

# **SANCTIFY THE SCALES**

## **... A STUDY OF CONSUMER PROTECTION IN HAWAII**

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## FOREWORD

During the Seventh Legislature of the State of Hawaii, Regular Session of 1974, the Legislature adopted a resolution requesting the Legislative Reference Bureau to undertake a study of consumer protection in Hawaii. *Sanctify the Scales* is the result of that request.

This study is in keeping with the declared objectives and roles of both the Bureau and the Legislature. It satisfies the role of "advisor to the Legislature" by suggesting alternative means of action in the future development of consumer protection in Hawaii and it makes concrete recommendations on particular areas of improvement. The recommendations include proposals, made by county and state personnel and private citizens as well. The interview process during the course of the study proved most informative in this area. By offering a view of the opinions and experiences of those actually working in the field, it is hoped that the Legislature itself may determine the future course of development of the Office of Consumer Protection.

Many individuals and agencies have been extremely helpful and cooperative in supplying the data and general information necessary for this study. The Bureau is grateful for the contributions of the Office of Consumer Protection, its director, Walter Yamashiro, chief investigator Mitsuo Takayama and staff, the county attorneys' offices, small claims judges, numerous other state and county personnel, and Ron Amemiya and Jann Yuen, past consumer protectors.

The Bureau is extremely appreciative of the long hours and hard work that went into the preparation of this study by Carol Lynn Kim. She withstood a barrage of changes, endless deadline pressures, and the constant interruptions of the researcher trying to explain or clarify a point. Her expert and efficient performance during the preparation of the report for publication, and the patience and tolerance with which she met her task, contributed much to the final production of the study. To Carol Lynn, Shirley, Calvin and Debbie, and the many others who helped so much, may we express our deepest gratitude and sincere appreciation.

*Samuel B. K. Chang*  
*Director*

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## CHAPTER ONE

*"It is in exchanging the gifts of the earth that  
you shall find abundance and be satisfied."*

*Kahlil Gibran*

**AN OVERVIEW OF AN EVALUATIVE STUDY  
ON CONSUMER PROTECTION**

## Introduction

In recent years, as our society has developed into a mobile, industrialized, cybernetic system, concern for the consumer has become a matter of high priority. No longer are fresh eggs and vegetables purchased at nearby farms from farmers who have become friends and as a result trustworthy suppliers. Direct dialogue between the producer and the consumer is almost non-existent today. Instead, we face a complicated network leading from the farmer, through a transportation system, to a wholesaler, then a processor, sometimes to another wholesaler, and finally to the retailer who sells it to the consumer. With so many hands in the pie, complaints from consumers to retailers were often ineffective or brushed off with the explanation that a particular complaint was not his responsibility or was out of his jurisdiction and control.

Eventually, as consumers became more dissatisfied and government began seriously investigating the area of protecting consumer interests, the need for a governmental agency to serve this area became obvious. Nearly every state in the nation has established a consumer protection program of some kind. The federal government has moved in this area after Congressional prodding, as have several cities and local government bodies throughout the country.

## Legislative Intent

In Hawaii, Act 175 of the Session Laws of Hawaii, 1969, created the Office of Consumer Protection within the Office of the Governor. Since that time the Office has established itself as an advocate of consumer interests and fair business practices both. During the 1974 legislative session, the Legislature requested that further study into the area of consumer protection be conducted in order that Hawaii's consumers might be better served.

Senate Resolution No. 233, reading as follows, emphasized a study of the organization and structure of the Office as well as some assurance of independent activity:

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## SENATE RESOLUTION NO. 233

REQUESTING A REVIEW ON THE ORGANIZATION AND STRUCTURE OF THE  
OFFICE OF CONSUMER PROTECTION.

WHEREAS, Hawaii's Office of Consumer Protection was created as part of the forefront of the State's activity in assuming the function of consumer protection; and

WHEREAS, the public health, welfare and interest require a strong and effective consumer protection program to protect the interest of both the consumer public and the legitimate businessman; and

WHEREAS, during the past year, this office has recovered \$45,000 in civil penalties which has been deposited in the state general fund; and

WHEREAS, on the conservative side, this office has saved the consumers of this state approximately 1.5 million dollars; and

WHEREAS, one of the objectives of the Office of Consumer Protection is to ensure that the terms and conditions of sale or rental of products and services are correctly and completely stated for the consumer, and that such terms and conditions are executed by the sellers; and

WHEREAS, the office activities include, and are not limited to the following: investigating consumer complaints; mediating equitable settlements between merchants and consumer; prosecuting dishonest merchants; and recommending and drafting legislation; and

WHEREAS, this office coordinates the consumer protection activities of all state agencies and branches of county governments concerned with consumer protection; and

WHEREAS, the office was created without a background of knowledge as to such an agency's full scope of operations and responsibilities; and

WHEREAS, the office has now been in operation for approximately four years and has its own experience and that of similar state agencies to provide some indication as to what its specific aims and goals should be; now, therefore,

## AN OVERVIEW OF AN EVALUATIVE STUDY

BE IT RESOLVED by the Senate of the Seventh Legislature of the State of Hawaii, Regular Session of 1974, that the Legislative Reference Bureau compare the organization and structure of the Office of Consumer Protection with that of similar state agencies on the mainland and make recommendations as to the most effective organization for purposes of giving maximum protection to the consuming public, including if applicable a consideration of how the Office of Consumer Protection can perform its functions in an independent manner; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau be directed to submit its findings to the Legislature twenty days before the convening of the Regular Session of 1975; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to the Director of the Office of Consumer Protection, President of the Senate, Chairman of the Senate Committee on Consumer Protection, and to the Governor of the State of Hawaii.

The Legislature expressed the feeling that the Office had already established an excellent reputation for itself. However, because it was originally created with very little background knowledge as to such an agency's full scope of operations and responsibilities, it was felt that now, after several years' experience, would be a good time to review office activities and perhaps institute appropriate changes.

### Objectives of the Study

The purpose of this study, therefore, is to:

1. Examine what is occurring in the area of consumer protection throughout the country;
2. Determine what consumer functions are being met by various governmental agencies within the State;
3. Describe the current operations of the Office of Consumer Protection;
4. Evaluate the strengths and weaknesses of the current operations; and

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5. Recommend an appropriate structure for the Office based on the foregoing.

### Scope and Organization

The recommendations and conclusions in this study are based on a series of surveys, personal interviews, a literature review, and field research. The recommendations also reflect the views of the Office of Consumer Protection and others contacted during the course of the study. The recommendations, while not always new ideas, were supported only after evaluative research revealed their viability. The findings are organized in the following manner: it begins with a discussion of what is occurring outside the State, continues with what exists among governmental agencies in the State today, considers current operations of the Office of Consumer Protection, evaluates how that office is currently meeting the needs of consumers and fulfilling its role, suggests structural and organizational changes, and finally concludes with future trends and alternatives for future actions.

### Brief History and Legal Basis

Concern on the part of the Legislature for the wary consumer was already evident in 1965. Act 127 of the Session Laws of Hawaii for that year designated the State Attorney General as the consumer counsel charged with representing and protecting consumers, enforcing laws, and investigating reported or suspected violations.

By 1967, \$35,000 had been appropriated for use by the Governor's office to coordinate and develop consumer protection functions under the Department of Regulatory Agencies. A request was also made at this time for a report to the Legislature recommending "the proper functions and authority of a permanent Office of Consumer Protection". The report which was finally issued recommended that the Office be placed in the executive branch for best results.

In 1969, legislative support for consumer interests grew even stronger. Standing Committee Report No. 598 stated that the time had come to establish a permanent Office of Consumer Protection to provide a voice for the "voice-less" consumer. It further advocated that this Office serve as a base for the coordination of consumer protection activities in the State, serve as a source to recommend legislation to protect and promote the



## AN OVERVIEW OF AN EVALUATIVE STUDY

interests of consumers, and serve to strengthen the consumer protection capabilities of the State.

Recognition and support of governmental interest in this area at the national level was also expressed by the Legislature, concurring with a message on consumer rights from President Kennedy. The President's message to the 87th Congress proclaimed the consumers' rights to the following:

1. The right to safety--to be protected against the marketing of goods which are hazardous to health or life.
2. The right to be informed--to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling, or other practices, and to be given the facts he needs to make informed choices.
3. The right to choose--to be assured, wherever possible, access to a variety of products and services at competitive prices; and in those industries in which competition is not workable and government regulation is substituted, an assurance of satisfactory quality and service at fair prices.
4. The right to be heard--to be assured that consumer interests will receive full and sympathetic consideration in the formulation of government policy and fair and expeditious treatment in its administrative tribunals.

The House committee report (Standing Committee Report No. 772), which supported the establishment of the State Office in 1969, also emphasized that two of the primary reasons for the consumer protection program were to prosecute those who violate the consumer protection laws and to obtain consent decrees wherever applicable. The Committee report continues:

Therefore, it is the intent of your Committee that the director exercise active and vigorous pursuance in these areas. It is also the intent of your Committee that the director take full advantage of available private resources in minimizing investigation costs and time.

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The 1969 legislation further provided for the appointment of a consumer advisory council to assist the Office of Consumer Protection in an advisory capacity. The Senate Committee on Consumer Protection and Criminal Code Revision, which considered the bill, expressed its intent that this advisory council be composed of members from all walks of life and include those identified or associated with the financial institutions, retail stores, labor unions, and government employee unions as well as consumers from other areas.

Act 175 of the Session Laws of Hawaii, 1969, officially established the Office, provided an appropriation of \$132,800, an allotment of ten personnel positions, and finally launched Hawaii's Office of Consumer Protection. Executive support was evident, legislative support was keen, and consumer interest was high--many believed they had at last discovered an agency in the government which would act as advocate and advisor for the consumer himself. It was the basis for Chapter 487, Hawaii Revised Statutes, which has since been amended:

### CHAPTER 487 CONSUMER PROTECTION

Sec. 487-1 Legislative intent. The public health, welfare and interest require a strong and effective consumer protection program to protect the interests of both the consumer public and the legitimate businessman. Toward this end, a permanent office of consumer protection is created to coordinate the services offered to the consumer by various state and county agencies, together with private organizations, and to aid in the development of preventive and remedial programs affecting the interest of the consumer public.

Sec. 487-2 Office of consumer protection; director. There is hereby created within the office of the governor, an office of consumer protection. The head of this office shall be the director of the office of consumer protection. He shall have been admitted to practice law before the Supreme Court of this State and shall be appointed by the governor without regard to chapters 76 and 77.

Sec. 487-3 Personnel. The director may appoint as staff members persons who have been admitted to practice law before the Supreme Court of this State

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without regard to chapters 76 and 77. All other employees shall be appointed by the director in accordance with chapters 76 and 77.

Sec. 487-4 Salaries; benefits. The director of the office of consumer protection shall receive a salary of \$25,000. The director and attorney staff members shall be entitled to participate in any employee benefit plan.

Sec. 487-5 General functions, powers and duties of the office. The director of the office of consumer protection is hereby designated the consumer counsel for the State and shall represent and protect the State, the respective counties, and the general public as consumers. The office of consumer protection shall have the following functions, powers and duties:

- (1) Coordinate the consumer protection activities of all departments, divisions and branches of state government, and of branches of the county government concerned with consumer protection;
- (2) Assist, advise and cooperate with federal, state and local agencies and officials to protect and promote the interests of the consumer public;
- (3) Conduct investigations, research, studies and analysis of matters and take appropriate action affecting the interests of consumers;
- (4) Study the operation of laws affecting consumers and recommend to the governor and the Legislature, new laws and amendments of laws in the consumers' interest;
- (5) Investigate reported or suspected violations of laws enacted, and rules and regulations promulgated for the purpose of consumer protection and shall enforce such laws, rules and regulations;
- (6) Organize and hold conferences on problems affecting consumers; and undertake activities to encourage business and industry to maintain high standards of honesty, fair business

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practices, and public responsibility in the production, promotion and sale of consumer goods and services;

- (7) Provide a central clearing house of information by collecting and compiling all consumer complaints and inquiries;
- (8) Organize, promote and conduct consumer education programs within the State;
- (9) Appear before governmental commissions, departments and agencies to represent and be heard on behalf of consumers' interest;
- (10) Contract with other county, state or federal governmental agencies, with nonprofit social services societies, or with private nonprofit trade, professional, or business organizations which were in existence for more than five years prior to [June 3, 1974,] for the performance of any of the functions of the office not involving the enforcement of rules and regulations for the purpose of consumer protection under this section, or the extension of any power or authority under section 487-11, within the budget limitations for any period not exceeding a budget year, provided, however, that the purposes and policies of this chapter are in no way diluted, abridged, misdirected, or destroyed;
- (11) Perform such other acts as may be incidental to the exercise of the functions, powers and duties set forth in this section.

Sec. 487-6 Consumer advisory council. There shall be a consumer advisory council consisting of eleven members who shall be appointed by the governor and serve at his pleasure. There shall be at least one member from each of the counties of the State. The chairman of the council shall be selected by the members. Each member shall serve without pay and shall be reimbursed for necessary expenses incurred while attending meetings and while in the discharge of his responsibilities. The council shall assist the office of consumer protection in an advisory capacity in carrying out the duties and functions of the office.

## AN OVERVIEW OF AN EVALUATIVE STUDY

Sec. 487-7 Cooperation with office of consumer protection. Each department, agency, officer and employee of the State and of the counties shall cooperate with and assist the office of consumer protection in the performance of the functions, powers and duties of the office.

Sec. 487-8 Powers and duties of other departments and agencies. Nothing contained in this chapter shall be deemed to delegate or detract in any way from the functions, powers and duties prescribed by law for any other department or agency of the State, nor to interrupt or preclude the direct relationships of any such department or agency or units of county government in the performance of such functions, powers and duties.

Sec. 487-9 Investigations. The director may, in the course of his investigations, issue subpoenas to any individual or to any director, officer, employee, or agent of any business organization within the State, conduct hearings in aid of any investigation or inquiry, and may prescribe such forms and promulgate such rules and regulations as may be necessary in the interest of the consumer public.

Sec. 487-10 Investigators, appointment and powers. The director shall appoint and commission one or more investigators as the exigencies of the public service may require. Persons appointed and commissioned under this section shall have and may exercise all the powers and authority of a police officer or of a deputy sheriff.

Sec. 487-11 Educational specialist and secretary. The incumbent consumer education specialist and the incumbent secretary shall become civil service employees without the loss of seniority, prior service credit, vacation, sick leave, or other employee benefits and privileges and without the necessity of examination; provided that subsequent changes in status may be made pursuant to chapters 76 and 77.

Sec. 487-12 Assurance of voluntary compliance. In lieu of instituting or continuing an investigation or action pursuant to section 487-5(5), the director may accept written assurance of voluntary compliance from the person or persons suspected of

## SANCTIFY THE SCALES

violation. The director will obtain the agreement of the affected consumers where possible. In no event shall the fact that a person who enters into an assurance of voluntary compliance be considered an admission of violation, nor shall such written assurance constitute prima facie evidence of any violation. The assurance may include a stipulation for reimbursement to some or all consumers who have been damaged by an alleged unlawful act or practice and payment of costs of investigation. All assurances of voluntary compliance may be made a matter of public record. A consumer need not accept restitution pursuant to the stipulation, but his stipulated agreement to the assurance or his acceptance and full performance of restitution shall bar recovery of any other damages in any action on account of the same acts or practices by him against the person or persons making restitution.

Sec. 487-13 Penalties for unlicensed acts. (a) Any person who furnishes commodities or services for which a license is required from the department of regulatory agencies or any board or commission thereunder without having such license is engaged in an unlawful act or practice and shall be subject to the penalty provided in (b).

(b) Any person who engages in an unlawful act or practice as provided in (a) shall be fined by a sum not less than \$500 nor more than \$2,500 for each unlawful act or practice, which sum shall be collected in a civil suit brought by the office of consumer protection.

(c) Any contract for the furnishing of commodities by an unlicensed person shall be void and shall prevent such person from recovering the contract price or the reasonable value thereof.

### Summary

In recent years, as our society has developed into a mobile, industrialized, cybernetic system, concern for the consumer has become a matter of high priority. People are gradually becoming aware that "caveat emptor" is losing ground in the American marketplace and "caveat venditor" is becoming the newly heralded cry of consumers. In Hawaii, Act 175, Session Laws of Hawaii established the Office of Consumer Protection and began a stronger consumer era.

## AN OVERVIEW OF AN EVALUATIVE STUDY

After five years of operations, the Legislature requested a study of the Office to help determine current needs, amendments needed in light of past experiences, and possible structural changes. The Legislative Reference Bureau was requested to conduct the study.

In view of the consumers' rights expressed in a Presidential message -

- The right to safety
- The right to be informed
- The right to choose
- The right to be heard

the Legislature sought an active and vigorous attempt on the part of the Office of Consumer Protection to assure the fair transaction of business in Hawaii. Chapter 487, Hawaii Revised Statutes, delineated the responsibilities of the Consumer Protector and established the intent of the Legislature as follows: [*see page 8, Section 847-1*]

## CHAPTER TWO

*"Yet unless the exchange be in love and kindly justice, it will but lead some to greed and others to hunger."*

*Kahlil Gibran*

CONSUMER PROTECTION AMONG THE STATES



## II

### Out-of-State Survey

Background and procedures. Senate Resolution No. 233 specifically requested information on consumer protection activities in other states with the intent of helping to determine the most effective organization and structure in Hawaii. Accordingly, a survey of the fifty states through a mail questionnaire, was conducted in the Fall of 1974. The questionnaire was returned by forty of the fifty states. (See *Appendix A* for the format of the questionnaire.)

The survey revealed a nationwide growth in state consumer protection programs evidenced by the increase in budget appropriations for this service. Many states reflected a decided increase in their yearly budgets over the 1973-74 fiscal year, while at the same time, none reported a budget decrease. While the effectiveness of a consumer agency is somewhat dependent upon the availability of financial resources, much more depends on how these resources are utilized.

As people become familiar with state consumer protection programs, more complaints are received by the consumer agency. The states report that as a result, most of their staff time is spent investigating or mediating individually filed complaints, even in agencies which possess strong enforcement powers. In relatively few cases is formal legal action ever undertaken. Yet these powers, even if seldom used, are sometimes necessary, and they do add to the ability of an agency to mediate and resolve complaints. Therefore, the careful allocation of resources remains a key to effective consumer protection.

### State Agencies Currently Handling Consumer Protection

Throughout the nation, the agency which was most often identified as being responsible for consumer protection was the State Office of the Attorney General. Thirty-one of the states reporting listed the Attorney General as its primary consumer agency. *Table I* lists the agency responsible in each reporting state.

Although there are some advantages to placing the consumer protection agency within the Office of the Attorney General (such as being able to maximize the efficient use of enforcement resources by occasionally shifting attorneys, investigators,

TABLE I

## STATE AGENCIES RESPONSIBLE FOR CONSUMER PROTECTION

<u>STATE</u>	<u>OFFICE PRIMARILY RESPONSIBLE FOR CONSUMER PROTECTION</u>
Alabama	The Governor's Office of Consumer Protection
Alaska	Consumer Protection Section (Attorney General's Office)
Arizona	Consumer Protection Division (Attorney General's Office)
Arkansas	Consumer Protection Division (Attorney General's Office)
California	Department of Consumer Affairs
Colorado	Office of Consumer Affairs (Attorney General's Office)
Connecticut	Department of Consumer Protection
Delaware	Consumer Affairs Division (Department of Community Affairs/Economic Development)
Florida	NA
Georgia	Georgia Consumer Services Program (Human Resources)
Hawaii	Office of Consumer Protection (Governor's Office)
Idaho	Consumer Protection Division (Attorney General's Office)
Illinois	Consumer Fraud Section (Attorney General's Office)
Indiana	Consumer Protection Division (Attorney General's Office)
Iowa	NA
Kansas	Consumer Protection Division (Attorney General's Office)
Kentucky	Consumer Protection Division (Attorney General's Office)
Louisiana	Office of Consumer Protection (Governor's Office)
Maine	Consumer Fraud Division (Attorney General's Office)
Maryland	Division of Consumer Protection (Attorney General's Office)
Massachusetts	Executive Office of Consumer Affairs (Governor's Office)
Michigan	Michigan Consumer Council (Independent Council)
Minnesota	Consumer Protection Division (Attorney General's Office)
Mississippi	Office of Consumer Protection (Attorney General's Office)
Missouri	Consumer Protection Division (Attorney General's Office)
Montana	Department of Business Regulation
Nebraska	Consumer Protection Division (Attorney General's Office)
Nevada	Consumer Affairs Division (Attorney General's Office)
New Hampshire	NA
New Jersey	New Jersey Office of Consumer Protection (Attorney General's Office)
New Mexico	NA
New York	State Consumer Protection Board (Executive Department)
North Carolina	NA
North Dakota	Consumer Fraud Division (Attorney General's Office)
Ohio	Consumer Frauds and Crimes Section (Attorney General's Office)
Oklahoma	NA
Oregon	Consumer Protection Division (Attorney General's Office)
Pennsylvania	Bureau of Consumer Protection (Attorney General's Office)
Rhode Island	NA
South Carolina	Office of Consumer Affairs (Governor's Office)
South Dakota	Consumer Affairs Division (Attorney General's Office)
Tennessee	Division of Consumer Affairs (Department of Agriculture)
Texas	Consumer Protection Division (Attorney General's Office)
Utah	NA
Vermont	Consumer Fraud Division (Attorney General's Office)
Virginia	Division of Consumer Counsel (Attorney General's Office)
Washington	Consumer Protection Division (Attorney General's Office)
West Virginia	NA
Wisconsin	Council for Consumer Affairs (Governor's Office)
Wyoming	Consumer Affairs Division (Attorney General's Office)

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NA - Not Available

## CONSUMER PROTECTION AMONG THE STATES

and other staff members into or out of the consumer protection division), this is not necessarily the best solution for Hawaii. When consumer protection was first recognized by governmental parties in Hawaii, a division was established within the Attorney General's Office. It was found, however, that greater independence and effectiveness was available to the staff when placed in the Governor's Office. The California alternative of establishing a separate department to handle all consumer and regulatory matters is another possibility. Still, regardless of where the agency is finally placed, it cannot be effective without adequate funding, suitable equipment, and work space, and enthusiastic personnel.

