufficient basis for further investigation; or a person withdraws his or her complaint, refuses to cooperate, or is no longer locatable. The CRC refers the remaining formal complaints to the Field Investigation or Legal Sections. In FY 2020, 2,429 RICO complaints were initiated or processed against licensees and unlicensed persons, and most of these complaints were created by the CRC and then referred to the Field Investigation and/or Legal Sections for further handling.

### **Licensing and Business Information Section**

As a subunit of the CRC, the Licensing and Business Information Section (LBIS) is available to the public by telephone (587-4272 or 587-4CRC) Monday through Friday, from 7:45 A.M. to 4:30 P.M. The LBIS provides business registration information, RICO complaints history information, OCP complaints history information, and information on whether a business or an individual has a professional or vocational license. In FY 2020, the LBIS answered over 4321 telephone calls and conducted approximately 20,916 searches that included prior complaints history information.

### **Field Investigation Section**

The Field Investigation Section contains the largest concentration of RICO employees and has investigators and clerical support staff on Oahu and in RICO's Hilo, Kailua-Kona, Wailuku, and Lihue offices.

Field investigators conduct formal investigations of complaints against licensees and unlicensed persons who engage in industry work that requires a license. Formal investigations consist of communicating with the parties and may also include obtaining and analyzing information and records, site visits, and interviews. If needed, during the investigation, a field investigator may consult with an industry expert for assistance in evaluating the merits of a complaint.

The purpose of a formal investigation is to determine whether sufficient evidence of a possible licensing violation exists. If so, the complaint will be referred to the Legal Section for further review and consideration of enforcement action. Complaints may end in the Investigations Section for a variety of reasons, including: the absence of sufficient evidence to prove a possible licensing violation; the investigation establishes that no violation has occurred; or an education

contact or a warning serves as an appropriate disposition. In FY 2020, the Field Investigation Section completed 1,133 licensed and unlicensed investigations statewide.

Field investigators may continue working on complaints during the prosecution stage by assisting RICO staff attorneys with pre-trial and trial work, which includes: gathering additional information for litigation purposes; serving hearing notices on parties; and testifying as a witness in a contested case proceeding.

The Hilo, Kailua-Kona, Lihue, and Wailuku offices handle a high volume of telephone calls and walk-ins, many of which involve non-RICO concerns such as coordinating meetings in RICO spaces for other state agencies and providing referrals, license application materials, brochures, forms, and other information. In FY 2020, RICO's neighbor island staff assisted consumers, the public, and others with at least 1,787 non-RICO matters, which is 85% of the total telephone calls the staff handled collectively during that time. The neighbor island staff also provided at least 108 RICO complaint forms to the public during the FY.

### **Legal Section**

The Legal Section has attorneys and legal clerical support staff who handle formal enforcement action, or prosecutions. The section reviews the complaints received from the Intake and Field Investigation Sections to determine if sufficient grounds exist to pursue formal enforcement action: disciplinary action in the case of licensees, and legal action in the case of unlicensed persons.

Enforcement cases against licensees are handled administratively, with the PVL boards, commissions, and programs serving as decision makers when they issue final orders. Administrative actions in the form of contested case proceedings begin with the filing of a petition for disciplinary action against the licensee, which sets forth the basis for the enforcement action and the disciplinary action requested. Contested case hearings are then heard by an OAH hearings officer in accordance with Hawaii's Administrative Procedures Act, HRS chapter 91. After the formal hearing concludes, the hearings officer issues a recommended decision with findings of fact, conclusions of law, and any proposed disciplinary action. The recommended decision is then reviewed by the appropriate board, commission, or program, which can vote to accept, modify, or reject a recommended decision. If a board, commission, or program votes to accept a recommended decision and issues a final order imposing disciplinary action on the licensee, the licensee has a right to appeal the final order to the Circuit Court.

