

1 legislature, office of Hawaiian affairs, and judiciary), the
2 political subdivisions of the State, or any quasi-public
3 institution supported in whole or in part by state funds, which
4 is authorized to expend specified appropriations made by this
5 Act.

6 "Means of financing" or "MOF" means the source from which
7 funds are appropriated or authorized to be expended for the
8 programs and projects specified in this Act. All appropriations
9 are followed by letter symbols. These letter symbols, where
10 used, shall have the following meanings:

- 11 B Special funds
- 12 P Other federal funds
- 13 T Trust funds

14 "Position ceiling" means the maximum number of permanent
15 and temporary full-time equivalent positions authorized for a
16 particular program during a specified period or periods, as
17 denoted by an asterisk for permanent full-time equivalent
18 positions and a pound sign for temporary full-time equivalent
19 positions.

20 "Program ID" means the unique identifier for the specific
21 program and consists of the abbreviation for the organization



1 responsible for carrying out the program followed by the
2 organization number for the program.

3 **PART II. PROGRAM APPROPRIATIONS**

4 SECTION 3. APPROPRIATIONS. The following sums, or so much
5 thereof as may be sufficient to accomplish the purposes and
6 programs designated herein, are hereby appropriated or
7 authorized, as the case may be, from the means of financing
8 specified to the expending agency designated for the fiscal
9 biennium beginning July 1, 2019, and ending June 30, 2021. The
10 total expenditures and the number of positions in each fiscal
11 year of the biennium shall not exceed the sums and the number
12 indicated for each fiscal year, except as provided elsewhere in
13 this Act, or as provided by general law.



PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2019-2020	M O F	FISCAL YEAR 2020-2021	M O F
1		IAC - INTRASTATE COMMERCE					
2	1.	CCA102 - CABLE TELEVISION					
3				8.00*		8.00*	
4		OPERATING	CCA	2,647,986B		2,647,986B	
5			CCA		T		T
6		IAC - INTRASTATE COMMERCE					
7	2.	CCA104 - FINANCIAL SERVICES REGULATION					
8				40.00*		40.00*	
9		OPERATING	CCA	5,109,414B		5,109,414B	
10			CCA	110,000T		110,000T	
11		IAC - INTRASTATE COMMERCE					
12	3.	CCA105 - PROFESSIONAL AND VOCATIONAL LICENSING					
13				61.00*		61.00*	
14				11.00#		11.00#	
15		OPERATING	CCA	7,483,138B		7,483,138B	
16				8.00*		8.00*	
17				5.00#		5.00#	
18			CCA	2,659,812T		2,659,812T	
19		IAC - INTRASTATE COMMERCE					
20	4.	CCA106 - INSURANCE REGULATORY SERVICES					
21				95.00*		95.00*	
22				1.00#		1.00#	
23		OPERATING	CCA	18,443,214B		18,443,214B	
24			CCA	200,000T		200,000T	
25				6.00#		6.00#	
26			CCA	250,000P		250,000P	
27		IAC - INTRASTATE COMMERCE					
28	5.	CCA104 - FINANCIAL SERVICES REGULATION					
29		OPERATING	CCA	65,074B		65,074B	
30		IAC - INTRASTATE COMMERCE					
31	6.	CCA105 - PROFESSIONAL AND VOCATIONAL LICENSING DIVISION					
32				2.00*		2.00*	
33		OPERATING	CCA	408,806B		408,806B	
34		IAC - INTRASTATE COMMERCE					
35	7.	CCA106 - INSURANCE REGULATORY SERVICES					
36		OPERATING	CCA	2,917,736B		917,736B	
37							
38							



1 PART III. PROGRAM APPROPRIATION PROVISIONS

2 SECTION 4. Provided that of the special fund
3 appropriations for financial services regulation (CCA104):

4 (1) The sum of \$40,000 or so much thereof as may be
5 necessary for fiscal year 2019-2020 and the same sum
6 or so much thereof as may be necessary for fiscal year
7 2020-2021 shall be expended on the maintenance and
8 software licensing costs of the financial services
9 regulation program's database and records management
10 system; and

11 (2) The sum of \$25,074 or so much thereof as may be
12 necessary for fiscal year 2019-2020 and the same sum
13 or so much thereof as may be necessary for fiscal year
14 2020-2021 shall be expended for fringe benefit costs
15 for collective bargaining and salary adjustments.

