

## OFFICE OF CONSUMER PROTECTION (OCP)

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

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

### **OVERVIEW**

The Office of Consumer Protection (OCP) is the primary governmental agency in the State of Hawaii responsible for reviewing and investigating allegations of unfair or deceptive trade practices in consumer transactions.

OCP is empowered by statute to enforce the state's consumer protection laws. Functionally, this means that OCP has jurisdiction over a wide range of businesses and activities, including both regulated and unregulated industries. OCP handles many different types of complaints, such as those involving: advertising violations, door-to-door sales, solar energy devices, gift certificates, offers of gifts and prizes, going out of business sales, charitable solicitations, refunds and exchanges, collection practices, credit sales, health clubs, towing, fine prints and motor vehicle rentals. See Table 1, Laws Enforced by OCP. OCP also provides extensive information on the Landlord-Tenant Code.

OCP has adopted a number of different strategies to ensure that its mission is achieved in a meaningful and cost-effective manner. First, the staff tries to prioritize cases according to the seriousness of the violation. To help achieve this goal, investigations of actions that present significant consumer harm are "fast-tracked" for immediate legal intervention. Second, in an effort to proactively address perceived consumer problems, the office initiates investigations of problematic commercial practices. Third, staff persons attempt to provide as much assistance by telephone as possible, enabling a consumer to resolve their concern(s) without government intervention. Fourth, emphasis is placed on consumer and business education, through Consumer Dial messages, public informational forums, speaking engagements, media releases, and the dissemination of brochures. Finally, OCP partners with numerous public and private agencies to promote consumer protection throughout the State of Hawaii.

OCP's main office is in Honolulu at 235 South Beretania Street, Leiopapa A Kamehameha Building, Suite 801. It shares offices with the Regulated Industries Complaints Office (RICO) in Wailuku, Maui at 1063 Lower Main Street, Suite C-216 and in Hilo, Hawaii at 345 Kekuanaoa Street, Suite 12. OCP's website address is [www.hawaii.gov/dcca/ocp](http://www.hawaii.gov/dcca/ocp). Its functions are divided into four basic sections: intake, investigation, landlord-tenant, and legal.

### ***Composition***

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

The Consumer Resource Center (CRC) handles the intake of complaints for OCP. CRC is staffed by investigators who answer consumers' questions, distribute OCP complaint forms to consumers, receive written consumer complaints, and forward cases to OCP for review, closing or further investigation. In addition, a division within CRC answers telephonic requests for prior complaint history. If circumstances permit, consumers also have the opportunity to visit OCP's

Honolulu office to view the actual case files. Prior to the release of any file, OCP's staff reviews its contents to ensure that legally protected private information is not disclosed. See Table 2, statistics on OCP Information Requests.

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

OCP's investigation section receives cases from CRC and gathers evidence to determine whether violations of consumer laws have occurred. Investigators' tasks include site inspections, witness interviews, document collection, evidentiary analysis, report writing and the service of subpoenas. See Table 3, Number of OCP Complaints Filed; Table 4, Numerical Breakdown of Dispositions of All OCP Cases; and Table 5, OCP Complaints by Subject Matter for FY 2003-2004 statistics.

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

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

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

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

*OCP also provides the following services:*

*Consumer Education*

In an effort to enhance consumer awareness of various consumer problems, OCP continuously strives to promote consumer education. The office issues press releases on a variety of consumer topics, and prepares and distributes written materials to provide specific consumer information. OCP also offers a series of Consumer Dial messages dealing with a variety of landlord-tenant and general consumer protection issues. Interested parties can call 24 hours a day and receive information on a variety of topics. In addition, OCP staff has participated in numerous educational forums in which hundreds of consumers and business persons have received extensive information about consumer protection in Hawaii.

*Neighbor Island Assistance Requests*

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

In addition, the office's neighbor island staffs have been trained in the technical operation of the state's Video Conference Center equipment and provide technical assistance to the

department's hearings office so that neighbor island administrative hearings can be conducted through video conferencing.