Not all cases referred to the Legal Section for enforcement action result in contested case proceedings. Most complaints against licensees are resolved through negotiated settlements that are approved by a board, commission, or program before a petition for disciplinary action is filed or, in some cases, after a petition has been filed but before the contested case hearing occurs. Many factors influence whether a complaint can or should be settled without a contested case hearing, including: the underlying conduct at issue; the type of violations alleged; the credibility and reliability of RICO's evidence; and the likelihood of obtaining at a hearing the same or greater sanction as that proposed in a settlement. All approved settlements constitute formal disciplinary action and can consist of license revocations, suspensions, monetary fines, professional

evaluations, professional education, monitoring, treatment and, in a few cases, restitution to consumers. In FY 2020, the Legal Section filed 196 disciplinary actions against licensees.

The citations issued by RICO investigators are appealable. If the citation is appealed, RICO can either negotiate a settlement with the recipient or defend the citation in a contested case proceeding. In FY 2020, 57 citations were paid by the offending party or confirmed by the Legal Section, with or without a contested case proceeding.

For more formal or complex complaints involving unlicensed activity, RICO can pursue fines, costs, and injunctions prohibiting future unlicensed behavior by filing a lawsuit with the Circuit Court for monetary fines and a permanent injunction prohibiting future unlicensed activity or through assurances of voluntary compliance. In FY 2020, the Legal Section filed an additional 55 legal actions involving unlicensed activity.

### **State Certified Arbitration Program**

SCAP administers Hawaii's "Lemon Law" and provides a low-cost arbitration forum for consumers to resolve car warranty<sup>23</sup> complaints with manufacturers.

RICO urges consumers to first read the Lemon Law Consumer Handbook for information and instructions and then to write to the manufacturer. If the consumer is unable to reach a resolution, the consumer can file a demand for arbitration. SCAP will evaluate the demand, and, if appropriate, schedule an arbitration hearing. The consumer pays a \$50 filing fee that is refunded if the consumer prevails in arbitration. Before an arbitration hearing can be scheduled, the manufacturer or its authorized repair dealership must be given a reasonable opportunity to repair the vehicle.

In FY 2020, 17 claims were initiated. Five decisions were issued in favor of consumers, two decisions were issued in favor of manufacturers, and four cases were settled after filing. The six remaining claims were pending resolution at the end of FY 2020. Manufacturers issued a total of \$223,498.00 in consumer refunds and bank loan payoffs in FY 2020.

The COVID-19 pandemic added a layer of complexity to effective management of SCAP claims. After a brief interruption in processing claims in March and April 2020, SCAP resumed initiating claims and began conducting remote arbitration hearings in May 2020. By the end of FY 2020, the program initiated six additional claims and held two virtual hearings.

In recent years, SCAP cases have become more complex due to class action lawsuits and settlements, multiple national recalls, technological advances, and attorney involvement. SCAP cases also increasingly involve leased cars and neighbor island arbitrations. SCAP is committed to addressing new consumer issues and educating consumers.

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<sup>23</sup> Under certain conditions, a consumer may be entitled to receive a refund or replacement of a car that has a nonconformity, defect, or condition that is covered by the car's warranty and that substantially impairs the use, market value, or safety of the car.

SCAP operates under the direction of a lemon law administrator and maintains a membership with the International Association of Lemon Law Administrators. Participation in this association allows SCAP access to current information on lemon law legislation, recalls, flood damage vehicles, class action lawsuits, and technological advancements, including the ongoing development of automated vehicles in the marketplace. More information, including an educational video about the SCAP process, is available at [cca.hawaii.gov/rico/lemon-law](http://cca.hawaii.gov/rico/lemon-law).

### **Education Campaign**

RICO is committed to making available a broad and diverse amount of information for consumers and licensees. On an annual basis, RICO staff appear at widely attended community, licensee, and public events, including home shows, senior fairs, and industry group gatherings and meetings. During FY 2020, and pre-pandemic, RICO appeared at events or meetings that were attended by an estimated 30,041 members of the public, consumers, and licensees. RICO's education campaign is also sensitive to kupuna issues, for which RICO continues to produce and distribute these popular brochures: "At the Door/On the Phone," "Consumer Protection Tips for Seniors," "Information for Seniors: Avoid Unlicensed Contracting Scams," and "Aging in Place." In FY 2020, the CRC alone distributed at least 22,500<sup>24</sup> educational brochures at community events on Oahu and to walk-ins visiting the Oahu office. RICO distributed an additional 590 brochures at other community and licensee events held throughout the State.