16 SECTION 5. Provided that of the special fund
17 appropriations for the professional and vocational licensing
18 division (CCA105):

19 (1) The sum of \$300,000 or so much thereof as may be
20 necessary for fiscal year 2019-2020 and the same sum
21 or so much thereof as may be necessary for fiscal year



1 2020-2021 shall be expended for software licensing
2 costs to replace the professional and vocational
3 licensing division's applicant/licensee integrated
4 automated system; and

5 (2) The sum of \$108,806 or so much thereof as may be
6 necessary for fiscal year 2019-2020 and the same sum
7 or so much thereof as may be necessary for fiscal year
8 2020-2021 shall be expended for two full-time
9 equivalent (2.0 FTE) permanent positions to perform
10 work pertaining to Act 44, Session Laws of Hawaii
11 2018.

12 SECTION 6. Provided that of the special fund
13 appropriations for insurance regulatory services (CCA106):

14 (1) The sum of \$2,500,000 or so much thereof as may be
15 necessary for fiscal year 2019-2020 and the sum of
16 \$500,000 or so much thereof as may be necessary for
17 fiscal year 2020-2021 shall be expended for
18 replacement of the Hawaii insurance data system and
19 corresponding licensing, maintenance, and independent
20 verification and validation costs; and



1 (2) The sum of \$417,736 or so much thereof as may be
2 necessary for fiscal year 2019-2020 and the same sum
3 or so much thereof as may be necessary for fiscal year
4 2020-2021 shall be expended for fringe benefit costs
5 for collective bargaining and salary adjustments.

6 **PART IV. STATUTORY PROVISIONS**

7 SECTION 7. Section 241-7, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§241-7 **Disposition of funds.** All taxes collected under
10 this chapter shall be state realizations [~~; provided that, by~~
11 ~~June 30 of each fiscal year, the sum of \$2,000,000 shall be~~
12 ~~deposited with the director of finance to the credit of the~~
13 ~~compliance resolution fund as established pursuant to section~~
14 ~~26-9(o)]."~~

15 SECTION 8. Section 440G-15, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§440G-15 **Annual fees.** (a) Each cable operator shall pay
18 an annual fee to be determined by the director. The fees so
19 collected under this section shall be deposited into the
20 compliance resolution fund established under section 26-9(o).
21 The annual fee set forth in this subsection shall not exceed 0.5



1 per cent of the cable operator's gross revenues for the
2 preceding calendar year.

3 (b) The director shall adjust the fees assessed under this
4 section, as necessary from time to time, pursuant to rules
5 adopted in accordance with chapter 91."

6 SECTION 9. Section 444-26, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§444-26 Contractors recovery fund; use of fund; person**
9 **injured; fees.** (a) The board is authorized to establish and
10 maintain a contractors recovery fund from which any person
11 injured by an act, representation, transaction, or conduct of a
12 duly licensed contractor, which is in violation of this chapter
13 or the rules adopted pursuant thereto, may recover by order of
14 the circuit court or district court of the judicial circuit
15 where the violation occurred, an amount of not more than \$12,500
16 per contract, regardless of the number of persons injured under
17 the contract, for damages sustained by the act, representation,
18 transaction, or conduct. Recovery from the fund shall be
19 limited to the actual damages suffered by the claimant,
20 including court costs and fees as set by law, and reasonable
21 attorney fees as determined by the court; provided that recovery



1 from the fund shall not be awarded to persons injured by an act,
2 representation, transaction, or conduct of a contractor whose
3 license was suspended, revoked, forfeited, terminated, or in an
4 inactive status at the time the claimant entered into the
5 contract with the contractor.

6 (b) For purposes of this chapter, "person injured" or
7 "injured person" means and is limited to owners or lessees of
8 private residences, including condominium or cooperative units,
9 who have contracted with a duly licensed contractor for the
10 construction of improvements or alterations to the owners' or
11 lessees' own private residences and owners or lessees of real
12 property who have contracted with a duly licensed contractor for
13 the construction of the owners' or lessees' own private
14 residences on the owners' or lessees' real property.

15 (c) When any person applies for a contractors license, the
16 person shall pay, in addition to the person's original license
17 fee, a fee of \$150 for deposit in the contractors recovery fund,
18 and a fee for deposit in the contractors education fund as
19 provided in rules adopted by the director pursuant to chapter
20 91. In the event that the board does not issue the license,
21 these fees shall be returned to the applicant.



1 (d) When the contractors recovery fund attains a funding
2 level of \$420,893 in any fiscal year, the board shall either:

3 (1) Cease accepting payments made by renewing licensees;

4 or

5 (2) Develop a process to refund monies in excess of the
6 \$420,893 fund balance to licensees who paid into the
7 fund, and refund such monies.

8 If acceptance of payments is ceased, it shall remain ceased
9 until the fund attains a funding level of \$420,893."

10 SECTION 10. Section 444-29, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~§444-29~~ **Management of fund.** (a) The sums received
13 by the contractors license board for deposit in the contractors
14 recovery fund shall be held by the contractors license board in
15 trust for carrying out the purposes of the contractors recovery
16 fund. The contractors license board, as trustee of the recovery
17 fund, shall be authorized to retain private legal counsel to
18 represent the board in any action which may result in collection
19 from the contractors recovery fund. These funds may be invested
20 and reinvested in the same manner as funds of the state
21 employees' retirement system, and the interest from these



1 investments shall be deposited to the credit of the contractors
2 education fund~~[, and which]~~.