### Branch Office

The second question had to do with the number of branch offices established by the primary consumer protection agency within the State. Eleven agencies reported branches with various combinations of full-time and part-time staff. Their responsibilities ranged from merely accepting consumer complaints to formal legal action by branch staff members. Those states with branch offices include the following:

Pennsylvania	New Jersey	New York	California
Missouri	Alaska	Illinois	Texas
Washington	Maryland	Hawaii	

Some of Maryland's branches are part of storefront locations maintained by the Baltimore Police Department. They have also stationed investigators at public libraries and on military bases.

In Hawaii, three branch offices were recently established: one each on Maui, Hawaii, and Kauai. Each is staffed by a single investigator who receives complaints and attempts to resolve disputes through mediation. They are not running at full capacity yet, since much of the county populace is not yet aware of their operations. However, these branches have only been in existence for a few months, having opened in the fall of 1974.

The agency which was defined as the "primary" consumer protection agency of each state was requested to fill out the questionnaire. Information on staffing, budgets, branch offices, salaries, complaint procedures, and educational programs was solicited.

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### Agency Role in Consumer Protection

After a thorough review of the literature regarding agency operations in the various states, the keys to success appear to be adequate funding and a director who instills in his staff members a feeling of action and willingness to move against traditional business and governmental strongholds. In view of this, it is recommended that the Office of Consumer Protection be adequately staffed and funded, possibly as a separate department, and its duties expanded. Rather than fragmenting so many consumer functions among the various governmental agencies, a single department to handle consumer affairs or a single office primarily responsible for consumer matters should be considered. Experience shows that consumer agencies throughout the nation more than pay for themselves in terms of the monetary recoveries that they make for consumers. Therefore, the government should not hesitate to provide adequate funding.

The Consumer Protector should also appear before regulatory boards to represent the public. The Attorney General's Office could continue to act as counsel for state boards and commissions with the consumer staff representing the public. In this manner conflicts of interest would be avoided and the public would be assured of the proper presentation of facts and issues involved.

### Budget

Budget estimates provided by the states for the 1973-74 fiscal year revealed a range from \$8,000 in Tennessee to \$22 million in California. Of the twenty-five states reporting estimated budgets for a two-year period, twenty-one showed budget increases in the second year. *Table II* displays the estimated budgets reported by the states.

Some of the budget figures reported relate to an entire department (the total Attorney General's budget), others relate to the consumer protection section only. The general budgetary trend, however, remains that of an increase from year to year.

### Staff Allotments

A question on the staff positions provided for attorneys, investigators, educational specialists, other specialists, clericals, and students was also included in the survey.

TABLE II

## YEARLY BUDGET FOR PRIMARY CONSUMER PROTECTION AGENCY

STATE	1972-73	1973-74	% Increase	1974-75	% Increase
Alabama	150,000	150,000	-	-	-
Alaska	106,681	118,110	11	168,670	43
Arizona	112,800	-	-	-	-
Arkansas	40,000	44,912	12	-	-
California	17,817,000	22,406,000	26	-	-
Colorado	147,325	160,000	9	-	-
Connecticut	1,458,022	1,774,715	22	-	-
Delaware	102,773	113,657	11	-	-
Florida	160,000*	-	-	-	-
Georgia	150,100	456,896	204	330,040	-28**
Hawaii	219,861	237,277	8	-	-
Idaho	65,000	70,000	8	-	-
Illinois	1,000,000	-	-	-	-
Indiana	65,000*	-	-	-	-
Iowa	80,000*	-	-	-	-
Kansas	117,000	-	-	-	-
Kentucky	113,000	113,000	-	-	-
Louisiana	355,000	376,000	6	-	-
Maine	76,000	80,000	5	-	-
Maryland	162,586*	-	-	-	-
Massachusetts	-	111,244	-	153,009	37
Michigan	119,428	138,630	16	204,044	47
Minnesota	80,000	-	-	-	-
Mississippi	NA	-	-	-	-
Missouri	142,460	-	-	-	-
Montana	-	50,000	-	50,000	-
Nebraska	6,000	-	-	-	-
Nevada	NA	-	-	-	-
New Hampshire	75,542*	-	-	-	-
New Jersey	150,000	449,329	199	-	-
New Mexico	50,000*	-	-	-	-
New York	230,000	299,700	30	-	-
North Carolina	379,792*	-	-	-	-
North Dakota	45,000	-	-	-	-
Ohio	393,468*	-	-	-	-
Oklahoma	NA	-	-	-	-
Oregon	440,000*	-	-	-	-
Pennsylvania	1,309,046	-	-	-	-
Rhode Island	30,000*	-	-	-	-
South Carolina	100,000	-	-	-	-
South Dakota	43,558	-	-	-	-
Tennessee	-	25,000	-	80,000	220
Texas	500,000	500,000	-	-	-
Utah	NA	-	-	-	-
Vermont	45,000	120,000	167	-	-
Virginia	90,000	-	-	-	-
Washington	304,956	425,634	40	-	-
West Virginia	NA	-	-	-	-
Wisconsin	40,000	50,000	25	-	-
Wyoming	450,090	703,350	56	-	-

\*Indicates previous literature report.

\*\*Decrease due to a cut in positions.

NA - Not Available

## SANCTIFY THE SCALES

The results are displayed in *Table III*. Of the states reporting, only two employed no attorneys at all--Michigan and Tennessee. In both cases, legal matters were attended to by the Attorney General's Office. Those states which did hire attorneys employed anywhere from between one part-time attorney to twenty-five full-time attorneys.

Investigators, another influential means to effective consumer protection activities, were employed in all but four of the states. Five states reported having no educational specialists, and one state reported a lack of clerical personnel. Twenty-two states, on the other hand, declared that they used students in some manner in their operations.

Hawaii has a staff of three full-time attorneys, including the director who is responsible for more than legal work. This compares to one part-time attorney in Nebraska and twenty-five attorneys in Wyoming. Ten investigators and one educational specialist are also employed at the Office, with six clericals and five students providing additional help. The questionnaire requested each state to list the number of staff members which they thought could best serve their needs. In most cases, this meant an increase in staff positions above those currently existing. The same was true for the Hawaii Office which suggested increases in each personnel category.

### Salary Ranges

The salary ranges in effect for attorneys, investigators, specialists, and students are included in *Table IV*.

The highest paid attorneys receive a salary of \$36,297 in New Jersey, closely followed by Alaska with \$36,000. In New Jersey the starting salary is \$13,430, while in Alaska it is \$19,300. The Hawaii salary range is from \$14,000 to \$24,996, with the latter amount being higher than twenty of the other reporting states.

At an annual salary of over \$19,000, Hawaii has one of the higher paid specialists among the states. In the Hawaii case, the specialist is an educational specialist. The highest paid students, which included some law students, were those in Ohio with salaries of up to \$4.50 an hour. The minimum for investigators, on the other hand, ranged from \$6,960 in Washington to \$16,700 in Alaska. The maximums varied from \$8,400 in Kansas to \$18,000 in Alaska. In comparison, Hawaii reported a minimum salary of \$7,284 and a maximum of \$16,656.

TABLE III

STAFF EMPLOYED BY CONSUMER AGENCIES AND THE OPTIMUM NUMBER REQUESTED BY THEM

KEY: 1st number refers to existing positions  
 2nd number in "( )" refers to optimum number determined by agency staff  
 "\*" Indicates previous literature reports  
 NA Indicates Not Available

<u>STATE</u>	<u>ATTORNEYS</u>	<u>INVESTIGATORS</u>	<u>EDUCATIONAL SPECIALISTS</u>	<u>OTHER SPECIALISTS</u>	<u>CLERICALS</u>	<u>STUDENTS</u>
Alabama	1 (2)	2 (4)	2 (1)	3 (6)	5 (7)	---
Alaska	2 (3)	2 (3)	0 (3)	---	4 (4)	---
Arizona	5	5	---	---	3	5
Arkansas	1 (3)	2 (4)	---	0 (1)	1 (3)	---
California	6 (20)	269 (300)	20 (30)	138	407	10
Colorado	3	4	1	---	3	1
Connecticut	2/2 pt	9	---	---	2	---
Delaware	1 pt	3	---	3 pt	2	1
Florida	2*	3*	---	---	7*	1*
Georgia	3 (3)	0 (3)	0 (8)	15	5 (6)	2 (5)
Hawaii	3	10 (13)	1 (2)	---	6 (7)	5 pt (5 pt)
Idaho	3	3	---	---	2	5*
Illinois	14/17 pt	12/15 pt	---	10	37	2
Indiana	2*	1*	---	---	3*	---
Iowa	3*	1*	---	---	4*	3*
Kansas	4	2	---	1 pt	5	5 pt
Kentucky	6	2	1	---	6	2*
Louisiana	3 pt*	7 (7)	1 (1)	3 (3)	1 (7)	4 pt (4 pt)
Maine	3 (5)	1	---	2	3	1*
Maryland	1*	5	1*	---	3*	15*
Massachusetts	1 (1)	1 (1)	---	---	1 (1)	2 (9)
Michigan	0 (1)	---	1 (2)	5 (6)	3 (3)	volunteers
Minnesota	4 (4)	4 (4)	0 (1)	---	4 (4)	3 (3)
Mississippi	1 (2)	1 (4)	---	---	1 (4)	---
Missouri	7 pt	3	---	---	1	5
Montana	1	1	---	---	2	1
Nebraska	1 pt	---	---	---	---	---
Nevada	2 (4-5)	0 (3-4)	0 (1)	---	0 (3)	0 (3)
New Hampshire	2*	2*	---	---	2*	---
New Jersey	3 (6)	15 (35)	2 (4)	2 (4)	12 (18)	1 (3)
New Mexico	1 pt*	2*	---	---	2*	1*
New York	4 (7)	3 (6)/1 pt(1pt)	5 (6)	7 (15)	27 (13)	2 (2)
North Carolina	6*	5*	2*	---	8*	2*
North Dakota	1 pt	1	---	---	1 pt	---
Ohio	12	9	1	5	9	3
Oklahoma	1*	---	---	---	1 pt*	---
Oregon	3 (4)	6 (3)	0 (1)	0 (1)	4 (4)	2 (4)

<u>STATE</u>	<u>ATTORNEYS</u>	<u>INVESTIGATORS</u>	<u>EDUCATIONAL SPECIALISTS</u>	<u>OTHER SPECIALISTS</u>	<u>CLERICALS</u>	<u>STUDENTS</u>
Pennsylvania	15/2 pt	1	2	3	3	---
Rhode Island	NA	---	---	---	---	---
South Carolina	1	---	---	---	1	1
South Dakota	1 (2)	0 (1)	---	---	1 (2)	---
Tennessee	0 (1)	1 (3)	0 (1)	---	3 (5)	---
Texas	20 (25)	---	---	20 (25)	20 (25)	---
Utah	NA	---	---	---	---	---
Vermont	4 (4)	1 (2)	---	1 (2)	2 (3)	2 (2-4)
Virginia	3	---	---	---	2	1
Washington	7 (11)	7 (10)	1 (2)	0 (1)	10 (10)/3pt(3pt)	13 (15)
West Virginia	NA	---	---	---	---	---
Wisconsin	1	2	---	1	---	1
Wyoming	25	16	---	---	10	3



**TABLE IV**  
**SALARY RANGES FOR AGENCY PERSONNEL**

STATE	ATTORNEYS		INVESTIGATORS		SPECIALISTS		STUDENTS	
	MINIMUM	MAXIMUM	MINIMUM	MAXIMUM	MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
Alabama	11,280	13,923	7,527	9,672	8,606	18,837	---	---
Alaska	19,300	36,000	16,700	18,000	---	---	---	---
Arizona	11,977	24,900	7,980	13,152	---	---	---	---
Arkansas	---	14,500	8,000	---	---	---	---	---
California	18,768	25,140	9,264	20,688	9,312	33,840	(3.40/hr)	1,084
Colorado	14,500	21,000	10,000	13,000	10,000	---	7,200	---
Connecticut	9,000	12,000	8,600	10,800	---	---	---	---
Delaware	15,000	20,000	8,332	15,216	8,077	12,134	---	---
Florida	11,000*	19,000*	---	---	---	---	---	---
Georgia	---	---	---	---	7,500	8,952	2,400	2,400
Hawaii	14,100	24,996	7,284	16,656	19,296	---	(2.00/hr)	(3.00/hr)
Idaho	10,800	16,500	10,200	14,000	---	---	---	---
Illinois	12,000	26,400	7,560	15,000	---	---	---	---
Indiana	NA	---	---	---	---	---	---	---
Iowa	13,000*	18,000*	---	---	---	---	---	---
Kansas	11,000	17,500	7,200	8,400	---	---	---	---
Kentucky	10,300	20,500	8,500	11,500	9,000	---	---	---
Louisiana	10,800*	15,000*	7,800	10,000	10,500	14,000	---	---
Maine	11,000	14,000*	9,500	---	---	---	---	---
Maryland	15,554*	20,433*	8,401*	11,039*	---	---	---	---
Massachusetts	NA	---	---	---	---	---	---	---
Michigan	---	---	---	---	10,229	27,872	(3.00/hr)	(4.00/hr)
Minnesota	12,600	26,000	10,300	15,300	---	---	---	---
Mississippi	15,000	24,000	11,009	14,500	---	---	---	---
Missouri	11,000	24,000	10,000	13,500	---	---	---	---
Montana	12,000	14,500	10,500	12,000	7,200	8,000	---	---
Nebraska	20,000	---	---	---	---	---	---	---
Nevada	17,500	---	---	---	---	---	---	---
New Hampshire	12,228*	21,000*	9,129*	11,297*	---	---	---	---
New Jersey	13,430	36,297	9,090	16,444	---	---	(2.00/hr)	(2.50/hr)
New Mexico	11,520*	16,200*	8,640*	10,800*	---	---	---	---
New York	20,500	30,000	10,714	15,684	17,429	30,000	---	---
North Carolina	15,096*	20,160*	8,628*	17,460*	---	---	---	---
North Dakota	16,200	---	8,400	12,600	---	---	---	---
Ohio	11,000	24,000	8,000	16,000	8,000	10,000	(3.00/hr)	(4.50/hr)
Oklahoma	13,000*	---	---	---	---	---	---	---
Oregon	12,000	25,000	9,444	14,000	---	---	(3.00/hr)	---
Pennsylvania	12,793	17,115	7,844	13,399	---	---	---	---
Rhode Island	NA	---	---	---	---	---	---	---
South Carolina	---	11,000	---	---	---	---	---	---
South Dakota	10,000	15,000	8,000	12,000	---	---	---	---
Tennessee	12,240	15,504	8,076	10,208	12,240	16,080	(3.00/hr)	---
Texas	12,000	27,500	12,000*	16,000*	---	---	---	---
Utah	NA	---	---	---	---	---	---	---
Vermont	13,000	19,000	8,200	10,000	---	---	---	---
Virginia	13,175	20,000	---	---	---	---	---	---
Washington	10,800	21,839	6,960	15,124	12,000	---	2,000	---
West Virginia	NA	---	---	---	---	---	---	---
Wisconsin	---	---	8,000	12,000	20,000	---	3,000	---
Wyoming	12,500	15,000	9,500	11,500	---	---	---	---

\* Indicates previous literature reports.  
NA - Not Available

## SANCTIFY THE SCALES

It should be noted that in Alaska, the salaries were generally higher than elsewhere because (a) they wish to attract qualified people, and (b) they have a high cost of living. In Hawaii, people are willing to work for less because they want so much to live here and thus have very little choice in terms of salary. Adequate salary levels are still needed if an agency hopes to attract competent personnel. Even more, those salary levels must climb in accordance with the valuable experience garnered by personnel as they continue in the job.

### Consumer Complaints

One of the chief responsibilities of consumer protection offices has been that of receiving consumer complaints. However, this study does not use the number of consumer complaints received as a measure of work produced. Other agency functions play a role at least equal to and sometimes more important than complaint handling in terms of the measures of effectiveness. At the same time, though, a major responsibility of a consumer agency should be to minimize consumer frustrations in complaint handling. The number of consumer complaints received by reporting states ranged from 300 in Nebraska to nearly 82,000 in California. The California complaints represented a near one hundred per cent increase over the number of complaints received the previous year.

*Table V* describes the number of complaints received by each agency, the percentage of these which were directly received, and the major referral sources for those which were not received directly.

Hawaii's Office of Consumer Protection reported receiving 59,420 complaints, many of which were telephone complaints about service station operations during the gasoline shortage and general energy crisis earlier in the year. Of the complaints received, only eight per cent were due to referrals by other agencies. Some of the major sources of complaint referrals in Hawaii included:

- (1) The Better Business Bureau
- (2) The County Police Departments
- (3) The Attorney General's Office
- (4) The City and County Office of Information and Complaints
- (5) The Department of Regulatory Agencies
- (6) Legal Aid Offices
- (7) The Military

**TABLE V**  
**COMPLAINTS RECEIVED BY CONSUMER AGENCIES**

<u>STATE</u>	<u>NUMBER OF COMPLAINTS RECEIVED</u>	<u>PERCENTAGE OF COMPLAINTS DIRECTLY RECEIVED</u>	<u>MAJOR SOURCES OF REFERRALS</u>
Alabama	2,554	95	Agriculture Department, Hearing Aid Board, State Insurance Department
Alaska	1,198	--	Alaska State Government Agencies
Arizona	2,400	--	NA
Arkansas	1,279	85	Better Business Bureau, other State Offices and Agencies, Arkansas Consumer Research
California	81,959	95	Other Government Agencies
Colorado	2,540	98	District Attorney's, Federal Trade Commission
Connecticut	NA	--	NA
Delaware	1,719	--	Attorney General's Office, Better Business Bureau, other Consumer Agencies
Florida	3,630*	--	NA
Georgia	23,053	98	NA
Hawaii	59,420	92	City and County Information Office, Kokua Line, Department of Social Services and Housing, Government Offices, Better Business Bureau, Honolulu Police Department, Legal Aid, Ombudsman, Regulatory Agencies
Idaho	700	90	Department of Finance, Idaho Home and Extension Service
Illinois	10,367	--	Commerce Commission, Department of Insurance, Department of Financial Institutions, Department of Registration and Education
Indiana	10,987	--	NA
Iowa	3,876*	--	NA
Kansas	3,815	--	NA
Kentucky	2,291	100	NA
Louisiana	4,713	97	Attorney General's Office, Better Business Bureau, Local Consumer Protection Agencies
Maine	900	--	NA
Maryland	10,000	--	NA
Massachusetts	5,000	80	Attorney General's Office, Civic Consumer Groups, other Government Agencies
Michigan	1,209	90	Attorney General's Office, State Legislators, County Prosecutor's Office
Minnesota	6,530	100	NA

<u>STATE</u>	<u>NUMBER OF COMPLAINTS RECEIVED</u>	<u>PERCENTAGE OF COMPLAINTS DIRECTLY RECEIVED</u>	<u>MAJOR SOURCES OF REFERRALS</u>
Mississippi	390	95	Better Business Bureau, Department of Agriculture, Department of Insurance, Lieutenant Governor's Office
Missouri	2,972	--	Better Business Bureau, other Law Enforcement Agencies
Montana	NA	NA	NA
Nebraska	200	--	NA
Nevada	237	95	NA
New Hampshire	NA	NA	NA
New Jersey	15,585	90-95	Better Business Bureau, State and Federal Legislators, other State Agencies
New Mexico	3,000*	--	NA
New York	8,500	90	State Attorney General, Local Consumer Groups
North Carolina	4,548*	--	NA
North Dakota	2,027	--	NA
Ohio	NA	--	Better Business Bureau, Consumer Protection Division, Department of Commerce
Oklahoma	673*	--	NA
Oregon	2,671	98	Department of Commerce, Department of Agriculture
Pennsylvania	25,000	95	Governor's Office
Rhode Island	2,582*	--	NA
South Carolina	130	--	NA
South Dakota	4,500	--	NA
Tennessee	600	94	Better Business Bureau, Chamber of Commerce, Government Agencies
Texas	25,000	80	Congressmen, President's Office of Consumer Affairs
Utah	NA	--	NA
Vermont	2,521	--	NA
Virginia	2,801	--	NA
Washington	23,000	90	Newspaper Action Columns, City of Seattle Consumer Protection
West Virginia	228*	--	NA
Wisconsin	1,000	40	Governor's Office, Lieutenant Governor's Office
Wyoming	220	90	Chamber of Commerce, Attorney General's Office

\*Indicates previous literature reports  
NA - Not Available

## CONSUMER PROTECTION AMONG THE STATES

- (8) Legislators
- (9) The Post Office
- (10) The Hawaii Visitors Bureau
- (11) The Ombudsman's Office
- (12) The Governor's Office, and many others.

As the Office has become better known and more familiar to residents, the number of complaints has steadily increased. A prime concern among consumers has been their own lack of knowledge on where and how to file a complaint, thus further simplifying complaint procedures is recommended. In addition, coordination with other state agencies which receive complaints is essential if the level of consumer frustration is to be lowered.

### Complaint Handling Procedures

Recent streamlining of the complaint handling procedures in California resulted in better consumer services and more protection activities. The figures below reflect California's successful efforts:

<u>Complaints Received</u>	<u>81,958</u>
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This represents an increase of almost 100% over last year's total of complaints received (42,210).

<u>Inspections and Investigations</u>	<u>133,676</u>
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Investigations take place as the result of complaints received, however, there are many routine inspection and investigative programs that are not complaint initiated.

<u>Disciplinary Activities</u>	<u>55,364</u>
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This category includes any action intended to eliminate unlawful activity or bring about compliance with the law.

Citation & Notices of Violation	23,974
Compliance Ordered & Obtained	22,248
Censure, Reprimand, Warning	3,102
Referred for Prosecution	2,630
Referred for Disciplinary Hearing	917

## SANCTIFY THE SCALES

Revocation, Suspension, Probation	1,290
Discipline Not Specified	1,203

*Source: California Department of Consumer Affairs*

The Hawaii complaint procedure is quite similar to that of other state consumer agencies.