RICO's website offers free and downloadable brochures about the division's complaints process and industry-specific topics. In FY 2020, the RICO website received 101,055 hits. In addition, consumers can verify the licenses of businesses or individuals at [cca.hawaii.gov/businesscheck/](http://cca.hawaii.gov/businesscheck/), which provides licensing, complaints history, and business registration information. In FY 2020, users accessed the Business Check website 253,632 times. Finally, many who visit RICO's website are interested in knowing whether someone has a record of discipline or complaints history with RICO. When RICO's redesigned complaints history web portal went live during the second half of FY 2020, the site received 23,336 visits, and 48,887 queries were conducted.

RICO's investigative and legal staff also participate in RICO's education campaign by counseling parties about licensure requirements through warnings, education contacts, and brochures and by answering questions from complainants, licensees, or unlicensed persons while they are reviewing, investigating, or processing complaints. Likewise, the SCAP team confers with consumers about whether their dispute is appropriate for arbitration and provides tips for proceeding.

### **GOALS AND OBJECTIVES**

- Continue informal collaborations with state and federal enforcement agencies to better regulate the professions and vocations within RICO's jurisdiction.
  - Continue to monitor and track criminal proceedings involving licensed persons so that a conviction can be acted upon quickly.

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<sup>24</sup> This number does not include brochures that were reviewed or downloaded by the public through RICO's website or obtained directly from RICO's neighbor island offices.

- Continue to pursue, on the civil side, licensees who have already been proven to have run afoul of wage and standard laws.
- Continue developing enhancements in IMPACT, RICO's new complaints management system, to facilitate online complaints filing and unlicensed tip filing by the public and to cross-share information with the PVL through integration of the divisions' systems.
- Continue staff professional growth and development.
- When feasible, update equipment and accessories used by RICO staff so that efficient and productive in-office and remote work can continue throughout the division.

## **ACCOMPLISHMENTS IN FY 2020**

### **Impact of COVID-19 on RICO Operations**

During FY 2020, the COVID-19 pandemic temporarily interrupted RICO operations and services as staff adjusted to interacting less with the public and each other for health and safety reasons. Walk-in hours were reduced statewide to protect personnel and customers. For the same reason, the Field Investigation Section imposed a moratorium on all in-person inspections of businesses and residences suspected of engaging in unlicensed activity. Investigators' in-person interviews of witnesses, as well as site visits to industry experts, were suspended. Administrative actions and civil suits filed by Legal Section attorneys were held in abeyance as courts, the OAH, and licensing boards, commissions, and programs suspended in-person proceedings and meetings. The processing of SCAP cases and the handling of public requests for RICO information were halted for a short time. In-person professional development opportunities that were scheduled on Oahu and the mainland were cancelled—most notably, the Council on Licensure, Enforcement, and Regulation's 3-day course that at least 30 of RICO's investigators were planning to attend, and the 3-day appraiser investigations training program in Arizona that a supervising investigator had arranged to attend.

RICO addressed its operational challenges by maintaining a hybrid schedule of on-site work and telework for employees. The division's reduced walk-in hours allowed the public to visit RICO offices to pick up or drop off material or to ask questions. The installation of a VoIP phone system for the CRC, the LBIS and two of RICO's neighbor island offices meant that most calls to RICO could be answered in real time. RICO promptly responded to voicemails and emails left for sections or individuals. Many in the public took time to peruse the valuable information on RICO's website, which received hundreds of hits. RICO's online complaints history web portal also received thousands of queries.

The CRC uploaded to IMPACT complaint files and supporting information to allow staff to screen, review, investigate, and prosecute complaints throughout the pandemic, irrespective of whether someone was in the office or working from home.

The Field Investigation Section implemented limited "drive-by" site inspections, wherein the investigator remained in the vehicle at all times while observing and gathering evidence of suspected unlicensed work.