#### *Cases*

OCP handled several significant cases in 2004 involving nearly every area of consumer protection. It filed and resolved numerous cases relating to alleged violations of Hawaii's laws governing unaccredited degree granting institutions, car rentals, airlines, credit practices, living trusts, sweepstakes and prizes, door-to-door sales, refund and exchanges, and unfair or deceptive trade practices. OCP's involvement successfully resulted in recovering thousands of dollars in restitution for Hawaii consumers as well as obtaining injunctive relief and fines against violators. In several cases, OCP secured temporary restraining orders against violators of Hawaii's consumer protection laws, successfully preventing them from continuing to harm and exploit Hawaii consumers.

#### *Statutory Changes*

New legislation governing the sale and use of gift cards has significantly enhanced consumer protection in this area. Effective July 1, 2005, card issuers will no longer be able to charge service fees or "dormancy fees" for card inactivity.

### **CONCLUSION**

OCP continues to receive a large number of requests for assistance. Consumer complaints are diverse in nature and range from an isolated case to problems that affect each Hawaii citizen. Through regular training and information exchange, OCP's staff attempts to keep abreast of the latest consumer problems and "rip-offs," in order to prevent them from occurring and to limit their impact. Through its efforts in taking proactive measures to prevent wide-scale consumer problems before they occur, and through its enforcement actions and consumer and business education, OCP strives to meet the consumer protection needs of this community, and fulfill its mission.

Table 1: Laws Enforced by OCP

HRS §209-9	Price Gouging
HRS §290-11	Towing
HRS §437	Motor Vehicle Sales – Spot Delivery
HRS Chapter 437D	Motor Vehicle Rental
HRS Chapter 446	Debt Adjusting
HRS Chapter 446E	Unaccredited Degree Granting Institutions
HRS Chapter 457G	Occupational Therapists
HRS Chapter 467B	Charitable Solicitations
HRS Chapter 476	Credit Sales <sup>1</sup>
HRS Chapter 477E	Fair Credit Extension
HRS §480-2	Unfair and Deceptive Acts or Practices <sup>2</sup>
HRS Chapter 480D	Collection Practices <sup>3</sup>
HRS Chapter 480F	Check Cashing
HRS Chapter 481A	Uniform Deceptive Trade Practice Act
HRS Chapter 481B	Unfair and Deceptive Practices, including Unsolicited Goods; Commercial Mail Order Buying Clubs; Offers of Gifts or Prizes; Aid to Handicapped; Refunds and Exchanges; Solar Energy Devices; Sales of Computers; Sensitivity Awareness Group Seminar; Credit Repair Organizations; Gift Certificates
HRS Chapter 481C	Door-to-door Sales
HRS Chapter 481D	Going Out of Business Sales
HRS Chapter 481F	Sale of Fine Prints
HRS Chapter 481H	Water Treatment Units
HRS Chapter 481K	Assistive Technology Warranty Act
HRS Chapter 481L	Motor Vehicle Lease Transactions
HRS Chapter 481M	Rent-to-Own
HRS Chapter 481P	Telemarketing Fraud Prevention Act
HRS Chapter 481 X	Service Contracts
HRS Chapter 486N	Health Clubs
HRS §487-5	Laws Enacted and Rules Adopted for the purpose of consumer protection <sup>4</sup>
HRS Chapter 487A	Plain Language Law
HRS Chapter 506	Reverse Mortgage Loan
HRS Chapter 521	Landlord Tenant Code <sup>5</sup>
ACT 146 (1999)	Check Cashing
Act 282 (1997)	Assistive Device Warranty Act
Act 222 (2000)	Service Contracts

<sup>1</sup> HRS §476-31. OCP has also filed cases based upon the Federal Truth in Lending Act and the State’s usury statute, HRS Chapter 478.

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

<sup>3</sup> See also, Collection Agencies HRS §443B-20.

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

<sup>5</sup> HRS §521-74.5 provides that a landlord who recovers possession of a dwelling unit by willful interruption of utilities or other essential services violates HRS §480-2. In addition, HRS §521-77 provides that OCP may receive, investigate and attempt to resolve any dispute arising under HRS Chapter 521.