- (1) Complaints Received - Complaints are received at the office in person, by telephone, or by letter. Complainants are asked to complete a standard information form and are informed that an investigator will be calling them about their complaint in a few weeks.
- (2) Recording - The complaint forms which are received are logged by the secretaries and passed on to the chief investigator.
- (3) Assignment - The chief investigator reviews the complaints and assigns them to investigators for follow-up work. If it is determined that the complaint is outside office jurisdiction, it is referred to the proper agency.
- (4) Contact - The complainant is informed of the action to be taken. The investigator contacts the individual or business complained against, notifying him of the complaint, and asking him to respond. The complaint may be settled at this point, or the investigator may decide that there is no basis for action.
- (5) Mediation - If the business reply is unsatisfactory, the investigator tries to reach an agreeable settlement without resort to legal action.
- (6) Litigation - If voluntary procedures fail, litigation procedures may be initiated, provided that a law has been violated. This is usually a last resort measure.

### General Responsibilities

The general responsibilities of the state consumer protection agencies are described in *Table VI*. The range of activities of each agency is noted by an "X" mark in the appropriate column. It is interesting to note that Hawaii

**TABLE VI**  
GENERAL RESPONSIBILITIES OF STATE CONSUMER AGENCIES

STATE	ENFORCES STATE'S TYPE OF UNFAIR & DECEPTIVE TRADE PRACTICE LAW	RECEIVES & REFERS COMPLAINTS		ARBITRATES COMPLAINTS	
		ON BROAD	ON SPECIFIC AREAS	ON BROAD	ON SPECIFIC
		CONSUMER ISSUES	ONLY	CONSUMER ISSUES	AREAS ONLY
Alabama	--	X	--	X	--
Alaska	X	X	X	X	--
Arizona	X	X	X	--	--
Arkansas	X	X	--	--	--
California	--	X	--	X	--
Colorado	X	X	X	--	X
Connecticut	X	X	--	--	X
Delaware	X	X	X	X	X
Florida	NA	--	--	--	--
Georgia	--	X	X	X	X
Hawaii	X	X	--	--	--
Idaho	X	X	X	X	X
Illinois	X	X	X	X	X
Indiana	NA	--	--	--	--
Iowa	NA	--	--	--	--
Kansas	X	X	--	X	--
Kentucky	X	X	X	--	X
Louisiana	X	X	X	X	X
Maine	X	--	X	--	X
Maryland	NA	--	--	--	--
Massachusetts	--	X	X	X	X
Michigan	--	X	--	X	--
Minnesota	X	X	--	--	--
Mississippi	X	X	--	X	--
Missouri	X	X	--	--	--
Montana	X	X	--	X	--
Nebraska	X	X	--	X	--
Nevada	--	X	X	--	--
New Hampshire	NA	--	--	--	--
New Jersey	X	X	--	X	--
New Mexico	NA	--	--	--	--
New York	--	X	--	--	--
North Carolina	NA	--	--	--	--
North Dakota	X	X	X	X	X
Ohio	X	X	X	--	--
Oklahoma	NA	--	--	--	--
Oregon	X	--	X	--	--
Pennsylvania	X	X	--	X	--
Rhode Island	NA	--	--	--	--
South Carolina	NA	--	--	--	--

STATE	ENFORCES STATE'S TYPE OF UNFAIR & DECEPTIVE TRADE PRACTICE LAW	RECEIVES & REFERS COMPLAINTS		ARBITRATES COMPLAINTS	
		ON BROAD	ON SPECIFIC AREAS	ON BROAD	ON SPECIFIC
		CONSUMER ISSUES	ONLY	CONSUMER ISSUES	AREAS ONLY
South Dakota	X	X	--	X	--
Tennessee	--	X	X	X	X
Texas	X	X	X	X	X
Utah	NA	--	--	--	--
Vermont	X	X	X	--	--
Virginia	--	X	--	--	--
Washington	X	X	X	X	X
West Virginia	NA	--	--	--	--
Wisconsin	--	X	--	--	--
Wyoming	X	X	--	X	--

NA - Not Available



# GENERAL RESPONSIBILITIES OF STATE CONSUMER AGENCIES

STATE	INVESTIGATES INDIVIDUAL COMPLAINTS		STUDIES PROBLEMS OF GENERAL CONCERN	ACCEPTS ASSURANCES OF DISCONTINUANCE	EXECUTES INVESTIGATIVE DEMAND
	ON BROAD CONSUMER ISSUES	ON SPECIFIC AREAS ONLY			
Alabama	X	--	X	--	--
Alaska	X	--	X	X	X
Arizona	X	X	X	X	X
Arkansas	--	X	X	--	--
California	--	X	X	--	X
Colorado	--	X	X	X	X
Connecticut	--	X	--	X	X
Delaware	X	X	X	X	X
Florida	NA	--	--	--	--
Georgia	--	--	X	X	--
Hawaii	X	--	X	X	X
Idaho	X	X	--	X	X
Illinois	X	X	X	X	X
Indiana	NA	--	--	--	--
Iowa	NA	--	--	--	--
Kansas	X	--	--	X	--
Kentucky	X	X	X	X	X
Louisiana	X	X	X	X	X
Maine	--	X	X	X	X
Maryland	NA	--	--	--	--
Massachusetts	X	X	X	--	--
Michigan	X	--	X	--	--
Minnesota	X	--	X	X	X
Mississippi	X	X	X	X	X
Missouri	X	--	X	X	X
Montana	X	--	X	X	X
Nebraska	X	--	X	X	X
Nevada	--	X	X	--	--
New Hampshire	NA	--	--	--	--
New Jersey	X	--	X	X	X
New Mexico	NA	--	--	--	--
New York	X	--	X	--	--
North Carolina	NA	--	--	--	--
North Dakota	X	X	X	--	--
Ohio	--	--	X	X	--
Oklahoma	NA	--	--	--	--
Oregon	--	X	--	X	X
Pennsylvania	X	--	X	X	X

STATE	INVESTIGATES INDIVIDUAL COMPLAINTS		STUDIES PROBLEMS OF GENERAL CONCERN	ACCEPTS ASSURANCES OF DISCONTINUANCE	EXECUTES INVESTIGATIVE DEMAND
	ON BROAD CONSUMER ISSUES	ON SPECIFIC AREAS ONLY			
Rhode Island	NA	--	--	--	--
South Carolina	NA	--	--	--	--
South Dakota	X	--	X	X	X
Tennessee	X	X	X	--	--
Texas	X	X	X	X	X
Utah	NA	--	--	--	--
Vermont	X	--	X	X	X
Virginia	--	X	X	X	--
Washington	X	X	X	X	X
West Virginia	NA	--	--	--	--
Wisconsin	X	--	X	--	--
Wyoming	X	--	X	X	X

NA - Not Available

GENERAL RESPONSIBILITIES OF STATE CONSUMER AGENCIES

<u>STATE</u>	<u>HOLDS HEARINGS</u>	<u>HAS POWER OF SUBPOENA</u>	<u>ISSUES CEASE &amp; DESIST ORDERS</u>	<u>SEEKS &amp; OBTAINS RESTRAINING ORDERS; TEMPORARY OR PERMANENT INJUNCTIONS</u>	<u>SEEKS COURT ORDERS FOR RESTITUTION</u>
Alabama	X	--	--	--	--
Alaska	X	X	X	X	X
Arizona	--	X	--	X	X
Arkansas	--	X	--	--	X
California	X	X	X	X	--
Colorado	X	X	--	X	X
Connecticut	X	X	X	X	--
Delaware	X	--	X	--	--
Florida	NA	--	--	--	--
Georgia	NA	--	--	--	--
Hawaii	X	X	--	X	--
Idaho	X	X	--	X	X
Illinois	X	X	--	X	X
Indiana	NA	--	--	--	--
Iowa	NA	--	--	--	--
Kansas	X	X	--	X	X
Kentucky	X	X	X	X	X
Louisiana	X	X	--	X	X
Maine	X	X	--	X	X
Maryland	NA	--	--	--	--
Massachusetts	NA	--	--	--	--
Michigan	X	--	--	--	--
Minnesota	--	X	--	X	X
Mississippi	--	--	--	X	--
Missouri	--	X	--	X	X
Montana	X	X	X	X	X
Nebraska	--	X	--	X	X
Nevada	--	--	--	X	X
New Hampshire	NA	--	--	--	--
New Jersey	X	X	X	X	X
New Mexico	NA	--	--	--	--
New York	X	--	--	--	--
North Carolina	NA	--	--	--	--
North Dakota	X	X	--	X	X
Ohio	--	X	--	X	X
Oklahoma	NA	--	--	--	--
Oregon	--	X	--	X	X
Pennsylvania	X	X	--	X	--

<u>STATE</u>	<u>HOLDS HEARINGS</u>	<u>HAS POWER OF SUBPOENA</u>	<u>ISSUES CEASE &amp; DESIST ORDERS</u>	<u>SEEKS &amp; OBTAINS RESTRAINING ORDERS; TEMPORARY OR PERMANENT INJUNCTIONS</u>	<u>SEEKS COURT ORDERS FOR RESTITUTION</u>
Rhode Island	NA	--	--	--	--
South Carolina	NA	--	--	--	--
South Dakota	X	X	--	X	X
Tennessee	NA	--	--	--	--
Texas	--	X	--	X	X
Utah	NA	--	--	--	--
Vermont	--	X	--	X	X
Virginia	--	--	--	X	--
Washington	--	--	--	X	X
West Virginia	NA	--	--	--	--
Wisconsin	X	--	--	--	--
Wyoming	X	X	X	X	--

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NA - Not Available

# GENERAL RESPONSIBILITIES OF STATE CONSUMER AGENCIES

<u>STATE</u>	<u>PROSECUTES CASES</u>	<u>SUBMITS TO OTHER AGENCY FOR PROSECUTION</u>	<u>REVOKES LICENSES, CHARTERS, FRANCHISES</u>	<u>PROMULGATES RULES &amp; REGULATIONS</u>	
				<u>PROCEDURAL</u>	<u>INTERPRETING PROVISIONS OF ACT</u>
Alabama	--	X	--	--	--
Alaska	X	--	--	X	X
Arizona	X	X	--	--	X
Arkansas	--	X	X	--	--
California	--	X	X	X	X
Colorado	X	--	--	--	--
Connecticut	--	X	X	X	X
Delaware	--	X	--	X	--
Florida	NA	--	--	--	--
Georgia	--	X	--	--	--
Hawaii	--	X	--	X	--
Idaho	X	--	X	X	X
Illinois	X	X	X	X	X
Indiana	NA	--	--	--	--
Iowa	NA	--	--	--	--
Kansas	X	X	--	X	X
Kentucky	X	X	--	--	--
Louisiana	--	X	--	X	X
Maine	--	--	--	--	X
Maryland	NA	--	--	--	--
Massachusetts	--	X	--	--	--
Michigan	--	X	--	--	--
Minnesota	X	--	--	--	--
Mississippi	NA	--	--	--	--
Missouri	X	X	--	--	--
Montana	X	X	X	--	X
Nebraska	X	X	--	--	--
Nevada	X	X	--	--	--
New Hampshire	NA	--	--	--	--
New Jersey	X	X	X	X	X
New Mexico	NA	--	--	--	--
New York	--	X	--	--	--
North Carolina	NA	--	--	--	--
North Dakota	--	--	--	X	X
Ohio	X	--	--	--	--
Oklahoma	NA	--	--	--	--
Oregon	X	--	--	--	X

<u>STATE</u>	<u>PROSECUTES CASES</u>	<u>SUBMITS TO OTHER AGENCY FOR PROSECUTION</u>	<u>REVOKES LICENSES, CHARTERS, FRANCHISES</u>	<u>PROMULGATES RULES &amp; REGULATIONS</u>	
				<u>PROCEDURAL</u>	<u>INTERPRETING PROVISIONS OF ACT</u>
Pennsylvania	NA	--	--	--	--
Rhode Island	NA	--	--	--	--
South Carolina	NA	--	--	--	--
South Dakota	X	--	--	--	--
Tennessee	--	X	--	--	--
Texas	X	--	X	--	--
Utah	NA	--	--	--	--
Vermont	X	--	--	X	X
Virginia	--	X	--	--	--
Washington	X	X	--	--	--
West Virginia	NA	--	--	--	--
Wisconsin	NA	--	--	--	--
Wyoming	NA	--	--	--	--

---

NA - Not Available

# GENERAL RESPONSIBILITIES OF STATE CONSUMER AGENCIES

STATE	REPRESENTS GENERAL CONSUMER INTERESTS BEFORE			HAS CONSUMER ED. RESPONSIBILITIES TO		HAS CONSUMER ADVISORY COMM.	LAW ESTABLISH- ING OFFICE PROVIDED FOR ADVISORY COMM.
	ADMIN. AGEN.	REGULATORY COMM.	LEGISLATURE	DEVELOP & CONDUCT PROG.	ASSIST. OTHERS IN PROG.		
Alabama	--	--	X	X	X	X	--
Alaska	X	X	X	X	--	X	--
Arizona	NA	--	--	--	--	--	--
Arkansas	--	--	X	X	X	X	X
California	X	X	X	X	X	X	X
Colorado	--	--	X	X	X	--	--
Connecticut	--	--	--	X	--	--	--
Delaware	--	X	X	X	X	X	X
Florida	NA	--	--	--	--	--	--
Georgia	--	X	X	X	X	--	--
Hawaii	--	--	X	X	X	X	X
Idaho	--	X	--	X	X	--	--
Illinois	--	--	X	X	X	X	--
Indiana	NA	--	--	--	--	--	--
Iowa	NA	--	--	--	--	--	--
Kansas	X	X	X	--	X	--	--
Kentucky	X	X	X	X	X	X	X
Louisiana	X	X	X	X	X	X	X
Maine	NA	--	--	--	--	--	--
Maryland	NA	--	--	--	--	--	--
Massachusetts	--	--	X	X	X	--	--
Michigan	--	X	X	X	X	--	--
Minnesota	X	X	X	X	X	--	--
Mississippi	--	--	--	X	--	--	--
Missouri	--	--	X	--	--	--	--
Montana	X	X	X	X	X	--	--
Nebraska	--	--	X	X	X	--	--
Nevada	--	--	X	--	--	--	--
New Hampshire	NA	--	--	--	--	--	--
New Jersey	--	--	X	X	X	X	X
New Mexico	NA	--	--	--	--	--	--
New York	X	X	X	X	X	X	--
North Carolina	NA	--	--	--	--	--	--
North Dakota	--	--	X	--	--	--	--

STATE	REPRESENTS GENERAL CONSUMER INTERESTS BEFORE			HAS CONSUMER ED. RESPONSIBILITIES TO		HAS CONSUMER ADVISORY COMM.	LAW ESTABLISH- ING OFFICE PROVIDED FOR ADVISORY COMM.
	ADMIN.	REGULATORY	LEGISLATURE	DEVELOP & CONDUCT	ASSIST. OTHERS		
	AGEN.	COMM.		PROG.	IN PROG.		
Ohio	--	--	--	--	X	--	--
Oklahoma	NA	--	--	--	--	--	--
Oregon	--	--	--	--	--	X	X
Pennsylvania	X	--	X	X	X	--	X
Rhode Island	NA	--	--	--	--	--	--
South Carolina	NA	--	--	--	--	--	--
South Dakota	X	X	X	--	X	--	--
Tennessee	--	--	X	X	X	--	--
Texas	--	--	X	--	--	--	--
Utah	NA	--	--	--	--	--	--
Vermont	--	--	X	--	--	--	--
Virginia	X	X	X	X	X	--	--
Washington	X	X	X	X	X	--	--
West Virginia	NA	--	--	--	--	--	--
Wisconsin	X	X	X	--	X	X	X
Wyoming	--	--	X	--	X	--	--

NA - Not Available



## CONSUMER PROTECTION AMONG THE STATES

is the only state which may levy fines but is not authorized to seek restitution.

### **Educational and Information Programs**

Throughout the nation, the need for educating the public has emerged as a principal concern. Court action, complaint processing, and legislative enactments are important elements in this area, but they must be complemented by an effective educational program aimed at informing the public about common kinds of deceptive practices and current sales schemes.

*Table VII* briefly describes the educational activities of the state agencies. In addition, *Appendices B to J* display a few of the educational brochures distributed by these agencies.

The Hawaii Office does employ an educational specialist who is responsible for disseminating warnings and generally developing educational programs. Field research reveals that educational efforts have not been completely successful as yet, and greater action in this area should be undertaken by the Office. The Hawaii educational officer described the Office programs as follows:

#### Production and Dispersal of Consumer Education Materials:

Includes creating visual materials, teaching guides, news articles and press releases, radio and television programs and public service "spots" preparing multi-lingual publications for immigrants.

#### Information Activities:

Includes presenting seminars and workshops; speaking to community groups, schools, etc.; training of teachers and community aides, counseling individual citizens and students.

#### Educational Administrative Activities:

Includes answering requests for information from other states; representing OCP on inter-agency or departmental committees; filling out reports, questionnaires as to our program; liaison with business community; legislative research and input (as with Act 167, 1974).

TABLE VII

## EDUCATIONAL ACTIVITIES OF STATE CONSUMER AGENCIES

<u>STATE</u>	<u>DESCRIPTION OF EDUCATIONAL ACTIVITIES</u>
Alabama	Publishes Newsletter monthly; speakers available for programs on consumer affairs; weekly news column "Of Consuming Interest" sent to newspapers, television and radio; holds workshops with low-income groups.
Alaska	Publishes consumer protection newsletter; distributes consumer protection kit to key information personnel in State--contains pamphlets on federal and state consumer protection laws and basic consumer skills; weekly newspaper column "Alaskan Consumer".
Arizona	Distributes pamphlets discussing consumer problems; television spots informing the public of the role of Consumer Protection Division; speakers are available to speak to any interested organization or school.
Arkansas	Weekly news column; produces 30 min. monthly show on Educational TV; distributes press release regarding cases filed and fraudulent activities being conducted in the State; furnishes consumer information to Home Economics, and Consumer Education teachers and the general public.
California	NA
Colorado	Consumer checklist, brochures, 30 second PSAs.
Connecticut	NA
Delaware	Speakers available to speak to interested groups; office gives out copies of consumer related laws and a tenant-landlord law summary.
Florida	NA
Georgia	Weekly newspaper columns; press releases, radio-TV spots and shows; distributes brochures, fliers and manuals; creates film strips and other educational devices.
Hawaii	Production and dispersal of consumer education materials; research and program development--attending conferences and workshops, being informed of consumer protection publications; speaking to interested groups.
Idaho	Publishes a monthly newsletter covering state and federal actions in the area of consumer protection and offers consumers tips in a wide variety of areas.
Illinois	Speakers available to speak to interested groups and organizations.
Indiana	Distributes brochures and holds consumer education conferences.
Iowa	NA
Kansas	Attorneys and investigators speak before civic, educational, religious, and legislative groups; publishes pamphlets and newsletters.
Kentucky	Distributes informational brochures; produces consumer protection films; answers consumer questions by "hotline" (phone), or letter.
Louisiana	Distributes news releases and weekly columns of consumer interest to news media.
Maine	None
Maryland	News release; personal appearances on TV and radio.
Massachusetts	Speakers available to speak on topics of general consumer interest; maintains close contact with members of various media to provide for rapid dissemination of information and warnings to consumers in State.
Michigan	Publishes educational bulletins and newsletters; staff speaks to schools, clubs and organizations; prepares exhibits for conferences and conventions.
Minnesota	Consumer hearings are held throughout the State.
Mississippi	Alerts consumers through various media; staff speaks to interested groups; occasional appearances on television and radio programs.
Missouri	Issues press releases in connection with litigation filed.
Montana	NA
Nebraska	NA
Nevada	Has instituted a comprehensive anti-shoplifting program.

<u>STATE</u>	<u>DESCRIPTION OF EDUCATIONAL ACTIVITIES</u>
New Hampshire	NA
New Jersey	Irregular radio and TV interview segments; speaking engagements and pamphlet distribution.
New Mexico	NA
New York	Develops consumer resources (slides, packets, etc.); public presentations by staff members; news releases; monthly newsletter.
North Carolina	NA
North Dakota	Staff gives speeches to interested groups; distributes educational materials; issues press releases.
Ohio	News column for daily and weekly newspapers.
Oklahoma	NA
Oregon	Weekly TV spots (5 min.); radio spot announcements of common consumer fraud; speakers available to speak to any interested group or organization.
Pennsylvania	Distributes pamphlets, newsletters, hand outs; mass media spot announcements.
Rhode Island	NA
South Carolina	NA
South Dakota	Education and information program consists primarily of speeches, news releases, and pamphlets.
Tennessee	Monthly column in consumer newsletter; television appearances; one minute spots to (45) radio stations across the State.
Texas	Weekly newspaper column; distributes pamphlets on consumer protection; radio spot announcements; TV commentary--when requested; speeches to educational and interested groups.
Utah	NA
Vermont	Makes TV and radio appearances; public service announcements; gives speeches to interested groups.
Virginia	NA
Washington	Sponsors several conferences for teachers each year; provides tape presentations for classroom use; uses media as much as possible to inform consumers; developed a film library for public educational use.
West Virginia	NA
Wisconsin	NA
Wyoming	Arranges meetings with various speakers on consumer affairs.

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NA - Not Available

## SANCTIFY THE SCALES

### Research and Program Development:

Includes study of similar programs, materials and legislation implemented by other agencies and states; reading up-to-date national consumer protection publications; previewing new films and teaching materials; searching for new methods of effectively reaching more of our citizens (particularly immigrants and low-income); attend conferences, seminars and workshops, which will aid in all of the above; propose consumer remedies based upon this research and direct contact with local consumers.

Unfortunately, though the responsibilities of the specialist are admirable, the educational objectives are not being met among a wide segment of the population. Not enough consumers have been made aware of their rights and privileges in today's market.