The Legal Section's administrative and civil actions began moving again when the courts, OAH, boards, commissions, and programs reconvened virtually.

SCAP successfully held virtual arbitrations for warranty claims and continued its training program virtually for new arbitrators.

The entire division began e-signing documents for expedient work processing. In addition, RICO's comprehensive in-house training program for the professional growth of its employees went virtual, as investigators, support staff, and attorneys participated in numerous education webinars. The Legal Section's in-house meetings and training sessions for newer attorneys also continued virtually.

### **Cross-Section Collaboration**

Each biennium, representatives from The Appraisal Foundation<sup>25</sup> travel to Hawaii to review RICO's complaints processing and enforcement efforts for licensed appraisers and appraisal management companies, as part of a comprehensive audit of the Department's Appraiser Regulatory Program. In FY 2020, The Foundation's representatives determined that RICO was fully compliant with its appraiser enforcement practices and handling of appraiser complaints during the preceding biennium. This positive evaluation was directly attributable to a cross-section of CRC, Field Investigation, and Legal Section representatives meeting monthly to screen and review new and existing appraiser complaints.

### **Consumer Resource Center**

RICO's two-page "Report of Ongoing Unlicensed Activity" allows consumers and industry members to report suspected cases of ongoing unlicensed contracting activity to the CRC as it is happening. This allows RICO investigators to gather real-time information throughout the State. In FY 2020, the CRC continued to receive good reporting using this report.

CRC intake investigators conduct limited investigations as part of RICO's Early Case Resolution Program, which expedites certain types of complaints to the Legal Section for quicker processing, such as complaints involving the failure to complete CE courses on time or suspected advertising violations by licensees. In FY 2020, the Early Case Resolution Program continued to reduce the number of complaints that underwent a full field investigation, while increasing the number of complaints available for quicker resolution by the Legal Section.

In FY 2020, CRC intake investigators and support staff participated in at least 13 different in-house, in-person, or virtual courses to further their professional development.

### **Field Investigation Section**

The Field Section has two full-time Unlicensed Task Force (UTF) teams that are based on Oahu and respond to tip information about unlicensed jobs or unlicensed activity. On occasion, the UTF

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<sup>25</sup> The Appraisal Foundation is an organization authorized by Congress to set standards and qualifications for real estate appraisers and to provide voluntary guidance on recognized valuation methods and techniques for all valuation professionals in the U.S.

will travel to assist RICO’s neighbor island investigators with “sweeps,” which are large-scale, community-wide site inspections (also known as licensure compliance checks) that are conducted at once. Licensure compliance checks include instances where the UTF and neighbor island investigators scour and review advertisements for suspected unlicensed activity and then take appropriate action.

If a person is performing the work of a regulated business or profession without a license, then during a site inspection or compliance check, the UTF or a neighbor island investigator will serve the person with a formal citation for engaging in activity requiring licensure. The citation includes a monetary fine and an order of abatement for the prohibited activity. Citations may also be issued to massage and beauty culture licensees who fail to display their proof of licensure to the public.

In FY 2020, the UTF and neighbor island investigators conducted a minimum of 483<sup>26</sup> site inspections or licensure compliance checks statewide. Of those checks, the UTF and neighbor island investigators issued at least 51 separate citations for unlicensed activity and failure to display offenses by massage therapy and beauty culture licensees. Where no citations resulted, the UTF and neighbor island investigators counseled businesses and persons about the importance of licensure compliance, while expressing appreciation for the majority of businesses and persons who knew about and fully complied with the law.

In FY 2020, the field investigators and support staff presented or completed at least 60 in-person or webinar courses covering areas regulated by RICO, ethics, safety, work practices, and substantive investigations.

During FY 2020, the Field Investigation Section assisted with curbing the spread of the coronavirus by notifying, in writing, at least 300 randomly selected barber and beauty shop licensees statewide about the social distancing safe practices set forth in the Governor’s emergency proclamations.

### **Legal Section**

RICO’s legal staff filed over 300 civil and administrative actions in FY 2020 and assessed \$426,943.00 in fines and civil penalties against licensees and unlicensed persons. The prosecutions also resulted in the revocation of 41 licenses and the suspension of one.