3 (b) The contractors education fund, which is hereby
4 created, shall be available to the contractors license board for
5 educational purposes~~[, which is hereby created.]~~; provided that
6 when the contractors education fund attains a funding level of
7 \$15,315 in any fiscal year, the board shall either:

8 (1) Cease accepting payments made by renewing licensees;

9 or

10 (2) Develop a process to refund monies in excess of the
11 \$15,315 fund balance to licensees who paid into the
12 fund, and refund such monies.

13 If acceptance of payments is ceased, it shall remain ceased
14 until the fund attains a funding level of \$15,315."

15 SECTION 11. Section 454F-41, Hawaii Revised Statutes, is
16 amended by amending subsection (d) to read as follows:

17 "(d) When the mortgage loan recovery fund attains a
18 funding level of \$750,000~~[,]~~ in any fiscal year, the
19 commissioner ~~[may make a finding to adjust the fees generated by~~
20 ~~renewals or may determine that payments made by renewing~~
21 ~~licensees shall cease]~~ shall either:



- 1 (1) Cease accepting payments made by renewing licensees;
- 2 or
- 3 (2) Develop a process to refund monies in excess of the
- 4 \$750,000 fund balance to licensees who paid into the
- 5 fund, and refund such monies.

6 If acceptance of payments is ceased, it shall remain ceased
 7 until the funding level falls below \$750,000. If the funding
 8 level falls below \$250,000 after the first five years of the
 9 establishment of the fund, the commissioner may adjust the fees
 10 to a reasonable level for the purpose of attaining a funding
 11 level of \$750,000."

12 SECTION 12. Section 467-11, Hawaii Revised Statutes, is
 13 amended by amending subsection (h) to read as follows:

14 "(h) If [~~beginning on July 1, 1987,~~] the education fund
 15 balance [~~at the end of any fiscal biennium exceeds \$1,200,000,~~
 16 ~~there shall be a moratorium on renewal contributions and the~~
 17 ~~commission shall review and consider a reduction in the amount~~
 18 ~~of license fees.] attains a funding level of \$1,713,510 in any~~

19 fiscal year, the commission shall either:

- 20 (1) Cease accepting payments made by renewing licensees;
- 21 or



1 (2) Develop a process to refund monies in excess of the
2 \$1,713,510 fund balance to licensees who paid into the
3 fund, and refund such monies.

4 If acceptance of payments is ceased, it shall remain ceased
5 until the fund attains a funding level of \$1,713,510."

6 SECTION 13. Section 467-16, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§467-16 Real estate recovery fund; use of fund; fees.**

9 (a) The commission shall establish and maintain a trust fund
10 which shall be known as the real estate recovery fund from which
11 any person aggrieved by an act, representation, transaction, or
12 conduct of a duly licensed real estate broker, or real estate
13 salesperson, upon the grounds of fraud, misrepresentation, or
14 deceit, may recover upon the commission's settlement of a claim
15 or by order of the circuit court or district court of the county
16 where the violation occurred, an amount of not more than \$25,000
17 per transaction for damages sustained by the fraud,
18 misrepresentation, or deceit, including court costs and fees as
19 set by law, and reasonable attorney fees as determined by the
20 court.



1 (b) When any person makes application for an original
2 license to practice as a real estate broker or salesperson the
3 person shall pay, in addition to the person's original license
4 fee, a real estate recovery fund fee as provided in rules
5 adopted by the director of commerce and consumer affairs
6 pursuant to chapter 91 for deposit in the real estate recovery
7 fund. If the commission does not issue the license, this fee
8 shall be returned to the applicant.

9 (c) The commission, as the trustee of the real estate
10 recovery fund, shall be authorized to expend the funds to:

- 11 (1) Retain private legal counsel to represent the
12 commission in any action involving or which may result
13 in payment from the real estate recovery fund;
- 14 (2) Retain a certified public accountant for accounting
15 and auditing of the real estate recovery fund;
- 16 (3) Employ necessary personnel, not subject to chapter 76,
17 to assist the commission in exercising its powers and
18 duties with respect to the real estate recovery fund;
19 and



1 (4) Retain a consultant to recover and collect any
2 payments from the real estate recovery fund plus
3 interest from the judgment debtor.

4 (d) When the real estate recovery fund attains a funding
5 level of \$481,799 in any fiscal year, the commission shall
6 either:

7 (1) Cease accepting payments made by renewing licensees;

8 or

9 (2) Develop a process to refund monies in excess of the
10 \$481,799 fund balance to licensees who paid into the
11 fund, and refund such monies.