In every state, administrators have come to realize that an educated public is a strong deterrent against deceptive sales practices and consumer frauds. With education, the saying "caveat venditor" is gaining in popularity and plausibility.

### **Summary**

A survey of the fifty states was conducted in the fall of 1974 with forty states actually responding to the mail questionnaire. The survey revealed a nationwide growth in state consumer protection programs evidenced by the increase in budget appropriations.

In most states, consumer protection is handled by the Attorney General's Office; but placement really depends on the local situation. Branch offices appeared in several states, but others lacked this because of budget and staff deficiencies. Most consumer agencies hired a staff of attorneys, investigators, clericals, student helpers, and a few specialists. Maximum salary levels for attorneys peaked at \$36,000 in New Jersey and Alaska as compared to \$25,000 maximum in Hawaii.

Consumer complaints were a major responsibility of consumer agencies with between 300 (in Nebraska) and 82,000 (in California) being lodged. Hawaii reported 59,000 complaints, many of which were telephone complaints about

## CONSUMER PROTECTION AMONG THE STATES

service station operations during the gasoline crisis. Complaint handling procedures are described in detail. Hawaii is the only State which may levy fines but is not authorized to seek restitution.

Throughout the nation, the need for educating the public has emerged as a principal concern. An effective educational program aimed at informing the public about common kinds of deceptive practices and current sales schemes. Field research reveals that educational efforts in Hawaii have not been completely successful as yet, and greater action in this area should be undertaken by the Office of Consumer Protection.

## CHAPTER THREE

*"To you the earth yields her fruit, and you shall  
not want if you but know how to fill your hands."*

*Kahlil Gibran*

STATE AGENCIES WITH CONSUMER FUNCTIONS

### III

#### Introduction

Consumer protection, although not always referred to in those terms, has long been a concern of State governments. Hawaii statutes have recognized these concerns with the requirement that State agencies "prior to the adoption of any rule... afford all interested persons [an] opportunity to submit data, views, or arguments, orally or in writing. The agency shall fully consider all written and oral submissions respecting the proposed rule." (*Administrative Procedures Act, Hawaii Revised Statutes 91-3*)

#### Decision-making Process

On the whole, both formal and informal government decision-making is based on the examination of countervailing facts and opinions--a weighing or balancing of views. The Administrative Procedures Act offers direction to State agencies, and is the vehicle through which most legislation is implemented and administered. It helps them to base their decisions on the record developed in agency adjudicative and rule-making procedures. For informal decisions, governmental agencies tend to rely both on information fed them by interested outside parties and data generated from within the agency.

While the philosophy of providing a forum for all interested parties is an admirable one, practical experience reveals that quite often, not all parties are equally or adequately represented. When an agency takes action on a particular issue, those parties with a direct and substantial economic interest are usually the first to react. The economic stakes are reason enough for these parties to keep themselves aware of what is happening in those governmental agencies which may have an effect on their future plans and interests. Consequently, they do not hesitate to hire experts in the field, legal counsel, and other costly professionals to present their ideas and views. On the other hand, the consumer is often left unrepresented, and typically not considered, except to the extent that agency staff may present facts contrary to those of the well-counseled participants.

## SANCTIFY THE SCALES

### Balance Representation

Without balanced representation, governmental policy and decisions may tend, over a period of time, to reflect the needs and views of those who can afford access to the processes of the agencies. Too frequently, it is the organized, aggregate economic interests who can best and most efficiently represent their views before governmental policy is declared and decisions made. Effective direct representation of consumers is essential if varied views are to be heard and fair decisions made. It is recommended, therefore, that the Office of Consumer Protection take an active role in representing consumer interests in the decision-making process.

This does not mean that State governmental agencies represent no consumer interests whatsoever. On the contrary, these agencies are essentially service organizations supposedly designed to protect and assist citizens of the State in various and numerous ways. In formulating their decisions and policies, however, outside interests and views are necessarily sought. In a broad sense, every agency offers a type of consumer service. In a narrower sense, some agencies work more directly toward consumer protection and are more involved in the resolving of consumer complaints.

### Consumer Functions of State Agencies

A survey of State agencies was conducted in order to pinpoint the consumer protection and consumer service functions of each department in State government. (A copy of the survey is included in *Appendix N*.) The questionnaires were mailed to each department in June, with follow-up phone calls and letters to nonrespondents two months later.

Most agencies reported that while they did provide some public service, and therefore consumer function, they did not necessarily view this as a consumer protection function. The results of the survey are summarized in *Table VIII*. Generally, the consumer services they reported included:

1. Handling sex discrimination complaints.
2. Various educational programs and workshops to inform the public about different activities.
3. Investigating and prosecuting restraint of trade, securities fraud, and monopolistic practice cases.



TABLE VIII

## STATE AGENCY RESPONSES TO QUESTIONNAIRE ON CONSUMER SERVICES

<u>AGENCY</u>	<u>TYPES OF CONSUMER SERVICES</u>	<u>QUANTITY (Yr.)</u>	<u>WAY CONSUMERS FIND OUT ABT. CONTACTING AGENCY</u>	<u>EDUCATIONAL MATERIALS</u>	<u>WORKING RELTN. WITH CP</u>	<u>MOST EFFECTIVE WAY TO PROTECT CONSUMER</u>
DAGS	1-General government wide support 2-Archives - research material/ info 3-Land Survey - info on boundaries land history, etc.	2-7200 3-6500	Referred by another agency (Office of Info and Youth Affairs, State switchbd. operator	No	Limited contact	1-Education 2-Strong laws
<i>BUDGET/FINANCE</i>						
a. Culture/Arts	Information, exhibitions, general support of arts activities	3000	Media; referral by organizations, agen.	Yes	None	1-Research 2-Personal contact 3-Service
b. Status of Women	Handling sex discrimination com- plaints	12	Referred by community groups, govern. agen.	No	None	Educate consumer of legal rights
c. Comm. on Aging	Grants-in-aid; information; work- shops for elderly	-----	Referred by local area elderly organizations	Yes	Good/effective	Information dis- semination
d. Employees' hospital/ med care division	Government employees' and depen- dents medical care & ins.	50,000+	Health fund info book- lets; referred by agen.	Yes	None	Media
ATTORNEY GENL.	1-Restraint of trade 2-Monopolistic practices 3-Securities fraud	-----	Media; referred by other agencies	No	Good/effective	Education
HAWAIIAN HOME LANDS	Homestead, loan applications	-----	Department manual; refer- red by other agen.	Yes	None	Good as is
EDUCATION	Consumer education for public schools	-----	Dept. does not handle complaints as such	Yes	Good/effective	Education through schools, media, organizational mtg.
<i>DEPT. OF HEALTH</i>						
a. General	General public health services - both physical & mental	Thousands	Referred by agen.; media; Yes physicians, friends, etc.	Yes	Good/effective	Education, enforce- ment of laws
b. Children Health Serv.	Childrens medical care, health tests, family planning	-----	Referred by schools, pub. Yes health nurses, priv. physicians, etc.	Yes	Good/effective	Better serv. incl. more efficient referrals of cons. complaints

<u>AGENCY</u>	<u>TYPES OF CONSUMER SERVICES</u>	<u>QUANTITY (Yr.)</u>	<u>WAY CONSUMERS FIND OUT ABT. CONTACTING AGENCY</u>	<u>EDUCATIONAL MATERIALS</u>	<u>WORKING RELTN. WITH CP</u>	<u>MOST EFFECTIVE WAY TO PROTECT CONSUMER</u>
<i>REG. AGENCIES</i>	Invest. complaints, inquiries concerning banks, businesses (corporations - licensing, etc.) cable TV, fire regs, ins. com., public utilities	Varies by division; total app. 28,000	Referred by state switchbd. operator, other govt. agen., media, businesses	No - just rules/regs. for license	Good/effective	Information, ed. through agen., media
<i>PLANNING/ECON. DEVELOPMENT</i>	1-Handling of visitor complaints through HVB 2-Product promotion (recipies, demonstrations, etc.)	-----	-----	-----	-----	-----
<i>TRANSPORTATION</i>						
a. Harbors div.	Permits, registration, etc. for construction, mooring, ocean events	Approx. 400	Signs, on harbor div. lands; referred by other agen.	Yes	Good/effective	Education
b. Airports div.	Info on flights, ground trans., accommodations	-----	Airport personnel	Yes	None	Information dissemination
<i>UNIVERSITY OF HAWAII</i>	Programs providing info, consultation with financial, consumer protection problems	-----	Media, referred by other agencies	Yes	Good/effective	1-Consumer referral agency to monitor, process complaints 2-More effective laws 3-More service info
<i>LABOR &amp; INDUSTRIAL RELATIONS</i>	Handles complaints, info re economic conditions, labor laws, employment	-----	Union contacts, staff public appearances before groups	Yes	OK/not always effective	1-Enforcement 2-PR for OCP 3-System to coordinate complaints, actions among dept.
<i>LAND &amp; NATURAL RESOURCES</i>	Handle sale of State lands, leases fishing, hunting, camping, land licenses	21,400	Public notices, referred by attorneys, other govt. agen.	Yes	Minimal/? - irrelevant	1-Reinforce OCP and Publicize coorective actions
<i>TAXATION</i>	Handle complaints, ques. re taxation - genl. excise, income, etc.	50,662+	Dept. personnel, other dept., media (ads, press releases)	Yes	Good/generally effective	Education, prompt service
<i>AGRICULTURE</i>	Inspect and enforce agricultural regulations	-----	Other agencies, media, business organizations	Yes	Good/effective	Prompt action on consumer complaints

## STATE AGENCIES WITH CONSUMER FUNCTIONS

4. Processing applications.
5. Answering informational questions and referring individuals to various agencies.
6. Overseeing public health services.
7. Investigating complaints against various businesses.
8. Investigating complaints registered by visitors.
9. Issuing licenses, permits, etc.

Those departments with significant consumer-oriented functions will be discussed further on in this chapter.

### Complaints

Of the reporting agencies, estimates on the number of consumer services provided and complaints annually handled ranged from one to several thousand. These included answering simple telephone requests for information, investigating complaints, and prosecuting legal cases. Obviously, the number of complaints handled would depend heavily upon the type of problem.

Those complaints which an agency usually found itself incapable of resolving were frequently determined to be outside its jurisdiction. In these cases, the agency would either refer the complainant to the proper governmental agency for handling that particular kind of case or it would attempt to resolve the matter for the consumer without referral to another agency. As an alternative, if no other recourse existed, it sometimes advised the consumer to seek private legal counsel, particularly in civil matters.

When the agencies were asked how consumers knew about contacting them with a particular complaint, they reported that consumers discovered them through a number of sources. They learned about the agency services from:

1. Telephone directory listings;
2. Inquiries to the State government telephone operator;
3. Referrals by other governmental agencies;

## SANCTIFY THE SCALES

4. Referrals by legislators;
5. Referrals by private agencies, such as the Better Business Bureau and the Chamber of Commerce;
6. Referrals by licensed individuals and companies;
7. Referrals by consumer advocates;
8. Referrals by friends;
9. Referrals by community associations;
10. Referrals by schools;
11. Referrals by physicians;
12. Referrals by private professional associations;
13. Referrals by counselors;
14. Referrals by other complainants;
15. Exposure in the media;
16. "Helping hand" columnists in newspapers;
17. Labor unions; and
18. Various consumer publications.

Such referrals and general media exposure were determined to be effective methods for transmitting information by the reporting agencies. In addition, educational materials relating to various areas of concern were distributed to the public. These included explanations and actual copies of agency rules and regulations, information on procedures and processes, informational brochures on new laws and their application, and educational material relating to consumer problems. Although not all State governmental agencies provide educational brochures for consumers, the majority do have some form for distribution. A closer look at those departments with significant consumer protection roles may prove enlightening.

### Department of Agriculture

The seven member Board of Agriculture governs the Department of Agriculture with one member appointed by the

## STATE AGENCIES WITH CONSUMER FUNCTIONS

Governor to serve as both Chairman of the Board and departmental executive. Departmental responsibilities include the Constitutional mandate promoting the "conservation, development, and utilization of agricultural resources".

The Department has a wide range of consumer-oriented responsibilities including authority over weights and measures, and regulating agricultural, horticultural, aquacultural, and livestock commodities. Its divisions provide services which protect consumers' foods; assure honest weights, measures, and labeling; and insure integrity in the distribution and sale of various consumer goods. The divisions and some of their consumer services are listed below:

### Animal Industry Division

- Provides statewide livestock brand registration;
- Provides administrative services to the cooperative federal-state meat grading program.

### Farm Loan Division

- Initiates various educational, research, loan guaranty, and participation programs to facilitate the granting of loans.

### Milk Control Division

- Regulates the production, sale, processing, and distribution of milk;
- Insures an adequate supply of milk for consumers.

### Marketing and Consumer Services Division

- Governs the grading, labeling, and marketing of products;
- Disseminates statistical data on agricultural products.

### Plant Industry Division

- Protects agriculture and natural resources through various plant and animal pest control programs;
- Inspects and quarantines various plants and animals brought to Hawaii.

### Weights and Measures Division

- Regulates weights and measures, packaging and labeling, petroleum products, and odometers;
- Examines all commercial weighing and measuring devices annually;

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### Weights and Measures Division (continued)

- Monitors consumer commodities and pre-packaged items to insure accuracy in packaging and labeling;
- Monitors gasoline dispensers and petroleum products;
- Verifies odometer accuracy of passenger cars sold in the State.

### Hawaii Development Irradiator (HDI)

- Provides gamma radiation treatment for certain agricultural commodities.

### Advisory Committee on Agricultural Products

- Consults on matters pertaining to agricultural development of crops and products.

The Department, which reports an excellent working relationship with the Office of Consumer Protection, suggests that prompt action and follow-up of consumer complaints is the most effective way to protect the consumer.

## Department of the Attorney General

This Department provides legal services for the State and is headed by an Attorney General appointed by the Governor to serve as a member of the Cabinet and as the State's chief legal officer.

The responsibilities of the Department, which are carried out by its several subdivisions, include the enforcement of certain consumer protection laws. These divisions are as follows:

### Crime Statistics and Identification Division

- Selects and enforces systems of identification for prisoners;
- Records statistics relating to crime.

### Sheriff's Office

- Executes orders of the court;
- Serves process.

### Investigation Office

- Conducts special investigations.

### Organized Crime Unit

- Tries to attack and keep organized crime in the State under control.

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The statutory powers of the Attorney General include acting as legal advisor to officers in the executive branch of government and litigating actions in which the State is a party or otherwise interested. The types of consumer-oriented cases that this Department handles relate to restraint of trade cases, monopolistic practices, and securities fraud cases.

Although the Attorney General neither publishes nor distributes any educational material relating to consumer problems, people do come to them for help. In some cases, they are referred to this Office by the Office of Consumer Protection; in others, they simply hear about the Attorney General in articles carried by the media concerning past cases.

It is interesting to note that while the Attorney General's Office itself produces little or no educational materials for public distribution, it does view education as the most effective way of protecting the consumer.

### **Department of Budget and Finance**

The Department of Budget and Finance has custody of all State funds. It is headed by a director, appointed by the Governor, who serves as a Cabinet member and coordinates the activities of each division. The divisions include the following:

#### **Budget Planning and Management Division**

- Provides management assistance for State agencies;
- Develops program evaluation standards;
- Reviews expenditure plans and budget requests;
- Conducts economic research;
- Recommends appropriation ceilings.

#### **Finance Division**

- Invests, deposits, and disperses the monies of the State;
- Manages the public debt;
- Markets State bonds.

#### **Electronic Data Processing Division (EDPD)**

- Develops and maintains the State data processing system.

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### Employees' Retirement System

- Reviews and certifies all retirement claims against the system;
- Advises new retirees on how to adjust to a new mode of living.

### Employees' Hospital and Medical Care Division

- Contracts for employee health benefits plans;
- Answers questions on enrollment and benefits.

### Commission on Aging

- Determines the adequacy and availability of services and facilities for the elderly;
- Provides technical assistance in promoting and improving services, activities, and projects for the aged;
- Provides grants-in-aid for projects to serve the elderly;
- Disseminates information and educational materials for this group;
- Conducts workshops, holds conferences, and sponsors meetings for the aged.

### Office of the Federal Programs Coordinator

- Coordinates federal, state, and county plans;
- Provides information on various programs.

### State Commission on the Status of Women

- Handles sex discrimination complaints;
- Helps to correct unlawful employment practices involving discrimination because of sex;
- Tries to create public awareness and understanding of the responsibilities, needs, potentials, and contributions of women;
- Refers people to the proper agency for pursuing their complaints.

### Stadium Authority

- Handles mostly informational questions and complaints on stadium activities.

### State Foundation on Culture and the Arts

- Provides exhibitions, workshops, classes, performances, and, through awards, illumination for a great variety of activities in the performing, visual, ethnic, and environmental arts;
- Responds to inquiries;
- Disseminates information on cultural and artistic activities and events.



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Like other State agencies, people are referred to this Department by both State agencies and county agencies, through media exposure, and by special interest groups, such as organizations for the elderly. Department representatives suggested several ways in which to better serve the consumer. One concerned involving consumers in the development of programs and services. Another suggested community meetings, sponsored by the Office of Consumer Protection, to inform the public about their rights and to encourage the filing of complaints when an investigation warrants it. Numerous information and referral sources were also deemed important.

### Department of Education

The Department of Education, with the guidance of policies established by an elected Board of Education, is headed by a Superintendent appointed by that Board. The Department is responsible for providing public educational services to the people of the State.

Office of Instructional Services. Only this section of the Department has specific consumer-oriented functions. In Home Economics classes, students are somewhat familiarized with marketing procedures and food purchases. The vocational education programs offer practical advice on day-to-day living. Adult education courses provide adult students with basic tools for becoming educated consumers.

In addition, an instructional program on consumerism for all public school students in grades kindergarten through twelve has been developed by the Department. A teacher's guide, including sample lesson plans, suggested activities, and recommended readings, has also been completed and is currently available for use by the teachers. The Office of Consumer Protection worked closely with the Department to implement an effective and very popular consumer education program. As stressed by several other departments, the Department of Education has determined that consumer education through various means--the schools, mass media, community organizations, public meetings, informational brochures, newsletters, and so forth--is the most effective way of protecting the consumer.

### Department of Health

The Department of Health, which is headed by a Director appointed by the Governor, is responsible for the protection

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and improvement of the physical and mental well-being of the people of the State. Of its many divisions which provide some type of consumer service, a few are elaborated upon below:

### Communicable Disease Division

- Implements programs for the control, treatment, and elimination of communicable diseases;
- Advises people on how to cope with disease emergencies;
- Provides veterinary consultative and investigative services.

### Dental Health Division

- Sponsors a dental hygiene program;
- Provides educational information on dental care.

### Environmental Health Division

- Maintains a sanitary and healthy environment with an optimum balance between economic development and environmental quality;
- Processes complaints on pollution violations, restaurant sanitation, etc.;
- Eliminates unsanitary conditions and sources of disease.
- Generally oversees the food and drug problems.

### Medical Health Services Division

- Provides consultative and educational services in nutrition.

The Department of Health functions to care for human health needs. Their public health nurses work in the field to reach as many people as they can. Their health screening clinics provide residents with much needed medical advice and home care methods. They also distribute various kinds of health educational material including publications, films, and so forth.

In addition to consumer education, the Department suggests that adequate enforcement action, including litigation, should also be emphasized. While this may consume a relatively large amount of governmental resources to effectuate a remedy, it is especially necessary to protect against unscrupulous businessmen. A balanced program of public education and strong enforcement actions is recommended by the Department to protect the consumer. Another worthwhile suggestion is one of special training for all governmental

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personnel who are most involved in receiving public inquiries. They would be schooled in who does what in government, thus cutting down on the frequency of frustrating multi-referrals.

### Department of Regulatory Agencies

The Department of Regulatory Agencies is under the direction of an Administrator, appointed by the Governor, and serving to protect the interests of consumers, depositors, and investors throughout the State. The Department establishes the standards and enforces the laws governing the licensing, operation, registration, and supervision of trades, businesses, professions, and financial institutions. Occupational safety hazards are also controlled by the Department.

#### Insurance Division

- Examines applicants for insurance licenses;
- Investigates complaints from the public relating to insurance matters;
- Polices claims practices of insurance companies;
- Supervises all insurance transactions in the State;

#### Bank Examination Division

- Charters and licenses banks and other financial institutions;
- Examines and regulates banks and other financial institutions;
- Directs special investigations;
- Attends to complaints;

#### Business Registration Division

- Regulates corporations, partnerships, and sales of securities;
- Registers trademarks, trade names, prints, and labels;
- Oversees miscellaneous business transactions;
- Investigates reported violations.

#### Public Utilities Division

- Regulates rates, services, and safety of specified privately-owned public utilities (including gas, electricity, etc.);
- Investigates complaints in this area.

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### Cable Television Division

Handles complaints regarding the operation of a cable television system;  
Regulates the issuance and revocation of permits for operation of a cable television system.

### Professional and Vocational Licensing Division

Issues licenses;  
Examines applicants;  
Conducts inspections and special investigations.

The Department also has a wide variety of boards responsible for licensing and investigating complaints in such occupational areas as nursing homes, abstract makers, electricians, plumbers, barbers, boxing, chiropractics, cosmetology, dentistry, engineering, architecture, surveying, massage, medicine, naturopathy, nursing, optometry, osteopathy, pharmacy, private detective and guard services, veterinary, cemetery work, collection agencies, contracting, elevator mechanics, pest control, public broadcasting, and real estate.

The working relationship between the Department and the Office of Consumer Protection is a fairly good one. Consumer matters relating to regulatory matters are referred to the Department by the Consumer Protector and vice versa. In some cases involving regulatory licensees where fraud is charged, the OCP may take action for more effective relief. Consultations, cooperation, and discussions between the two agencies lead to more effective action by both.

It should be noted that most government agencies outside of the Consumer Protector who are charged with regulating industry have great potential for abuse since the licensing system, if not controlled by industry, has heavy industry input. One commentator, in evaluating the similarly structured California licensing scheme, emphasized the "prostituting" effect on the public interest engendered by the industry controlled character of the licensing agencies:<sup>1</sup>

Prostitution of the public interest in the field of individual licensing occurs because the licensing function is transferred to the profession being licensed.