Recognizing the need to address more expeditiously licensees who have been seriously disciplined by another state’s licensing authority, Act 38 (SLH 2016) enabled certain Hawaii health care boards to notify licensees of proposed disciplinary action based on the discipline that had been imposed in the other state, and to have the proposed discipline imposed automatically if the licensee failed to timely contest the board’s proposal. Act 38 cases can effectively “leapfrog” the RICO complaints processing system if the licensee does not contest the board-proposed action, which effectively preserves investigative and legal resources for more complex matters. During FY 2020, the Legal Section screened at least 19 separate health-related complaints that involved serious discipline in other jurisdictions. This resulted in the issuance of two final orders imposing

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<sup>26</sup> This number also includes inspections of publications and licensee business websites for advertising compliance.

disciplinary action and five complaints that either became the subject of immediate disciplinary proceedings or were targeted for closer scrutiny by the attorneys.

During FY 2020, the Legal Section disciplined at least 18 licensees upon entry of a judgment of criminal conviction, and at least 3 licensees for violations of the State’s wage and labor laws.

RICO receives numerous formal and informal requests for complaints-related information from parties, individuals, litigants, employers, educational and professional institutions, credentialing organizations, reporters, researchers, and government agencies. During FY 2020, the Legal Section processed at least 161 requests for information that resulted in the release of more than 2,000 pages of publicly disclosable records. The Legal Section also conducted in-house “information requests” refresher courses to help other RICO staff rapidly recognize requests and refer them to the Legal Section for prompt handling.

Because RICO is responsible for enforcing thousands of individual licensing laws that cover 52 separate industries, the Legal Section continues to conduct in-house meetings and education sessions for newer attorneys especially to ensure the section remains current and competent. The attorneys also attend in-person courses or webinars covering everything from ethics and professional responsibility, industry-specific subjects, document management systems, e-filing, and court rules. In FY 2020, the Legal Section also conducted in-house training for RICO staff on subjects such as responding to information requests and the State’s contracting, electrical, and plumbing licensing laws.

### **CRF FINANCIAL SUMMARY FOR FY 2020**

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$5,824,204	\$1,071,225	\$6,895,460	\$8,229,993

### **TABLES**

The following tables illustrate the level of public interest in RICO-related information and the variety and complexity of work performed daily by division employees:

**Table 1: Top 5 Complaints History Inquiries Processed by LBIS**

<b>FY 2020</b>
1. Contracting (4585)
2. Real Estate (323)
3. Medical (300)
4. Pest Control (184)
5. Nursing (156)

**Table 2: Top 5 Industries for Information Requests Processed by RICO**

<b>FY 2020</b>
1. Real Estate (35)
2. Contracting (30)
3. Medical (27)
4. Dental (17)
5. Pharmacy (5)

**Table 3: Top 5 Public Internet Inquiry Areas Related to RICO**

<b>FY 2020</b>
1. Department's Business Check page (253,632 hits)
2. RICO homepage (101,055 hits)
3. RICO complaints history queries (100,000 estimated)
4. RICO complaints history portal (50,000 estimated hits)
5. RICO complaints history details (15,000 estimated reviews)

**Table 4: Top 5 Industry Complaints Processed by RICO**

<b>FY 2020</b>
Real Estate (621)
Contracting (490)
Medical (201)
Barbering and Cosmetology (176)
Pharmacy (123)

**Table 5: Top 5 Industries with RICO Prosecutions – Licensees**

<b>FY 2020</b>
1. Real Estate (63)
2. Contracting (55)

3. Barbering and Cosmetology (36)
4. Pharmacy (25)
5. Massage Therapy (21)

**Table 6: Top 5 Industries with RICO Prosecutions – Unlicensed Persons**

<b>FY 2020</b>
1. Contracting (24)
2. Barbering and Cosmetology (5) Motor Vehicle Repair (5)
4. Private Detectives and Guards (4)
5. Appraisal Management Companies (3) Collection Agencies (3)