12 If acceptance of payments is ceased, it shall remain ceased
13 until the fund attains a funding level of \$481,799."

14 SECTION 14. Section 514B-72, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§514B-72 Condominium education trust fund; payments by**
17 **associations and developers.** (a) Each project or association
18 with more than five units shall pay to the department of
19 commerce and consumer affairs:

20 (1) A condominium education trust fund fee within one year
21 after the recordation of the purchase of the first



1 unit or within thirty days of the association's first
2 meeting, and thereafter, on or before June 30 of every
3 odd-numbered year, as prescribed by rules adopted
4 pursuant to chapter 91; and

5 (2) Beginning with the July 1, 2015, biennium
6 registration, an additional annual condominium
7 education trust fund fee in an amount equal to the
8 product of \$1.50 times the number of condominium units
9 included in the registered project or association to
10 be dedicated to supporting mediation or voluntary
11 binding arbitration of condominium related disputes.
12 The additional condominium education trust fund fee
13 shall total \$3 per unit until the commission adopts
14 rules pursuant to chapter 91. On June 30 of every
15 odd-numbered year, any unexpended additional amounts
16 paid into the condominium education trust fund and
17 initially dedicated to supporting mediation or
18 voluntary binding arbitration of condominium related
19 disputes, as required by this paragraph, shall be used
20 for educational purposes as provided in section
21 514B-71(a)(1), (2), and (3).



1 (b) Each developer shall pay to the department of commerce
2 and consumer affairs the condominium education trust fund fee
3 for each unit in the project, as prescribed by rules adopted by
4 the director of commerce and consumer affairs pursuant to
5 chapter 91. The project shall not be registered and no
6 effective date for a developer's public report shall be issued
7 until the payment has been made.

8 (c) Payments of any fees required under this section shall
9 be due on or before the registration due date and shall be
10 nonrefundable [~~Failure~~] except as specified in subsection (e).
11 Unless acceptance of payments is ceased pursuant to subsection
12 (e), failure to pay the required fee by the due date shall
13 result in a penalty assessment of ten per cent of the amount due
14 and the association shall not have standing to bring any action
15 to collect or to foreclose any lien for common expenses or other
16 assessments in any court of this State until the amount due,
17 including any penalty, is paid. Failure of an association to
18 pay a fee required under this section shall not impair the
19 validity of any claim of the association for common expenses or
20 other assessments, or prevent the association from defending any
21 action in any court of this State.



1 (d) The department of commerce and consumer affairs shall
2 allocate the fees collected under this section to the
3 condominium education trust fund established pursuant to section
4 514B-71. The fees collected pursuant to this section shall be
5 administratively and fiscally managed together as one
6 condominium education trust fund established by section 514B-71.

7 (e) When the condominium education trust fund attains a
8 funding level of \$1,819,971 in any fiscal year, the commission
9 shall either:

- 10 (1) Cease accepting payments made by projects and
11 associations at each biennial registration; or
12 (2) Develop a process to refund monies in excess of the
13 \$1,819,971 fund balance to projects and associations
14 that paid into the fund at applicable biennial
15 registrations, and refund such monies.

16 If acceptance of payments is ceased, it shall remain ceased
17 until the fund attains a funding level of \$1,819,971."

18 **PART V. MISCELLANEOUS AND EFFECTIVE DATE**

19 SECTION 15. If any portion of this Act or its application
20 to any person, entity, or circumstance is held to be invalid for
21 any reason, then the legislature declares that the remainder of



1 the Act and each and every other provision thereof shall not be
2 affected thereby. If any portion of a specific appropriation is
3 held to be invalid for any reason, the remaining portion shall
4 be expended to fulfill the objective of the appropriation to the
5 extent possible. To this end, the provisions of this Act are
6 severable.

7 SECTION 16. If manifest clerical, typographical, or other
8 mechanical errors are found in part I or part II of this Act,
9 the governor may correct the errors.

10 SECTION 17. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 18. This Act shall take effect on July 1, 2019;
13 provided that:

14 (1) Section 7 shall be repealed on June 30, 2021, and
15 section 241-7, Hawaii Revised Statutes, shall be
16 reenacted in the form in which it read on June 30,
17 2019; and

18 (2) Sections 8 through 14 shall take effect on July 1,
19 2020.



Report Title:

DCCA; Operating Budget Special Funds; Fees

Description:

Establishes the operating budget for certain programs of the Department of Commerce and Consumer Affairs. Clarifies calculation of Cable Operators' annual fee. Establishes or amends certain special fund ceilings and provides for suspension or refund of fees if the ceiling is exceeded. (SB812 HD1)

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