To shed further light on this complaint, it is interesting to note that the licensing board members representing industry outweigh nonindustry members. For example, the Board of

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Electricians and Plumbers has four of its seven members from the plumbing and electrical trades. The Board of Accountants has seven members, five practicing Certified Public Accountants and two practicing Public Accountants. The Board of Barbers has five members each of whom must have practiced barbering in the State for at least five consecutive years prior to appointment. And so it goes with most of the State boards in our regulatory system. Policies which may prove "disastrous" to industry licensees may be eliminated, even though the consumer interest would dictate otherwise.

### Recommendations to Assure Consumer Protection

Those State agencies with direct consumer contact made several suggestions as to the most effective ways of protecting the consumer. One of the most important was that of informing the public and disseminating information to them regarding the functions of various governmental agencies. Knowing where to go for what is essential for effecting satisfactory action. This is one area that can be aided by our schools with familiarization of governmental services beginning in the elementary school and continuing through high school. In addition, public service announcements and other media exposure would be helpful.

A second suggestion emphasized that the consumers should be educated as to the dangers of doing business with unlicensed businessmen. Distribution of brochures on this subject, school discussions, and media warnings would again be helpful. Careful consideration should be given by consumers before engaging these businessmen. They should weigh the so-called cost "savings" against the possible inept and unsatisfactory workmanship of these unlicensed workers.

A stronger and more widely recognized information and referral service to which consumer questions and complaints could be directed was also suggested. It was recommended that this agency not only direct consumers to the proper agency but also monitor the departmental investigation of the complaint for direct response to the consumer. Unless this monitoring and referral were made an Office of Consumer Protection function, however, too much duplication and overlapping of services would be involved. Therefore, only a stronger and more publicized information and referral service would be feasible at this point in time.

Strict enforcement of rules and regulations by all governmental agencies must be encouraged. Admittedly, some

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departments lack the personnel to adequately enforce their own rules and regulations. However, if the consumer is to be accepted as worthy of governmental consideration and protection, then steps must be taken to assure that the adopted regulations are enforced. Concern, about how in our relatively small community a restaurant will survive or a supermarket withstand the shock of bad publicity due to regulation violations, must now be tempered with equal concern for the unwitting consumer served by these facilities and paying for their use. Governmental agencies must develop new outlooks, change traditional attitudes, and realize that they are charged with serving the needs of the consumer as well as any private enterprise.

Where regulatory licensing agencies are presently in existence, they should be encouraged to receive and informally resolve consumer complaints against regulated merchants.

Research indicates that these agencies do have the capacity to assist consumers to a satisfactory degree in settling their disputes with merchants. In a test complaint, followed through the Securities Division of the Department of Regulatory Agencies, the complaint was courteously received by staff, who in turn contacted the financial institution concerned and settled the complaint to the consumer's satisfaction within fifteen minutes. The ease and informality with which this complaint was handled demonstrates the capabilities of existing agencies. Unfortunately, few consumers yet realize this potential, thus these services may not be used to the fullest extent possible. It is evident that the successes enjoyed by these agencies were accomplished without resort to any formal adjudicatory proceeding. Therefore, the expenses of formal adjudication are avoided. These agencies should be further encouraged to receive complaints, investigate charges, and informally mediate disputes.

Another possibility to be considered is that regulated industry representatives should serve in advisory capacities on regulatory boards rather than as board members, and public participation as members should be guaranteed. The possibility of abuse of the self-regulatory nature of many boards is obvious. The primary gains to be realized from industry participation in the process--greater expertise on the part of the agency, more willingness to respond to informal pressures on the part of the merchants--can, to a great extent be met by industry representatives serving in an advisory capacity. Assuring that consumer views are heard, through defining "public" members on regulatory boards, is essential.

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### Summary

Consumer protection has long been a concern of State governments. Too often, however, wealthy business interests have been able to influence agency decisions because they had the resources and inclination to do so. Without balanced representation, governmental policy and decisions may tend, over a period of time, to reflect the needs and views of those who can afford access to the agency processes. Effective, direct representation of consumers by the Office of Consumer Protection is now needed.

A survey of State agencies was conducted in order to pinpoint the consumer protection and consumer service functions of each department in State government. Many reported receiving complaints and providing some degree of consumer services.

Of the reporting agencies, estimates on the number of consumer services provided and complaints annually handled ranged from one to several thousand. These included answering simple telephone requests for information, investigating complaints, and prosecuting legal cases. Referrals were usually made if complaints were determined to be outside of an agency's jurisdiction. Those departments with significant consumer protection roles were described in detail and included the:

- Department of Agriculture
- Department of Health
- Department of Education
- Department of Budget and Finance
- Attorney General's Office
- Department of Regulatory Agencies

## CHAPTER FOUR

*"Invoke then the master spirit of the earth, to  
come into your midst and sanctify the scales  
and the reckoning that weighs value against value."*

*Kahlil Gibran*

COUNTY EFFORTS TOWARD CONSUMER PROTECTION



## IV

### Introduction

The concept of consumer protection or intervention on behalf of "consumer interests" is a relatively new and a very important one. It is gaining recognition and acceptance both on the national scene and in the State. Traditionally, government's attitude toward the consumer in the marketplace could be characterized by the doctrine of caveat emptor, "let the buyer beware". This philosophy was based on the assumption that consumers could make reasonable decisions about purchases with full information in a competitive market. Today, however, consumers are bombarded with slick media advertisements, attractively colored boxes, brand names, complex new formulas (such as the "new and improved formula B<sub>27</sub> with aluminum chloral hydrate added"), and confronted with complex information which is difficult to decipher. As Mrs. Love Dennis Starkey testified at the 1960 Congressional hearings on color additives, "the shopper, really informed and looking for a plain food with nothing added or taken away, is like Diogenes with a lantern, unable to find an honest man."

The public and governmental policy makers, recognizing the disadvantages that consumers faced in the marketplace, began efforts toward equalizing their role through education, dissemination of information, governmental regulation, and in many states and local governmental agencies, consumer protection offices. To date, however, there has been limited action in this area on the county level. The county governments are primarily responsible for law enforcement, community facilities that could be used for adult education and civic meetings, and authority to implement the will of a community to extend a program beyond the standard set by other levels of government. Their role in consumer protection could conceivably be a significant one.

### Local County Offices

For the personnel of a State office situated in Honolulu to try to process all complaints, initially investigate all questionable practices, mediate all disputes, and prosecute all actions to enforce the law is somewhat impracticable. Local county offices could be authorized, trained, and encouraged to perform these consumer-oriented functions. Especially in this island-state, consumer protection requires

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the cooperation of officials located in close proximity, or at least, on the same island as consumers. In this way, consumers will familiarize themselves with an official with whom they have established rapport and have ready access to hear and mediate their complaints, advise them about courses of action, and perhaps even advocate their cause.

The counties provide a good potential source of consumer protection which is not yet fully developed. Complaints normally come from individuals. These individually lodged complaints are the primary source through which an enforcement agency discovers potential violations, and a person is more likely to complain to an agency which is located "right down the street" or at most a "phone call away". Long distance phone calls and letters are often barriers which many consumers prefer to avoid.

### State Branch Offices

The State Office of Consumer Protection recently tried to alleviate this problem somewhat by opening branch offices on Hawaii, Maui, and Kauai, but the limited resources of the Office will necessarily restrict the ability of a State agency to fully staff these branch offices. To date, the only personnel assigned to each branch has been an investigator. The counties, on the other hand, might be able to assign a small staff to deal with consumer protection in an office which is readily accessible to their citizens and without too serious a drain on their resources. This would, in effect, help to establish a comprehensive statewide network for the enforcement of consumer protection legislation that would be impossible through State control and funding alone. On Oahu, they might even consider a consumer section in the satellite city halls.

County involvement is particularly important if it is agreed that mediation, the settlement of individual disputes, and restitution are an important function of a consumer protection agency. It is clear that mediation and the informal securing of restitution have been the chief activities of the State Office of Consumer Protection. If this informal mediation and settlement is to be a significant part of governmental activity, it can be contributed to by county agencies and personnel as well.

A series of mail questionnaires were sent and personal interviews conducted with various county personnel to determine the extent of consumer protection activities and needs in each county. Included in the survey were legal aid

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offices, county prosecuting attorneys, county consumer councils, representatives, and small claims judges.

### County Prosecutors

On the whole, field research indicated that the county agencies were less active in the area of consumer protection than was the State Office. One reason for this has been the somewhat inadequate statutes with which the county attorneys have had to work. Traditionally, the major cases brought by the counties have been criminally oriented. In interviews with those who work with these laws, the comment was made that the present statutes dealing with consumer protection are weak because most have no strong criminal penalties. The statute often relied upon by the State Office for its activities has been Section 480-2, Hawaii Revised Statutes, reading as follows:

Section 480-2 Unfair competition, practices, declared unlawful. Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

In this case, no criminal penalty is provided.

Prosecutors explained that while there are strong penalties for shoplifting and similar crimes on the one side, there are few criminal penalties for the retailer who bilks customers. Most such cases are currently mediated by the Office of Consumer Protection and may result in some kind of restitution at best. Even the State Department of Regulatory Agencies, which is empowered to grant and revoke licenses, very seldom uses the power of revocation or even suspends a license, since they view it to be drastic and unusually harsh step. This leaves the counties relatively powerless and necessarily relying on personal contact and persuasion to achieve public consumer satisfaction.

While several studies have made the claim that prosecutions are rarely commenced at the county level because county prosecutors need to devote their limited staffs and resources to more serious and violent crimes, Hawaii's county prosecutors generally feel that they have the staff and ability to prosecute but lack the criminal penalties which would act as their incentive. Still, if charges are brought by citizens, the county prosecutors do act upon them in some way.

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When the prosecuting attorneys were asked what percentage of the cases brought before them in a year's time originated from a consumer transaction, each agreed that it was one per cent or less. This small percentage corresponds with recent literature reviews which state that among the reasons for such low rates are the following:

1. It is widely believed that businessmen should not be treated as criminals;
2. Even if a county prosecutor does bring an action under the criminal fraud statutes, he may be subject to criticism and pressure from judges who feel he is wasting the court's time on a relatively minor matter; and
3. Even if a conviction is obtained, the result is usually a short sentence (often suspended) or a relatively light fine.

Society does not particularly care whether or not murders and rapists like being branded as a criminal. But businessmen form a large and generally respected and influential class in our society. Therefore, the effectiveness of the penal conviction in this case leads to pressure against the use of the sanction. The phenomenon is a general one--middle class people resent being "treated like a criminal" no matter what legal rule they may violate. Furthermore, where the violation is not generally regarded as ethically reprehensible, either by the community at large or by the class of businessmen itself, the private appeal to conscience is at its minimum and being convicted may have little more impact than a bad selling season.<sup>1</sup>

Some of the problems might be alleviated by an increased realization of the seriousness of consumer transactions and the possibility of deceptive business practices. Throughout Hawaii's counties, a distressing need for the education of the public regarding consumer protection was apparent. Many of the interviewers judged consumer protection activities in their counties to be successful, simply because very few complaints were brought to them. The fact that many people, particularly neighbor islanders obstructed by cultural barriers toward open complaints, are unaware of their rights as consumers or just unwilling to complain, meant little. Publicity and an energetic campaign to educate the public are sorely needed throughout the counties.

As part of efforts to inform the public about consumer protection, additional powers at both state and county

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levels might be considered. Authority to prosecute at the county level, subpoena powers, investigative powers, power to accept assurances of voluntary compliance, authority to issue cease and desist orders, and even power to revoke licenses should be considered. The mere intervention of a governmental unit armed with enforcement and investigative capability would probably produce an increase in success rates as far as handling consumer complaints. The threat of increased prosecutions by the state and county units would also act as a means of prevention.

The county attorneys further pointed out that the statutes, as they stand, are neither very preventative nor remedial since they provide little deterrent to improper business activities. Criminal fraud prosecutions do not provide for restitution to consumer complaints, and criminal statutes offer no basis of securing widespread relief against similar practices by other operators or even by an individual defendant. It is not surprising, then, that what success the counties have had in their consumer protection activities has largely been through informal action. In summary, it is also apparent that apart from any evidentiary difficulties inherent in any criminal prosecution, one major reason for the lack of enforcement of these statutes is the fact that the violation is but one of many misdemeanors whose enforcement is confided to the police and to prosecuting attorneys whose agencies are diverted to more pressing matters.

### **Complaint of Recipients**

The personnel located in each county who have been most responsible for handling local consumer complaints have generally been the Governor's liaison representatives. These agents have no enforcement powers, and they have limited their services to the investigation of complaints, the conciliation of disputes, and education through speaking engagements at the schools and individual interest groups. Although they have no enforcement powers, citizens were cognizant of their activities and these offices provided a single, well-publicized government agent to which consumer complaints could be funneled. In September, when the State Office permanently located an investigator on each island, the Governor's liaison representatives began transferring the consumer complaints to the newly established Office.

In the City and County of Honolulu and the County of Maui, additional complaints were handled by their local

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offices of information and complaint. These offices operated in a fashion similar to that of the Governor's liaison with emphasis on investigation and conciliation. They still receive complaints although some have undoubtedly been diverted by the new State office branch.

### New York City

One attempt at strengthening local consumer protection activities was made by New York City in 1969. An ordinance, known as the Consumer Protection Law of 1969 was passed with the following provisions:

1. Prohibits any deceptive or unconscionable trade practice in connection with consumer transactions;
2. Authorizes the commissioner of consumer affairs to promulgate substantive rules defining deceptive or unconscionable practices;
3. Authorizes the City to bring judicial action to recover civil penalties, to secure restitution for consumers, and to obtain injunctions against violations.

While the provisions appear strong and attractive, the former Director of Enforcement for the Consumer Affairs Department reported that in 1970, the Department obtained sixty-five out-of-court settlements prohibiting the continuation of various practices and entitling consumers to obtain over \$2 million in refunds. Yet these were obtained without any direct judicial action. The portion of the law that deserves consideration in Hawaii, however, has to do with authorizing the counties to secure restitution for consumers.

### Small Claims Courts

Among the small claims court judges, few reported a large number of consumer originated cases. Yet the small claims court represents a potentially very useful method of redressing consumer grievances. If more people were made aware of its services, perhaps more would utilize it. The current lack of demand is really not indicative of how much the court will be used if it were open during more convenient times. As court procedures improve, as the court becomes better known, and as it is made more convenient, the demand

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for its use will grow proportionately as well. Ideally the small claims court should render decisions quickly, simply, fairly, and inexpensively. It should be readily accessible to the citizens and offer them convenient service and final action on their litigation. At present, the Hawaii Small Claims Courts satisfy most of these qualifications; however, the operations and availability of the small claims procedures are not widely understood by the citizenry and thus not as widely used as it could be.

In the area of consumer complaints, the court could be extremely useful to all classes of citizens. The poor consumer, in particular, is usually less articulate (some unable even to speak the English language), less aware of his rights, and less likely to receive a positive response from a business' internal grievance procedure. The small claims court offers him an alternative. The cost of suing in circuit court is usually greater than the amount recovered.<sup>2</sup> Furthermore, in its Final Report the National Commission on Product Safety stated that it was quite impractical for consumers to press claims for defective products unless the claim is in the \$5,000 to \$10,000 range. If it were less than that amount, it would make more economical sense for the consumer to forget the claim. The small claims court, by prohibiting the use of lawyers (and thereby cutting costs), and by accepting claims for amounts less than \$300 provides the necessary redress for the consumer. However, improvements in the operations of the court are still needed. Among those recommended for Hawaii courts are the following:

1. Keep court procedures informal and easily understandable for the layman. This makes it easier for him to prosecute or defend his case. The courts now provide a pamphlet explaining their procedures (see *Appendix O*). However, in visiting the courts, most did not have copies of the brochure readily accessible to the public. These brochures were usually available from a clerk upon request. The court should be viewed as a tool for reducing citizen alienation from the court system as well as a method for settling grievances. Thus, its procedures must be easily understood by the layman. The instructional pamphlets should also be printed in Japanese, Filipino and other language dialects for use by our non-English speaking residents. The instructional pamphlets should also be widely distributed throughout the community, governmental offices, schools, churches, and interested groups.

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2. The monetary jurisdictional ceilings on small claims courts should be raised. In view of the inflationary state of the economy, and in order to cover such consumer items as big appliances or automobiles within the jurisdiction of the court, the ceiling should be raised to between \$1,000 and \$3,000 with a provision for an automatic escalation of the ceiling as the cost of living rises.
3. Although none of the judges interviewed felt there was a current need for it, night sessions should be considered, particularly if more people become familiar with the court and start to utilize it more often. Many consumers who use the small claims courts now are faced with taking time off from work, the possible loss of pay, and the inconvenience of attending court where and when they are told to do so. Since the 8:00 a.m. to 4:30 p.m. court hours are convenient mostly to those represented by lawyers and representing large businesses, a national report on consumer justice states that:

The inescapable fact is that, intentionally or not, the days and hours the small claims courts were kept open add greatly to the end result of making the "people's court" into a creditor's court.<sup>3</sup>

While some court personnel appeared hesitant about working at night, that should not be an obstruction to progress in this area. Night work and Saturdays could simply be made a requirement for employment. Perhaps opening the courts one evening per week and one Saturday per month on a trial basis might be a good test project.

4. Lawyers should be completely barred from the small claims courts. The intent of such a court is to provide cheap, fast justice in an informal atmosphere where lawyers are not needed. The imbalance that can now occur when consumer plaintiffs (who are barred from using attorneys) may have to face a corporation lawyer (since defendants are allowed legal representation) is quite inconsistent with the purposes of the court. The plaintiffs may feel inadequate, inarticulate, and quite unwilling to go to court if they know they may have to face an attorney alone. Even more, the high costs of hiring a lawyer will



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make them less available to individual litigants. Studies have shown that there is no evidence that an attorney increases a consumer's chances of success as the plaintiff in a small claims case.<sup>4</sup>

5. It has been suggested in several consumer studies that judges be required to examine all business claims in accordance with the principle of caveat venditor, without regard to whether or not the defendant has defaulted. This is intended to prevent the court from merely being used by businesses as a collection agency. The judge's inquiry would extend from the delivery of the goods or services to an assessment of the equitability of the type of contract involved. It is recommended that the availability of recourse to small claims courts be printed on the buyer's copy of a contract or receipt relating to such goods and services as appliance repairs, automotive repairs and leases, etc.
6. Because inexpensive legal assistance is virtually unavailable to most consumers, assistance from the court itself should be provided. A paralegal small claims advisor should be attached to each court to assist citizens in the preparation of their suits, and the publicizing of the services. It is recommended that a paralegal be assigned to each court and perform the following duties:
  - (a) Assist people in the preparation of their suits;
  - (b) Refer complaints to other agencies, if appropriate;
  - (c) Publicize the possibility of the use of the courts by consumers;
  - (d) Call the attention of the judges and other staff to new developments in consumer law and abusive practices evident in the area;
  - (e) Conduct conciliation hearings in those cases where he believes conciliation may be achieved.<sup>5</sup>

### Consumer Advisory Council Representatives

After interviewing several council representatives, as well as county agency personnel, it became evident that the

## SANCTIFY THE SCALES

consumer advisory council representatives are relatively ineffective in the area of consumer protection. Few public citizens even know that these representatives are associated with this field of concern. Other than superficial greetings upon their arrivals in the counties, the State investigators have had little contact with the council representatives. Of the county personnel interviewed, none reported any pressing need for such council representation since these representatives had been relatively inactive in the counties.

In further discussions at the State level, it was reported that when the council was first established, occasional meetings with the Office staff were held. During these meetings, the council representatives were informed about recent Office activities and operational objectives. Since that time, however, few meetings have been held, and relatively little "advice" has been forwarded to the Office by council representatives.

Because staff members at the Office and in the counties are conscientious about keeping themselves aware of recent consumer protection innovations and are close enough to the people to understand the problems with which they are faced, there seems to be little reason for the continuation of the Consumer Advisory Council. It is recommended that the Consumer Advisory Council be abolished.

### Key County Issue

While enforcement, prosecution powers, and small claims procedures are integral parts of the consumer protection efforts at the State and county levels, the key to advancement in this area is public education. Consumer laws have been enacted to assure consumers of fair play in the marketplace. Yet, they have been at the mercy of merchants for so long that few realize their rights and privileges. Moreover, because of the cultural barriers to oral expression experienced by many local communities, the right to complain is seldom viewed as such.

Until recently, consumers have remained relatively ignorant in the commercial merchandizing arena. Few are very informed about the new laws, the court options, and the general processes of protection. Throughout the counties, officials reported that relatively few complaints were lodged in view of the number raised in Honolulu. While less people live on the neighbor islands, there is another factor influencing the reduced number of complaints: the people are ignorant about consumer protection.

## COUNTY EFFORTS TOWARD CONSUMER PROTECTION

Throughout the counties there was evident a vast need for public education programs. Radio programs, television spots, newspaper articles, and public speeches centering on various aspects of consumer education are imperative. Very little is being done now, but in many cities this has been determined to be the key to success. In one city, five minute radio dramas on actual small claims court cases familiarized the community with court procedures and popularized the small claims court as a consumer weapon. ETV programs and public service announcements on commercial television have also been found to be effective means for informing people about immediate consumer threats and common deceptive sales practices.

Formal education from the grade schools on through post-graduate levels is another important aspect of the public education program. Speeches by knowledgeable officials and businessmen serve to educate the people and arouse their interest in this area. As more questions are asked, more information is spread, and an informed consumer populace begins to emerge.

The relatively weak public consumer education program that is common throughout the State today must be strengthened considerably. Additional funds for information dissemination and stronger leadership at the State level is necessary. In addition, additional education specialists or public information officers at the State Office should be considered.

In addition, because of the public information and preventive value of formal prosecutions, a revolving fund for the State Office should be established. Moneys from this fund would be used primarily for interisland travel by State Office attorneys and various other expenses incurred in the prosecution of consumer cases.

### Summary

The concept of consumer protection is one that has been absorbed by governmental bodies at all levels. The counties are appropriate areas for consumer offices since close contact with the populace is more likely. Familiarization and rapport between consumer and protector would be established more easily than if a State office were the only consumer agent. On the other hand, the State branch offices could be of great service to the counties, but their staffs are currently limited to a single investigator.

## SANCTIFY THE SCALES

County prosecutors requested criminal penalties for consumer crimes. In most cases, the prosecutors felt that they had sufficient resources to handle this type of case, particularly since these cases now account for only one per cent of their total caseload.

Many neighbor islanders, obstructed by cultural barriers toward open complaints, are unaware of their rights as consumers or are just simply unwilling to complain. It is also apparent that apart from any evidentiary difficulties inherent in any criminal prosecution, one major reason for the lack of enforcement of these statutes is the fact that the violation is but one of many misdemeanors whose enforcement is confided to the police and to prosecuting attorneys whose agencies are diverted to more pressing matters. New York City has a strong consumer law, but they report it more as a deterrent than a toll. They settled most cases without using the law and reclaimed for consumers over \$2 million in refunds.

Small claims courts were determined to be essential tools for consumer protection, provided people become familiar with their operations and it is run to suit the convenience of its clients. Court procedures must be kept simple to encourage use by the layman, the general populace. In addition, the monetary jurisdictional ceiling should be raised to between \$1,000 and \$3,000 to cover such consumer items as major appliances, automobiles, etc. There should also be a provision for an automatic escalation of the ceiling as the cost of living increases. Other recommendations on procedures in the courts were also offered for consideration.

It has become evident that the consumer advisory council representatives are relatively ineffective in the area of consumer protection. Few public citizens recognize or associate them with this field of concern, and the State Office actually uses very little of what minimal input they receive from this group. Therefore, it is recommended that the Consumer Advisory Council be abolished.

As with every other area of study, the key to effective county consumer protection is public education. Until people become familiar with consumer laws and privileges, few complaints will be lodged and consumer ignorance will continue. In addition, litigation and other activities which draw public recognition should be encouraged. To promote such activities, an emergency revolving fund for travel, investigation, and litigation expenses is recommended for the State Office of Consumer Protection.

## CHAPTER FIVE

*"For they too are gatherers of fruit and frankincense,  
and that which they bring, though fashioned of dreams,  
is raiment and food for your soul."*

Kahlil Gibran

CURRENT OPERATIONS OF THE OFFICE

## Introduction

The Office of Consumer Protection was established in 1969 with express responsibility for representing and protecting the State, its counties, and "the general public as consumers". It conducts an overall program to assure that the consumer is treated fairly with respect to purchases, particularly where such purchases are on a contractual basis. The Office is primarily concerned with being assured that the consumer understands the conditions of the sale and that the seller follows through with his commitments. Headed by a director whose duties include office administration and general policy direction, the staff includes investigators, attorneys, clericals, and an education specialist. The Office, although technically a part of the Governor's Office, is physically located in the Kamamalu Building several blocks away. The Director operates a fairly independent office with complete staff and facilities under his control.

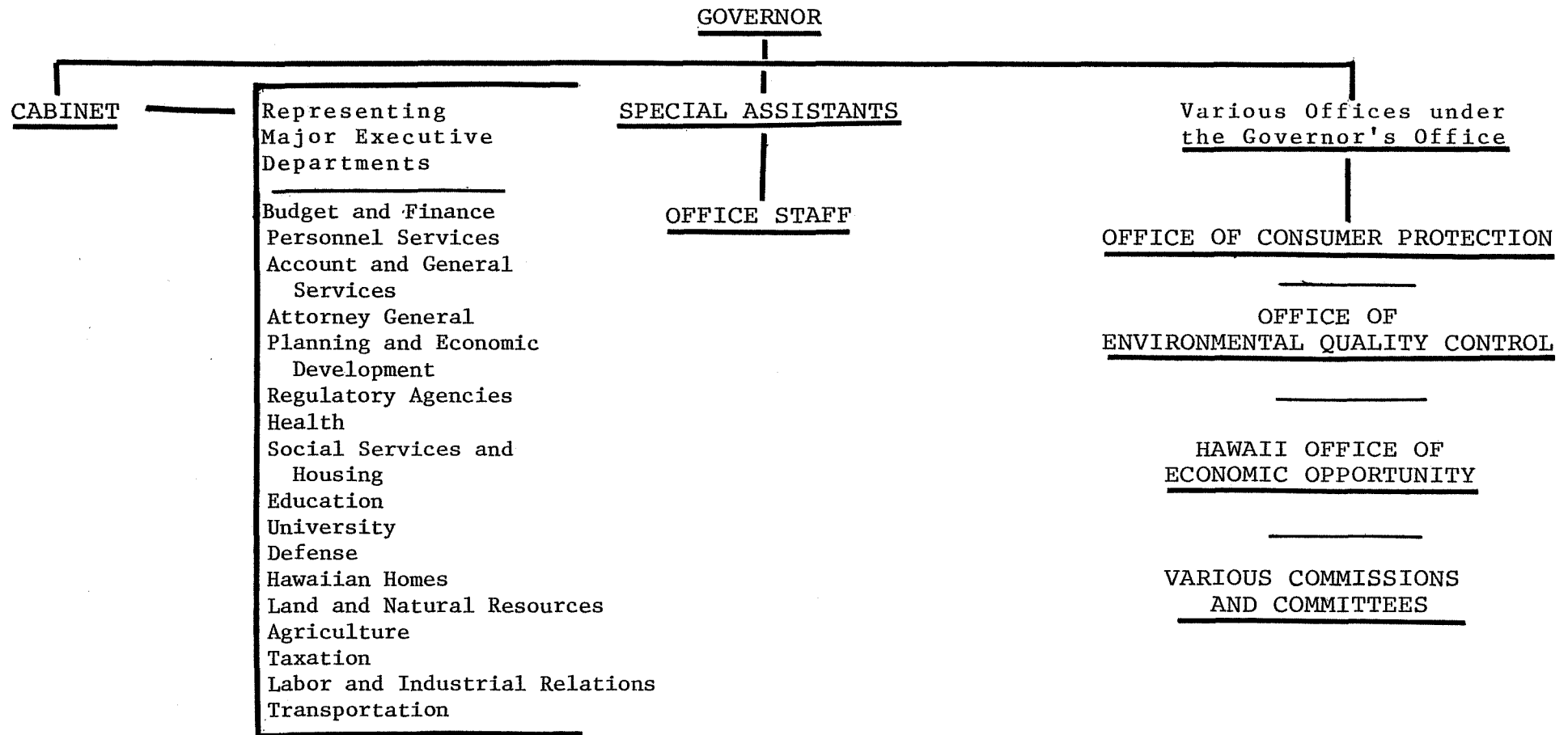
The crowded conditions of the Office and the need for additional personnel have not deterred the Consumer Protector from investigating and mediating a growing number of complaints. As a State agency in the top executive's office, the Office of Consumer Protection (OCP) has some visibility, access to governmental support, and some public accountability. However, this structure does not assure complete independence.

## Within the Office of the Governor

Within the administrative structure of the State, the OCP has been made a part of the Governor's Office. (See *Figure 1*.) The direct contact with the Governor and his cabinet has both advantages and disadvantages. As a cabinet level officer, the Director is on friendly terms with other department heads. He is capable of developing close ties, seeking their cooperation, and successfully soliciting their help in the solution of consumer-oriented problems. On the other hand, other cabinet officers are able to use their friendship and cronyism as a means of influencing consumer investigations. The pressure on an OCP Director in this situation could become intense.

FIGURE 1

OFFICE OF CONSUMER PROTECTION WITHIN THE  
GOVERNMENTAL STRUCTURE OF THE STATE



## CURRENT OPERATIONS OF THE OFFICE

In discussions with various office personnel, it became evident that placement in the executive branch subjected the Office to the same bureaucratic and time-consuming procedures that other offices face in terms of budget requests, travel plans, and general operational demands. The process of requesting approval for the purchase of a typewriter from the Governor is indeed a rather cumbersome process.

At times when fast action was required due to the imminent departure of suspects or to a change in a complainant's case, the Office felt somewhat hamstrung by the endless red tape. There have been incidents where a "fly-by-night" operator working on the Neighbor Islands (and who has been reported to the Office), leaves the area before an attorney from the Honolulu Office has been able to confront him. The loss, in terms of dollars and goods to consumers, could be considerable. It is recommended that an emergency fund to meet unexpected needs and to offer the Office a means for fast and effective action should be established.

The system is not as adaptable and flexible as it should be to satisfy the needs of the Office. It makes a rather burdensome, paper-heavy task of receiving approval for relatively simple changes. Another result of these procedures may be that the Office has not been able to expand programs and services, lacking the ability to communicate its needs in a convincing manner high enough up the chain of command.

### Alternatives

Alternative suggestions for the structural placement of the Office will be discussed later. However, it should be noted that the Office has been under the Department of Regulatory Agencies and under the Attorney General's Office at different times in its history. Neither of these alternatives proved totally acceptable, due in part to the inflexibility, the chain of approval required before action was taken, and the extended red tape that was evident. Placement in the Governor's Office has meant increased independence of operations, due primarily to the policy of the incumbent governor. This could very well change with a new office holder, and yet it is imperative that independence be assured for smooth and effective operation of the Office.

There is a strong policy against the proliferation of independent agencies both on the state and national levels. The principles of orderly public administration usually



## SANCTIFY THE SCALES

require that new functions be added to the duties of existing agencies. At the same time, there are extenuating circumstances which warrant the creation of a strictly or at least predominantly independent agency.

In a Presidential message<sup>1</sup> several years ago, the conditions warranting the establishment of a new independent agency included the following:

1. When the activity involved is widely scattered throughout government, but is not the primary mission of any single organization; and
2. Where locating the activities within an existing agency would inherently prejudice its relations with other agencies.

The Office of Consumer Protection appears to satisfy both these conditions. Consumer protection has widespread interests in various governmental areas and is recognized as a concern by a wide range of businesses. But no governmental agency, outside of the OCP, assigns consumer protection its highest priority. In these agencies, consumer protection activities lack a sharp focus and someone to promote them. As a result, the consumer interest is often sacrificed to the primary goal of the agency. By placing the OCP in the Governor's Office, a single agency with primary concern for consumer protection was established. However, problems with the second cited condition still remain.

### Function

The function of the OCP is primarily to protect consumers. The manner by which this is accomplished has been mainly through cooperation and understanding and the development of smooth working relationships beginning at the cabinet level and filtering down through agency structures. The organizational structure of the State provides for an Ombudsman, outside of the executive branch, who may monitor and prod other State agencies toward their own program goals and objectives. The Ombudsman has managed to do so rather effectively. The independence of the Ombudsman permits inquiry without prejudice. The OCP, on the other hand, as a part of the executive branch may sometimes be hard-pressed to maintain its consumer stance against sister agencies in the same branch. This was part of the reasoning used in the structural placement of the Ombudsman. Although no overt prejudices on the part of the agencies were detected during

## CURRENT OPERATIONS OF THE OFFICE

the study, cronyism remains a threat. There may be occasions where the OCP is asked by another cabinet officer to slow down a certain investigation because it might reflect badly upon an administrative officer. While this may not be too unusual in political circles, it is in direct conflict with the purposes of the OCP.

Unlike the legislation creating the independent licensing agencies (most of which are included in the Department of Regulatory Agencies, and some of which may have resulted from industry pressure motivated by a desire to control entry into a particular profession), the Act establishing the Office of Consumer Protection was more consumer-oriented.

### Statutory Basis

Section 487-5, Hawaii Revised Statutes, delineates the powers and duties of the Director and the functions of the Office:

The director...shall represent and protect the State, the respective counties, and the general public as consumers. The office of consumer protection shall have the following functions, powers and duties:

- (1) Coordinate the consumer protection activities of all departments, divisions and branches of state government, and of branches of the county government concerned with consumer protection;
- (2) Assist, advise and cooperate with federal, state and local agencies and officials to protect and promote the interests of the consumer public;
- (3) Conduct investigations, research, studies and analysis of matters and take appropriate action affecting the interests of consumers;
- (4) Study the operation of laws affecting consumers and recommend to the governor and the Legislature, new laws and amendments of laws in the consumers' interest;

## SANCTIFY THE SCALES

- (5) Investigate reported or suspected violations of laws enacted, and rules and regulations promulgated for the purpose of consumer protection and shall enforce such laws, rules and regulations;
- (6) Organize and hold conferences on problems affecting consumers; and undertake activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion and sale of consumer goods and services;
- (7) Provide a central clearing house of information by collecting and compiling all consumer complaints and inquiries;
- (8) Organize, promote and conduct consumer education programs within the State;
- (9) Appear before governmental commissions, departments and agencies to represent and be heard on behalf of consumers' interest;
- (10) Perform such other acts as may be incidental to the exercise of the functions, powers and duties set forth in this section.

### Directors

If vested in an aggressive Director under a sympathetic Governor, these powers, because of their flexible and open-ended nature, could act as potent consumer weapons in the fight for equitability and integrity in the marketplace. On the other hand, these provisions could be technically satisfied by a couple of publicity grabbing headlines and generally half-hearted efforts. The success of the Office in terms of consumer satisfaction, depends heavily on the Director's philosophy and commitment to consumer protection.

Although a comparison of consumer complaint satisfaction and Office effectiveness under various directors was not completed, interviews with staff members and consumer users indicated that there were differences in the mode of operations. There has been a turnover of directors in the Office, with none staying more than four years since the Office was established. The effects of the turnover rate are not clear. On the one hand, it could result in a flow of fresh and innovative ideas to the staff and Office. On

## CURRENT OPERATIONS OF THE OFFICE

the other, it could lead to a lack of continuity which may contribute to the weakening of various programs simply because a new director may wish to change the emphases in the Office programs.

All of the directors displayed a common concern for the consumer and a deep interest in seeing that legitimate businesses operated in a fair and open manner. Still, as with any administrative post, personality and style do influence operations. One Director's style might be characterized by an emphasis on prosecution or using litigation as a deterrent to future consumer abuses by businessmen. Another stressed field exposure and concentrated efforts at persuading businessmen to cooperate fully with complainants--emphasizing face-to-face confrontation and mediation. At the staff level, the degree of formality in the Office was naturally determined by the Director. Even further, intra-staff cooperation and communication levels were directly related.

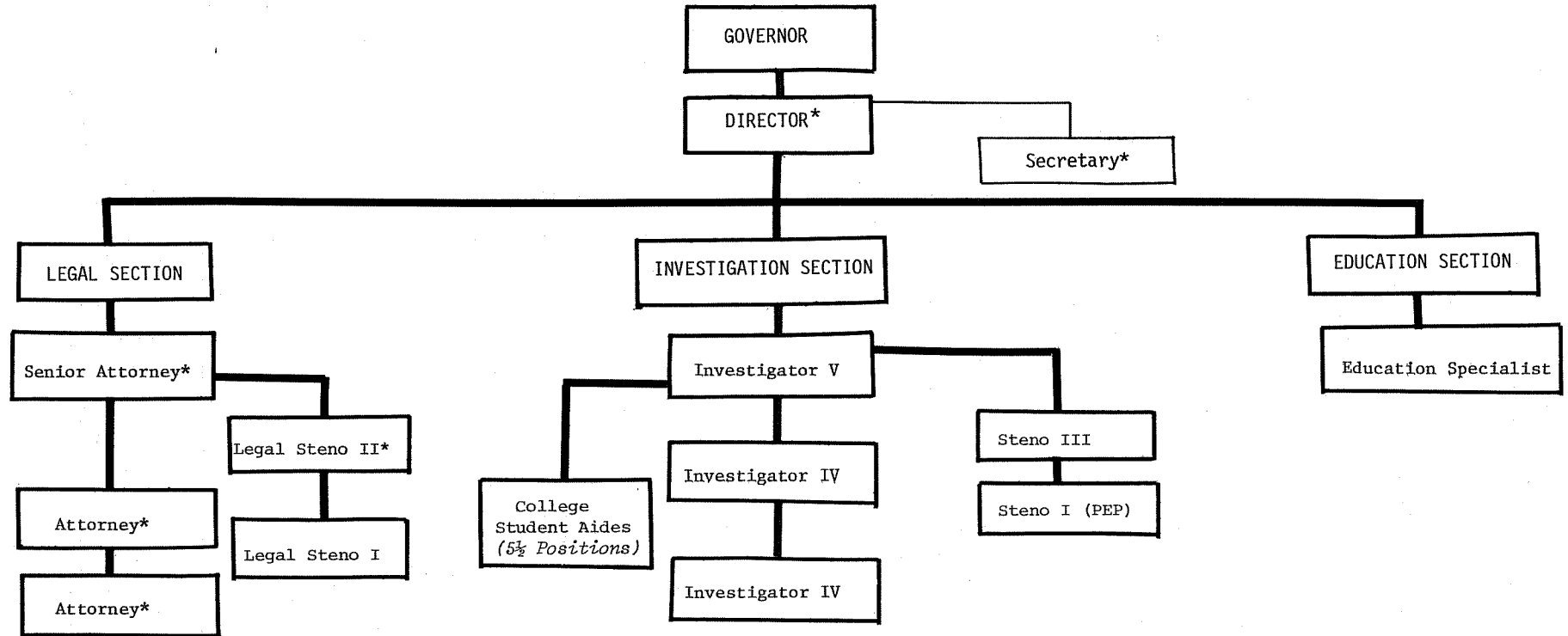
For some directors, staff meetings were an open-forum, geared to open discussion, the sharing of common problems, and the offering of suggestions for solution. For others, the staff meetings were merely formalities to suffer through. Because the Office staff is daily faced with a continuous flow of complaints, it is important that staff members be assured a release in terms of meetings, before or after work, in which problems can be solved and "steam" evaporated. The tendency to become "hardened" and "insensitive" to the needs of complainants increases with the length of time a staff member has remained on the job, and since the turnover rate at the Office is not too high, "hardening" must be prevented. With the appointment of a new director, positive steps have already been taken. "Bull sessions" after work, staff meetings, and free intra-staff communications appear to be established procedures. Hopefully, these will continue in future administrations to assure high staff morale and effective public service.

### Structure

The intra-office structure can be divided into three sections: the education section, the investigation section, and the legal section. Each is overseen and administered by the Director and served by a clerical staff. (See *Figure 2* for an organizational chart.) To better understand the function of each section, the complaint procedure will be traced in detail from the moment the Office is notified of the complaint to its resolution.

FIGURE 2

ORGANIZATIONAL CHART FOR OFFICE OF CONSUMER PROTECTION



\*Excluded Employees

## CURRENT OPERATIONS OF THE OFFICE

### 1. Lodging the Complaint

Complaints are usually received by the clericals in the investigation section. Complaints are taken by telephone, others by letter, and still others in person at the Office. If a telephone call is received, the secretary may decide to mail out a complaint form after determining that the problem could not be readily resolved. This form contains detailed information about the problem and upon completion is logged by the clericals and submitted to the chief investigator for assignment. (See *Appendix P* for a sample of the complaint form used.)

### 2. Logging and Indexing Complaints

The clericals usually record the type of complaint, information on the individual or company complained against, and other pertinent information. The indexing allows for later searches on related complaints. (See *Appendix Q* for a sample of the logging sheet used.)

### 3. Assigning the Complaint

The chief investigator reviews the complaints, evaluates it to make sure that it should not be transmitted to another agency, and assigns it to an investigator for resolution. If the case is a relatively easy one, he may assign it to a part-time student aide for action instead.

### 4. Investigating

The investigator usually contacts the individual or company complained against and explains the gist of the complaint. He is given an opportunity to respond and sometimes the case is settled at that point. The investigator may decide that there is no basis for action or he may persuade the company to comply with the complainant's wishes.

### 5. Meetings with Interested Parties

If the facts, as represented by each party, are significantly different, the investigator sometimes brings both parties together in his office. The investigator usually manages to illicit an

## SANCTIFY THE SCALES

accurate picture of the situation in this manner. At other times, phone calls and letters are enough to assure satisfactory action.

### 6. Mediating Complaints

Most complaints are settled by the investigator, sometimes with legal counsel from the legal section, without formal legal action. Agreement between both parties is often reached with the wise counsel of the investigator acting as mediator and maintaining a stance of "fair play" to both.

### 7. Processing Litigation

If other voluntary procedures fail or if a pattern is uncovered in which many consumers may be affected, the legal section may take appropriate action. Legal action is usually taken only as a last resort.

An estimated 59,420 complaints were received during the 1973-74 fiscal year. Of these, the vast majority were expeditiously resolved on the telephone and did not require the formal filing of a complaint form. These calls are usually either inquiries or requests for information relative to a wide range of problems or complaints against specific merchants or businesses. Under new recording procedures established in May 1973, only complaints which included formal filings were recorded. The daily census of telephone inquiries and referrals from other agencies proved both time consuming and unnecessary. The new system reveals that 2,552 legitimate complaints were lodged, requiring investigatory action and some kind of mediation in the large percentage of cases (seventy-eight per cent). Of these cases, ninety-two per cent were directly received by the Office, and the remaining eight per cent were referred by other agencies and individuals. A steady increase in the number of complaints received by the Office is evident, however, because of the change in recording procedures, actual figures seem to be decreasing and are difficult to compare.

In an Office report explaining the reasons for the difficulties in comparison and the seemingly incompatible decreases in complaints in progressive years, the following were determined to be influential factors causing the "decrease" in the actual complaints processed:

#### Cutback on Services:

1. Referral of complaints to private associations:

## CURRENT OPERATIONS OF THE OFFICE

- a. Landlord inquiries to Honolulu Board of Realtors.
  - b. Rental car complaints to CATRALA.
  - c. Advertising complaints to Hawaii Advertising Review Council.
  - d. Electrical complaints to Hawaii Electronic Association.
  - e. Pest control complaints to Pest Control Board.
  - f. Auto repair complaints to Automotive United Technicians.
  - g. Auto body and paint complaints to Auto Body and Paint Association.
2. All calls regarding out-of-state complaints are referred directly to Attorney General's Offices if state company is located. We furnish addresses to callers.
  3. Ceased typing up complaints which are resolved over the phone when initial call is made by complainant.
  4. Landlord-tenant complaints and/or inquiries are handled over the telephone; advised to contact the Small Claims Court since we did not have manpower to contact the landlord in every questionable situation.
  5. Eliminated writing to companies on the mainland regarding consumer complaints against such companies. Substituted by writing to Consumer Protection Offices, Attorney General's Offices, if state company is located. However, now the Office does write to the company if a complainant files a complaint in person or sends a written inquiry.
  6. Ceased all personal interviews. The Office now requires that appointments for interviews be arranged ahead of time.
  7. Road investigations by investigators were curtailed due to lack of mileage fees; used only for serving of subpoenas.



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8. Students hours were cut back. A student who worked as a volunteer without pay was also used at the time.
9. Ceased typing out complainant card files.
10. Follow-up letters to companies are no longer sent out "certified mail". [Reinstated]
11. First class mail is no longer used. [Reinstated]
12. Declined requests for information (such as Landlord-Tenant Code) to be mailed. Complainants are requested to pick up material in person or send a self-addressed stamped envelope.
13. Ceased sending out standard letters acknowledging receipt of complaint forms and/or letters.
14. Eliminated sending copies of out-of-state correspondence re complaints to the local Federal Trade Commission office. [Reinstated]
15. Ceased accepting collect calls from other islands.
16. Ceased sending out complaint forms for approximately three months; requested letters be written to OCP. [Complaint forms are now transmitted to complainants]
17. Monthly statistical reports were cut; eliminated number of pending cases per investigator; special assignments; length of time cases left pending.

*Table IX* illustrates the number of complaints filed and the estimated number dealt with during the 1972-1973 and 1973-1974 fiscal years.

TABLE IX

## COMPLAINTS RECEIVED BY OFFICE OF CONSUMER PROTECTION DURING 1972-1973 AND 1973-1974 FISCAL YEARS

	<u>1972-1973</u>	<u>1973-1974</u>
No. Consumer Complaints and Inquiries Received	2,129	2,552
No. Consumer Complaints and Inquiries Processed*	44,663	59,420

*\*Number processed based on random samples gathered on periodic phone call tallies for a one week period (per tally).*

Source: Office of Consumer Protection

## CURRENT OPERATIONS OF THE OFFICE

The cutback, necessitated in May 1973 by an increase in complaints and the lack of a corresponding increase in personnel, financing, and services, included several other service reductions. Those that have since been reinstated are noted. Because of the inordinate amount of time required to keep a statistical record of complaints handled and "work" produced, it is recommended that the investigator currently assigned this task be relieved of this duty and estimates rather than detailed counts be allowed to suffice.

### Objectives

In its annual preparation of material to be submitted for budget approval, the Office described its statement of program objectives as follows:

To ensure that advertisements and terms and conditions of sale or rental of products and services are correctly and completely disclosed for the consumer, and that consumers are provided with services and products meeting acceptable standards of quality, dependability, and safety through the education of the general public and specific sectors of the community.

A corollary sub-objective of the program, as stated in an earlier budget document, is to ensure the protection of the honest seller's reputation and credit in the State from specious and unjustified complaints filed by consumers.

The intent of the Office is to reach all living persons in the State who use any consumer product or service. In this manner, three classes of people should benefit:

1. Those benefiting directly from the educational program who avoid common pitfalls while transacting business.
2. Those who file complaints with the Office and have them satisfactorily resolved.
3. Honest merchants harried by unreasonable complaints and because of dishonest merchants.

The activities performed by the Office are attempts to achieve the stated objectives. They include the following, but each activity is not necessarily performed as actively as every other:

## SANCTIFY THE SCALES

### Description of Activities Performed

1. Receipt of consumer complaints.
2. Receipt of consumer inquiries.
3. Conducting of investigations. (Includes follow-up on inquiries)
4. Mediating cases.
5. Prosecuting cases.
6. Making legislative proposals.
7. Educational presentations and instructional training.
  - a. Presenting seminars, workshops, talks to classes and community groups.
  - b. Training community aides and teachers.
  - c. Counseling individuals.
8. Producing Educational Materials.
  - a. Creation, publication, and dispersal of educational pamphlets, posters, and "comic books" on frauds and consumer remedies, including translations.
  - b. Preparation of materials for teachers.
  - c. Writing press releases and news articles.
  - d. Appearing on radio and TV programs.
  - e. Producing ETV and radio tapes.
9. Educational Administration Activities.
  - a. Responding to requests for materials and information from individuals, other jurisdictions, and agencies.
  - b. Serving on interagency-business-community committees.
  - c. Legislative research and input.

## CURRENT OPERATIONS OF THE OFFICE

- d. Ascertaining consumer problems and suggesting remedies.
  - e. Prepare materials for director.
10. Educational Research and Program Development.
- a. Plan and execute State consumer education program and coordinate same with other agencies.
  - b. Research publications, films, news releases, reports, etc. on latest consumer laws, frauds and legal action taken.
  - c. Attend consumer education conferences to obtain latest information on other state and national programs.

At the present time when the trend is moving away from "caveat emptor" and toward "caveat venditor" instead, it is imperative that consumer protection functions be strengthened and services expanded rather than curtailed. Business has become more aware of the consumer movement and some are taking positive steps toward improvement. They are distributing educational materials, experimenting in giving consumers more buyer information in grocery and department stores, and trying to get consumer input on their advisory boards. At the same time, the State Office of Consumer Protection should be doing much more as well.

### Budget

The Office reports an operating budget of \$237,277 for the 1973-1974 fiscal year. This compares to \$219,861 for the previous year--an increase of \$17,416 or 7.92 per cent. Most of the budget is used to pay staff salaries, but other expenses incurred include travel, equipment, postage, printing, and general administration. Twenty per cent of the budget has been allotted for educational activities.

While most of the Office funding comes from State general funds, the Office does have a single source of revenue--legal prosecution of dishonest merchants and businesses. The civil penalties run up to \$2,500 for each separate offense. During fiscal year 1973, the Office obtained \$87,856.01 in court judgments against three businesses. Present practice requires that the revenues be

## SANCTIFY THE SCALES

deposited in the general fund; however, serious consideration should be given to retaining these monies for office use. The operating budget for the Office is as follows: (Table X.)

TABLE X

### OPERATING BUDGET FOR THE OFFICE OF CONSUMER PROTECTION

<u>FY 1972-1973</u>	<u>FY 1973-1974</u>	<u>% Increase</u>
\$219,861	\$237,277	7.92

#### Program

The Office is faced with unscrupulous merchants taking advantage of unsuspecting consumers and legitimate businessmen by using sales pitches which are fraudulent, unfair, and deceptive. Apparently, there is widespread ignorance of normal contractual rights and liabilities by both consumers and merchants which have caused misunderstandings between them. Concentrated efforts in developing contracts which laymen can easily read and understand should be strongly encouraged. Former Pennsylvania Insurance Commissioner Denenberg was very successful with this in the rewriting of insurance policies for use in Pennsylvania.

The problem which the Office must solve involves maintaining its currently assigned major functions, including investigating complaints, mediating settlements, prosecuting violators, and educating the public, while expanding its services.

The investigation section is heavily backlogged, due in part to the extreme increase in complaints during the earlier part of 1974 when GASPLAN was implemented. Complaints were continuously filed in the Office both during and since that time, and with no increase in staff, they have been unable to catch-up on the overload. Several serious deficiencies result from this situation:

1. Complainants are required to wait for weeks before any action is taken on their requests, and they sometimes become disgruntled by delays.
2. "Fly-by-night" businessmen taking advantage of consumers may be gone by the time the Office is ready to act (particularly on the Neighbor Islands).

## CURRENT OPERATIONS OF THE OFFICE

3. Investigators only have enough time to follow-up on complaints that have already been filed--they have no time for investigatory field work and preventive activities.

While community volunteers may be an attractive temporary solution to the need for telephone help and complaint registration, any persons used would require extensive complaint handling, training, and familiarization with certain areas (such as landlord-tenant problems) prior to their service. (See *Appendix R.*) Additional investigators and other staff would still be needed if the Office were to expand its services and begin emphasizing prevention measures.

The legal section has prosecuted more consumer cases recently than they originally did. However, because of the preparation time required for each case, even the legal staff has to be selective about the cases which are fully processed. Litigation is both a complex and lengthy process, so a few cases may occupy the time of a single attorney for many months, and sometimes years. By the same token, because the county attorneys and those on the staff of the Attorney General are primarily concerned with hard core crime, as opposed to white collar crime, they have little demonstrated interest in prosecuting consumer-related crimes. Accordingly, it is the legal staff of the Office which has the greatest responsibility in this area.

### Educational Program

Education has been deemed the key to developing an "intelligent consumer attitude" based on exposing students to the wide range of alternatives they face in purchasing and managing their moneys. Yet, the educational aspect of the Office has not been one of its strongest points, in that many good programs and projects which were initiated several years ago, have now ended. Rather than embarking upon more innovative projects, the education area appears to be in need of revision. This is a major area for developing consumer responsiveness and should be actively supported.

Hardly a home economics course, consumer education involves knowing how much money you should devote to food, clothing, and housing and what you are giving up to get each. It involves installment purchasing, budgeting, price comparisons, and contract familiarizations. Understanding the importance of this function, the Office was established with a position for an educational specialist whose duties included organizing, promoting, and conducting consumer education programs within the State.

## SANCTIFY THE SCALES

Several years ago, in cooperation with a Department of Education curriculum specialist, the Office education specialist helped to develop a two week course in consumer education for the high school level. The course was established by the Department of Education as a "required course" for all those graduating from high school. It focuses on consumer rights under the law, where to go for redress, clear descriptions of fraudulent sales techniques, the perils of buying from door-to-door salesmen, used car purchases, and credit buying-borrowing. A teacher's kit and an educational television series was also produced in conjunction with this program.

Newspaper articles, community speeches, and training sessions for aides who work in community programs are also important parts of the Office educational program. It should be noted, however, that the series of newspaper articles on consumer frauds have been discontinued, with the specialist finding other aspects of her job more demanding. Business skeptics feel that education is a school function and should not involve teaching "misinformation and sometimes cynicism". On the other hand, some consumer advocates who feel legislation is more effective than education, argue that the curriculum is crowded enough already and feel that the educational results to date are not that promising.

Reaching consumers, and not just potential consumers, is a prime concern of the Office. Periodicals, such as Consumer Reports, have increased circulation, but is not widespread enough to reach all income levels. It is distressing to note that while such periodicals are available for perusal by the public in the administrative section of the Office, they are not available at the public library where the subscription was cancelled some time ago. The library is apt to get more readers than the administrative section of OCP, yet these important periodicals are not being made available.

As consumer periodicals increase their impact through wider circulation and consumer education advances in the schools, some consumer advocates now look to the creation of a State consumer center at which any interested buyer may pick up a wide variety of consumer education materials and some impartial, objective advice on which local service representatives could best serve their purposes. Hawaii has not yet reached this stage, nor has it definitely decided to head in this direction. Still, this would provide a valuable service to consumers which is not presently being met.

## CURRENT OPERATIONS OF THE OFFICE

### Summary

Currently, the Office is placed within the Governor's Office. This offers it visibility and cabinet level status, but not enough independence and flexibility. An emergency fund to meet unexpected needs and to offer a means for fast and effective action, on the part of the Office, is recommended.

Services have been cut in the past due to insufficient funds and staffing. This situation should be remedied and services increased. In addition, until more investigators are hired, present investigative personnel should not be tied down with keeping extensive statistical records on the amount of "work" done. Estimates should suffice until a more workable system is devised. Moreover, the education function of the Office should be actively encouraged to embark upon new and innovative projects, rather than resting on its laurels for long past projects and programs.

The Office operating budget for 1973-1974 was set at \$237,277, a 7.92 per cent increase over the previous year. At today's rate of inflation, this doesn't seem like enough. The problem which the Office must solve involves maintaining its currently assigned major functions, including investigation, prosecution, and education, while expanding its services. Unfortunately the Office has not yet caught up on the backlog it experienced since the time of GASPLAN.

Physical conditions of the Office can generally be characterized as "crowded". The displays of consumer-oriented periodicals, etc. are really not conducive to wide use by the visiting public. Perhaps subscriptions to such periodicals would be more effective at the public library.



## CHAPTER SIX

*"And before you leave the marketplace, see that  
no one has gone his way with empty hands."*

*Kahlil Gibran*

**PROGRAM EVALUATION**

## VI

### Method of Inquiry

The evaluation of the Office of Consumer Protection is based on an evaluation procedure developed by the Center for Study of Responsive Law under a grant from the Carnegie Corporation of New York.<sup>1</sup> The procedure takes a functional approach and attempts to analyze how the Office attempts to resolve individual complaints and how it identifies and corrects product design problems and patterns of service abuse.

The final evaluations were made only after extensive research into Office operations and general consumer protection activities was completed. The research included the gathering of data based on interviews, observations, factual data, and a random survey of cases actually processed by the Office. In particular, the following was done:

1. Interviews - Were conducted with the Governor's county liaison representatives, other county personnel, legislators, businessmen, and office personnel, including the director, educational specialist, secretaries, and investigators.
2. Observations - Personal observations in the Office were made on several occasions to determine how complaints were received, processed, filed, and pursued.
3. Factual Information - On speeches, meetings, and propaganda advertising of consumer protection activities was also gathered.
4. Survey - A random sample of complaint cases actually processed by the Office was analyzed and mail questionnaires sent to complainants to retrieve additional information on procedures and levels of satisfaction.<sup>2</sup>

In addition, it should be pointed out that the functional evaluation approach lessens the tendency to evaluate solely on whether or not the consumer is happy with the outcome.

The evaluation did take into consideration the policies of the Office which were described in a recent budget submittal as follows:

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### C. Statement of Key Policies Pursued

1. Investigate all complaints and inform complainant of findings of fact and course of action, if any, by this office or other governmental agency.
2. Mediate disputes between consumer and merchant in cases where there is no apparent violation of consumer protection laws.
3. Prosecute unscrupulous merchants who systematically violate consumer protection laws.
4. Monitor advertisements and demand retractions in cases involving false advertising.

The effectiveness of the Office of Consumer Protection is, of course, directly influenced by the monetary support and personnel allocations distributed to it by the Executive branch. However, how it puts its resources to use is just as important. The Office is already authorized to enforce unfair and deceptive trade practice laws, to accept assurances of discontinuance, to issue subpoenas, to obtain restraining orders and injunctions, and to develop a strong consumer education program. These are important tools which could be used further in current consumer protection activities.

### Complaints

In terms of complaints, the Office files recorded the following:

Fiscal Year 1972-73

The total number of calls received for  
a one-week period in January 1973:

973 wk.

798 (investigatory calls)

175 (administrative calls)

973 For one week

973 X 4 = 3,892 For one month

3,892 mo.

3,892 X 12 = 46,704 For one year

Total yearly  
estimate

46,704

## PROGRAM EVALUATION

Fiscal Year 1973-74

one week	=	1,290	
one month	=	5,160	(projection)
one year	=	61,920	(projection)

It should be pointed out that the total number of calls projected include administrative calls, calls requiring further investigation, mere informational inquiries, regular complaints, and complaints which must be referred to other agencies.

The Office further analyzed the calls received as follows:

### Average Length of Calls:

	<u>Inquiries</u>	<u>Complaints</u>
Investigators	10 min.	15-20 min.
Investigator Aides	15 min.	15-20 min.
Secretaries	5 min.	

### Investigation Division - Estimated breakdown of calls (%)

4%	Follow-up on complaints filed
40%	Landlord-tenant inquiries (tenants only)
20%	Referral to other agencies, etc.
30%	Other inquiries
6%	Request for complaint forms on legitimate complaints

Average complaints received by mail per day = 10 (letter form)

Average no. of complaint forms sent and received per day = 12-15

As of 1/28/74 (GASPLAN) = 37

It is interesting to discover that of all the calls received only ten per cent were viewed as legitimate complaints or follow-up complaints by the Office. At least twenty per cent had to be referred to other agencies. The vast majority of calls were inquiries which could be handled immediately with a simple response to a direct question (most of which dealt with the landlord-tenant law).

## SANCTIFY THE SCALES

### Visibility

With regard to individual complaints, the Office still appears to require an increase in its visibility. Currently, sign posters for the public busses in Honolulu and informational brochures have been printed and distributed. However, the bus posters appear only on Oahu, and informational brochures are not readily available in frequently habited places. The brochures have been distributed to senior citizens clubs and other interest groups, but the vast majority of Hawaii's citizens have not been exposed to them.

Newspaper articles on consumer protection activities have appeared in recent months. These articles usually described a current consumer threat or "protective" ventures which were being undertaken. Even the transfer of administrative personnel received adequate coverage. Earlier in the year, "GASPLAN" and other consumer issues discussed in public hearings received widespread coverage. At the same time, however, the weekly consumer columns, which had been used to describe common consumer problems and suggestions as to how they might be handled, were discontinued. The Office personnel who had been responsible for writing the articles was too busy with other duties to continue this service. The Office also reports that "one of the very pressing problems of writing a weekly article is that it does not take long to run out of subject matter...many a time we had a hard time coming up with something new to write about". That being the case, perhaps seasonal articles relative to current consumer concerns could be initiated, weekly or monthly news releases would prove both informational for the public and easier to handle by the Office. The result has been a serious omission in public visibility and pointed questions about Office priorities. The visibility of the Office remains rather weak. Aggrieved consumers do not seem to have any clear, single focus of any public or private agency to resort to for non-judicial help in resolving a dispute, or what course of action to follow other than complaining directly.

Speeches before various clubs and interest groups to promote public awareness of the Office's existence are often made by the director and sometimes the educational specialist as well. On the Neighbor Islands, the investigators have been called upon to do this since they are the only staff members residing in the area. Because public speaking is an effective means of exposing the Office to the public and helping people to understand its role and function, more speaking engagements should be encouraged for the legal

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staff and the investigators in addition to the director and specialist. Perhaps one means to encourage more speaking engagements is by assuring employees of compensatory time off or overtime pay. The director should seriously consider this in future budget requests. Unless the consumer is made aware of his rights as a consumer and familiarized with the Office complaint procedures open to him, few meaningful complaint resolutions can be expected.

### Accessibility

Accessibility has been described in the following manner: Accessibility "depends on the procedures used to accept and process complaints; the cost, in terms of time and money, of registering a complaint; the convenience of the mechanism; and the kind of available language assistance".<sup>3</sup> The accessibility of the Office in these terms would have to be rated "fair". Complaint forms are mailed to complainants after telephone requests have been made, but there is no follow-up to increase the return-rate of the forms sent. Walk-in complaints are also taken, but the Office is a little difficult to locate, so very few, if any, complainants who have not made a concerted effort to find the Office and to lodge a complaint, ever walk into the Office. It is not physically accessible to the man on-the-street.

The cost, in terms of time and money, of registering a complaint are minimal, and in that way, the Office is accessible. However, complainants who have been observed in the Office receive relatively little help in completing the forms, and those who have a hard time expressing themselves, either verbally or in the written language, may feel uncomfortable and incapable of following the procedures. Because of the language difficulties many of Hawaii's immigrant citizens face, specific policies as to how to encourage these groups to take advantage of complaint procedures should be implemented. The foreign language comic books now distributed may whet their interests, but additional follow-up provisions must be made for these people once they have decided to register a complaint. Perhaps bilingual aides at neighborhood locations or other centers of population can be considered as part of Office expansion plans.

### Speed of Resolving Complaints

Another obstructive factor in complaint procedures is the time lag between the filing of the complaint and the

## SANCTIFY THE SCALES

point at which an investigator begins to work in resolving it. At present, the lag is often between three to five weeks, while in the previous year, complaints were usually completely resolved within a month (see survey results).

While the Office is still suffering from the onslaught of complaints they experienced during GASPLAN,<sup>4</sup> serious consideration should be given to increasing the staff and expanding services. Complaint forms have at times been misplaced by personnel in the Office, and this is due in part to the policies on filing. There are established rules on the removal of files or forms but these are not strictly adhered to. This sometimes leads to further delays and increased frustration for the consumer. Both complainant and the party complained against deserve a quick and equitable solution to their problem. Office policies should keep that objective in mind.

### Mediating

Where the Office does prove quite accessible and exceptional is in the area of resolving the complaints themselves. The investigators spend much of their time talking to those complained against, as well as the complainants, in order to mediate acceptable solutions for both. Telephone conversations and face-to-face meetings with both parties are not uncommon. The investigators are careful to find out essential information from both disputing parties. They are quite efficient at getting each side to divulge the facts necessary to come to a fair conclusion. At the same time, they manage to re-open the doors to communication and further develop the means to an amiable conclusion. In addition, the large majority of complaints are resolved through mediation rather than through formal litigation proceedings.

### Encouraging Conclusiveness

The Office investigators are also quite adept at following a complaint case to its conclusion. They always try to mediate a satisfactory solution. They point out unreasonable demands and offer workable alternatives. When parties cannot be reached by telephone, they may make a personal visit to insure that appropriate action may be undertaken. Their field work has been limited recently by the backlog of complaints that require in-office attention. In addition, inadequate funds for mileage allowances was also cited as a reason for the decrease in field work. In general, however,

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the Office, and particularly the investigative staff, does an outstanding job in this area.

### Carrying Out Solution Decisions and Giving Status Reports

Since frustrations may develop if complainants fail to hear progress reports on their cases, investigators are considerate about keeping them informed once an investigation has begun. In addition, once a solution has been reached, investigators do keep tabs on the cases to assure that the settlement terms are carried out. While they have no powers to force a settlement, their interest and overseeing abilities usually protect the consumer and confirm that fair settlement terms are implemented.

### Optional Avenues of Redress

After an investigator has attempted to settle a dispute without any success, he almost always suggests an alternative means of action. He sometimes directs the complainant to another agency, to a private attorney, or to the Small Claims Court. Complaints that are outside the jurisdiction of the Office are referred to the proper agency or individual as soon as they are received. Individual complainants who are dissatisfied with a particular solution may also be referred to Small Claims Court. In the past, the Office has offered individuals advice on how to proceed with their Small Claims cases. This is a laudatory practice which should be extended on a regular basis. Useful information on alternative avenues of redress is willingly and consistently passed on to complainants who are either dissatisfied with the settlement or unable to reach a satisfactory conclusion.

### Patterns of Complaints

As common complaints on a particular problem begin to mount, public warnings are necessary to prevent the spread of the problem and to offer a means of protection. Patterns of complaints are noticed by the staff and appropriate warnings disseminated. However, the staff has been too busy with handling individual complaints to really get out into the field and test products or suggest design changes. This means that businesses producing faulty products may be unaware of any deficiency and cannot be blamed for inaction in terms of correction.



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While the Office has pressured individual businessmen to meet consumer obligations (in one case resulting in the near bankruptcy and dissolving of a business), these cases were usually service oriented rather than product-design oriented. For the most part, the Office has concerned itself with informing the public about consumer concerns and handling individual needs. It does not presently have enough staff to do much more.

One area where the Office has been quite successful is that of providing information to public agencies. When complaints are received which relate to the functions of such agencies, the Office is quick to inform them about it. A matter of concern which has been uncovered as a result of these interrelationships and that was evident during the period of this study is the role of the Department of Regulatory Agencies. It is obvious that this Agency needs to be closely evaluated and appropriate changes made. In particular, methods of efficiently handling licensing functions and better meeting consumer needs should be considered.

The director and his legal staff have also managed to do some effective legislative liaison work. They have testified before legislative committees on behalf of proposals which offered a measure of improvement to existing laws and which offered new legislation where no laws existed before. The installment contract law amendments are an outstanding example of their efforts, yet this is only one area in which they have sought new legislation. Their friendly relationship with the Legislature has also proved a boon to consumer concerns, for they are readily available to substantiate the need for new laws with concrete examples. In general, the Office is doing a good job in the legislative action area, but again with more staff, it could do more.

### Survey of Completed Complaint Cases

A random sample of Office files covering a one-year period and including both landlord-tenant cases and regular complaints was examined. Of 212 questionnaires which were disseminated to former complainants whose cases had been settled, 167 completed questionnaires or some fifty-seven per cent of the sample, were returned. This unexpectedly large public response is indicative of the high level of consumer interest which has developed in recent years. It may also reflect the type of consumer complainant that currently lodges complaints with the Office. Landlord-tenant cases, which numbered forty-six, reduced the reply rate since change of addresses and the inability to deliver

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the mail questionnaire to a potential sample respondent were common.

The respondents were largely women in the thirty to sixty age group. The male respondents accounted for forty-two per cent of the sample population and the females fifty-eight per cent. Only six per cent of the respondents were elderly persons (over sixty), even though speeches have been made about consumer protection to senior groups and some informational brochures distributed at such meetings. The age breakdown was as follows:

<u>Age Group</u>	<u>Percentage of Respondents</u>
Under 30	29%
30 - 60	66%
Over 60	6%

The younger age groups are obviously more willing to lodge complaints, perhaps because of recent educational experiences or media contact. The elderly complain much less. This could be attributed to the language difficulties which many elderly immigrants experience or the oriental cultural heritage which discourages such action. On the other hand, it could also be due to the elderly being unaware of schemes in which they have been cheated. Because they are the target of many "get rich quick" schemes, additional protective action on the part of the Office is recommended.

The educational background of complainants was often in the post-high school through college range. Some twenty-three per cent of the respondents reported that they never went beyond high school, while another twenty-three per cent had educational experiences beyond college at the graduate school level. It is evident, therefore, that three-quarters of the complainants were educated beyond the high school level and comprise a more sophisticated group than the average citizen. Reaching the high school level and below should become a prime concern of the Office with more public school programs and media efforts. The educational backgrounds were:

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<u>Education</u>	<u>Per Cent of Respondents</u>
Not beyond high school	23%
Beyond high school but not beyond college (four years)	54%
Beyond four years of college (graduate school)	23%

Because visibility is an influential factor in determining the effectiveness of a consumer protection agency, it was interesting to note the means by which complainants found out about the Office. Newspapers and magazines were the principal source of information for forty-three per cent of the respondents. Another thirty-two per cent declared that they became aware of the Office through friends and relatives. The last twenty-five per cent were referred by another governmental agency, found out through radio or television (only seven per cent), or simply didn't remember. The survey breakdown was as follows:

<u>Means of Discovering Office</u>	<u>Per Cent of Respondents</u>
Friend or Relative	32%
Newspaper or Magazine	43%
Referred by Another Agency	11%
Radio or TV	7%
Don't Remember	7%

Part of the accessibility question involves how the consumers view the Office, particularly after they have used its services. One question in the survey sought information on this subject. Once again three-quarters of the respondents found the services satisfactory or highly satisfactory. Note the results:

<u>The Help the Office Provided Was:</u>	<u>Per Cent of Respondents</u>
Highly satisfactory	40%
Satisfactory	33%
Unsatisfactory	16%
No help at all	11%

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Of the twenty-seven per cent who expressed some dissatisfaction, only eleven per cent felt that the Office was absolutely no help at all. Follow-up reports on the dissatisfied complainants revealed some interesting facts. The most common complaints were:

1. "No follow through - Respondents felt that once they identified a problem for an investigator, and the Office officially became aware of it, there was no follow-up action by the Office to investigate, substantiate, and alleviate the problem. There was considerable concern expressed about the need to investigate and expose consumer frauds through field investigations and widespread publicity.
2. "Too much delay" - It was felt that the three to five weeks it took before a complaint was investigated was too long and sometimes too late.
3. Advice on alternative actions - Some respondents felt that they needed more information on laws and alternative actions. They wanted to know about the Small Claims Court and its procedures, but they felt that the Office was not very helpful in that area. During field observations, it was noted that the clericals are usually the first to answer a phone call and hear a complaint. They sometimes reported erroneous information on Hawaii laws to complainants. Since these staff members are not thoroughly trained in this area, it is strongly recommended that some investigators be assigned to answer the incoming phone calls. The new director has already taken steps to institute this practice and is commended for doing so.

The survey further revealed that half the respondents contacted the Office by telephone. The others either wrote in or paid a personal visit to the Office. Consumers regarded telephone calls as the most convenient form of communication, but sometimes they become so incensed over a consumer problem that a personal visit to the Office is not viewed as an obstruction to them. This being the case, it is recommended that the Consumer Office phone number be given wide publicity and that the Office eventually be located in a convenient and easy to spot place. Storefront booths might also be considered in any Office plans for expansion.

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<u>Means of Contacting the Office</u>	<u>Per Cent of Respondents</u>
Telephone	50%
Letter	33%
Personal Visit	17%

In eighty-one per cent of the cases studied, the complaint was lodged against a business. The remaining nineteen per cent related to landlord-tenant cases. The complaints were due to a variety of problems:

<u>Complaint Resulted From</u>	<u>Per Cent of Respondents</u>
Misrepresentation	26%
Non-delivery	15%
Non-fulfillment of contract	23%
Poor Service	30%
Other	6%

By far the greatest number of respondents had to contact the Office only one or two times before first getting action. For sixty-seven per cent of the respondents, only one contact was necessary. Another twenty-two per cent reported that they contacted the Office twice before first getting a response. After the first contact, respondents found that most complaints were handled within a month. This was true for forty-eight per cent of the respondents. Another twenty-seven per cent reported that their cases were closed within one to three months. The persons that dealt with the complainants were most often adjudged very courteous and interested, and they managed to explain the Office procedure for handling the problem in a very clear manner.

As expected, very few complainants started lawsuits in connection with their complaints (nine per cent). Most declared that existing laws, systems, and agencies were satisfactory for the handling of their complaints. They also felt that the State was best equipped to provide consumer protection, with help from the counties, federal government, business organizations, etc.

It was interesting to note that sixty-two per cent of the respondents declared that they would recommend to others that they contact the Consumer Protector if they had

## PROGRAM EVALUATION

a problem or complaint. Another thirty-five per cent said that they would not recommend contacting the Consumer Protector with a complaint. On the other hand, eighty-seven per cent reported that they themselves would use the consumer protection services again, while nine per cent flatly refused.

While the survey results do illustrate the kinds of problems faced by complainants, as well as describe some of the characteristics of the complainants themselves, it should be remembered that the handling of complaints is only one aspect of the consumer protection function. A copy of the consumer impact questionnaire is included in *Appendix S*.

### Complaint Handling Only One Function of Agency

It is apparent that the Office of Consumer Protection has been concentrating its efforts on the mediation and informal settlement of individual complaints both in the main State office and in the county branch offices. When one considers that the Office is responsible for providing the public with consumer protection, it is evident that its statutory authority and resources are not being used in the most effective manner possible. As reported by the National Institute for Consumer Justice, "Obtaining a satisfactory resolution of individual complaints certainly has some value, both for individual consumers who may obtain redress (such as restitution) through the informal intervention of the State that they would not otherwise obtain, and for the general public, at least to the extent that the State's informal activities are coordinated in such a fashion as to provide a deterrent against certain types of practices by warning the business community that such practices may well result in informal state intervention. But informal intervention in response to individual complaints is all too seldom that purposeful. Concentration on the day-to-day handling of such individual complaints may result, especially when combined with insufficient staff and monetary resources, in an inability or disinclination on behalf of the State agency to undertake investigations on its own and in a failure to develop a coordinated enforcement program based upon carefully thoughtout priorities."<sup>5</sup>

It is recommended, therefore, that the Office undertake to concentrate more than they have in the past on attacking a relatively finite number of serious and common practices. The Office should also embark upon more formal actions to obtain injunctions or other decrees which can be imposed for non-compliance and to establish principles and establish the

## SANCTIFY THE SCALES

lawful atmosphere in which businesses will be conducted in the State.

### Factors Influencing Effectiveness

The statutory authority invested in the Office, although it could be expanded in several particular areas, has been adequate as far as authority to take necessary action is concerned. Improvement in the laws relating to sales practices and other problem areas is needed at this point in time, but this is due to evidence amassed by complainants and submitted to the Office as a result of recent sales experiences. A copy of a pamphlet on consumer protection laws is included in *Appendix T*. The Consumer Protector has made specific legislative suggestions as to how the laws can be clarified and improved and their support is recommended.

Standard operating procedures also help to determine effectiveness. Perhaps due to the crowded physical conditions of the present Office, careful recording and filing of complaints is not a common practice. Oftentimes, a staff member will remove a complaint record from the files and when another member looks for the file he is unable to find it. The Office policy that all files be signed for and officially checked out before removal is largely ignored. In addition files remain in stacks, virtually unfilled for months. Again this is due in part to the overload of complaints experienced by the Office during GASPLAN and the lack of enough clerical personnel.

The staffing procedures and personnel attitudes are another area of consideration. The staff is generally professional and concerned. However, because of the nature of consumer protection and the constant barrage of complaints that investigators and others must face everyday, it is recommended that investigators be required to do some field work. The change of scenery would give them some relief from the daily pressure of complaints while satisfying an important function of the Office. Safeguards and measures to prevent the "hardening" of complaint handlers is essential.

The Office is doing a good job in the area of handling individual complaints, and this is an important part of its role. However, resources, should be expended in other areas of consumer protection as well:

1. Educational and informational activities must be expanded;

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2. Field work by investigators should be resumed; and
3. Formal legal action should be undertaken more often to prevent the spread of unfair sales practices.

The efforts of the Consumer Protection staff must be regarded as admirable. They have been succeeding in an extremely pressure-packed area of governmental service. While Office procedures do need streamlining, physical conditions of the Office are wanting, and other improvements could be made. A description of the general characteristics of the Office must however include:

1. A sincere desire to help;
2. Recognition on the part of the staff of areas needing improvement; and
3. Genuine interest in the field of consumer protection.

If they are to continually progress in this field, they will need the support of the Legislature, in terms of staff and resources, and that of the community at large.

### Summary

The effectiveness of the Office is directly influenced by the monetary support and personnel allocations made to it. However, an evaluation of current operations was conducted, using a format developed by the Center for Study of Responsive Law and a consumer survey.

The Office was determined to need increased visibility among the populace to encourage the use of its services. It has a fair rating for accessibility with rather simple procedures for registering a complaint, but delays in completing follow-up actions. Throughout the study, recognition of the backlogs experienced because of GASPLAN was accorded.

Investigators were adjudged extremely adept at mediating complaints and following a complaint case to its conclusion. They have also been quite considerate about giving complainants occasional progress reports on cases which are taking an exceptionally long time to process. Optional avenues of redress are usually explained and common complaint patterns noted. One area which does need improvement, though, is that of field investigations. The staff has been too bogged down with office work to get out into the field as much as they used to. This situation should be rectified.



## SANCTIFY THE SCALES

The staff of the Office presents a picture of sincerity, genuine interest, and outstanding effort, but as with anything there is always room for improvement, particularly in terms of expanding services.

## CHAPTER SEVEN

*"For the master spirit of the earth shall not  
sleep peacefully upon the wind till the needs  
of the least of you are satisfied."*

*Kahlil Gibran*

CONCLUSIONS AND RECOMMENDATIONS

## VII

### Introduction

Everyday there are stories told on newscasts and printed in newspapers and magazines about false advertising, unsafe household products, drugs which have been determined to require further testing after several years of commercial sales to the public, skyrocketing living costs, unnutritious foods, air and water pollution, energy needs, medical inadequacies, and other similar concerns of direct interest to the consumer. At the same time, consumer boycotts and more sophisticated means of righting the wrongs in the marketplace are being adopted by consumers as weapons against the philosophy of "caveat emptor". In view of the major consumer problems that the public must face everyday and the continuing bleak economic situation, it is imperative that a strong consumer protection agency be fully supported by the State. On the basis of this study and the research information described in the previous chapters, several major alternative recommendations are being offered for consideration. These are intended to improve the effectiveness of consumer protection activities in Hawaii.

### Expand the Office

The major recommendation of this study is that the consumer protection activities of the Office of Consumer Protection be expanded and the Office restructured to assure independence and effective action. There are alternative methods by which this can be achieved. Although the Office currently reports very little interference on the part of other governmental officials, in regard to its operations, there are no guarantees that when the executive changes, there will again be little or no interference in Office activities. The present structure does not guarantee independence and flexibility. Additionally, the State of Hawaii has fallen into the pattern of placing many new executive agencies, which cannot be easily assigned to one of the existing departments, within the Office of the Governor. This often happens either because the proposed office serves a new purpose and it is not conceptually clear where it belongs, or because of political concerns.

One option which would offer greater independence and which was suggested often by various individuals interviewed during the course of the study, is to place the Office

## SANCTIFY THE SCALES

directly under the Legislature in a structure similar to that of the Ombudsman, Auditor, and Legislative Reference Bureau. The Ombudsman, unlike the Consumer Protector, is directly concerned with complaints about the executive branch agencies. It is important, therefore, that the Ombudsman be placed outside of the executive branch and relatively immune from executive level retaliatory actions which may tend to come as a result of an Ombudsman's investigation. In addition, the Ombudsman is a direct service arm of the Legislature. The Legislative Reference Bureau and the Auditor also provide direct services to the Legislative branch of government. The Consumer Protector, on the other hand, is charged with handling consumer complaints lodged by the public and most often related to private businesses and sometimes private individuals. While their activities may indirectly lead to criticism of existing governmental offices, this is not their primary function. Their service is a direct service to the public provided by the government and as such should be part of the executive branch of government.

The questions which next arise, then, are, "Where in the executive branch should the consumer protection function be placed?" and "How should the consumer agency be organized?" There are several options to consider, and two of them will be described briefly in terms of numbered alternatives. Not discussed, however, will be the obvious third alternative of simply maintaining the status quo.

The main difference between the two alternatives is the structure and size. The first alternative is placed, for administrative purposes only, in the Department of Regulatory Agencies. The second combines the functions of the Office of Consumer Protection and the Department of Regulatory Agencies into a single department--the Department of Consumer Affairs. Alternative Two also provides that the new Department assume State regulatory and licensing functions, while Alternative One merely stresses a consumer advocacy role. It should be noted, however, that there is always a third alternative of maintaining the status quo. Two charts comparing the alternatives with existing operations are included in *Tables XI* and *XII*.

### ALTERNATIVE 1

#### CONSUMER PROTECTION: CONSUMER ADVOCATE

#### Main Provisions

Under this alternative, the term "consumer" would refer to any individual who uses, purchases, acquires, attempts

TABLE XI  
CHART OF ALTERNATIVES

<u>ORGANIZATION</u>	<u>EXISTING</u>	<u>ALTERNATIVE 1</u>	<u>ALTERNATIVE 2</u>
Structural placement in State Government	Governor's Office	Administratively part of Reg. Agencies, but operates independently (similar to Insurance Commissioner)	New Department of Consumer Affairs
Role	Mediation	Consumer Advocate (Represent consumer interests before State agencies)	Mediation Representation (Represent consumer interests before State agencies)
Advisory role	None	Consultation and advice on how to solve consumer problems	Consultation
Adjudication	--	Hearing officer to arbitrate settlements upon request	Same as alternative one
Complaints	Receive some complaints, transmits to other agencies, no follow-up	Receive all complaints, distribute, and follow-up	Receive some complaints, transmits to other agencies, no follow-up
Research and Investigation	Very little field research and little or no product testing	Chiefly field research some product testing	Product testing and field research (more extensive)
Information and Education	Some educational programs, but in need of more  Some public relations activities, but in need of more	Support educational programs and do widespread public relations to inform consumers about consumer concerns	Same as alternative one
Regulation	None	None	Assume State regulatory and licensing functions
Prosecution	Some prosecution powers	Prosecute and enforce all laws which other agencies are authorized to enforce	--

TABLE XII

## CHART OF ALTERNATIVE APPROACHES TO REORGANIZATION

	<u>Existing</u>	<u>Alternative 1</u>	<u>Alternative 2</u>
Client	Consumers	Consumer: as an individual.	Consumers.
Director	Director appointed by governor, must be attorney	Consumer advocate appointed by governor with the consent of the House and Senate from a list submitted by these bodies. Need not be an attorney.	Director appointed by governor, need not be attorney.
Term	Will of governor	Six years, non-renewable.	Will of governor
Staffing	--	Increased	Some increase, mostly tranfers.

## CONCLUSIONS AND RECOMMENDATIONS

to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes. This is intended to cover the individual, rather than a corporation, in all his relations to the goods and services he obtains or uses.

Appointment. The Office is to be headed by a consumer advocate appointed by the Governor, with the consent of the Senate and the House of Representatives. The nominee is to be selected from a list of ten names submitted to the Governor by the Senate and House Committees on Consumer Protection from names submitted to them by various commissions or private organizations representing the elderly, youth, and consumers in particular. The intent is to find a qualified and sincere advocate acceptable to various segments of our society and to avoid attempts to implement political patronage practices. The deputy advocate shall also be selected from the remaining nine names on the list.

Term. Both advocate and deputy would serve a term of six years, with the advocate limited to a single term. The six-year term is another safeguard to assure independence by providing a term two years longer than the Governor and other executive branch appointees. At the same time, the single term sets a definite time limit in which the advocate must act. He knows the limits, and need not worry about not stepping on toes and soliciting assurances of a second term. The advocate may be removed, with legislative approval, only for inefficiency and neglect of duty.

Advocacy. The Office will represent consumers before State agencies and shall have the authority to intervene and participate in State proceedings and activities, whether they be formal or informal. All State agencies would be required to rewrite their operating rules and regulations to provide for Office intervention and participation. The Office may represent an interest of consumers when petitioned to do so by individuals or organizations. They would be expected to testify at public hearings, before legislative committees, and even before federal hearings if requested to do so. At the same time, State agencies would be required to inform the Office of upcoming agency actions which would affect or be of interest to consumers.

Complaint Handling. The Office would become the principal complaint receiver for the State. A single complaint form, similar to the one developed in California (See Figure 3), would be made available in frequently habited

CALIFORNIA'S COMPLAINT FORM  
"ONE STOP" COMPLAINT FORM  
(please print or type)

**COMPLAINANT. . .**

YOUR NAME \_\_\_\_\_  
First Name Middle Initial Last Name

YOUR HOME ADDRESS \_\_\_\_\_  
No. and Street City and State Zip Code

YOUR BUSINESS ADDRESS \_\_\_\_\_  
No. and Street City and State Zip Code

TELEPHONE NUMBER \_\_\_\_\_  
Home Business

COMPLAINT AGAINST. . .

NAME \_\_\_\_\_  
( Person, Company, or Firm: Use name appearing in telephone book, if possible. )

ADDRESS \_\_\_\_\_  
No. and Street City and State Zip Code

TELEPHONE \_\_\_\_\_ SALESPERSON OR REPRESENTATIVE \_\_\_\_\_

NATURE OF COMPLAINT. . .

DATE OF TRANSACTION\_\_\_\_\_DID YOU COMPLAIN TO COMPANY\_\_\_\_\_

PERSON YOU TALKED TO\_\_\_\_\_

DATE YOU COMPLAINED TO COMPANY\_\_\_\_\_

FURTHER INFORMATION (if applicable)

HAS A LAW SUIT BEEN FILED IN SMALL CLAIMS COURT?\_\_\_\_\_OTHER\_\_\_\_\_

HAVE YOU ENGAGED A PRIVATE ATTORNEY?\_\_\_\_\_

ATTORNEY'S NAME\_\_\_\_\_

ATTORNEY'S ADDRESS\_\_\_\_\_  
No. and Street City and State Zip Code

WERE YOU LED TO THE PRODUCT THRU ADVERTISING?\_\_\_\_\_

WHEN ADVERTISED?\_\_\_\_\_WHERE\_\_\_\_\_

DOES PRODUCT HAVE SERIAL NUMBER?\_\_\_\_\_#\_\_\_\_\_

DOES PRODUCT HAVE MODEL NUMBER?\_\_\_\_\_#\_\_\_\_\_

DOES COMPLAINT INVOLVE A VEHICLE/MOBILE HOME?\_\_\_\_\_

MANUFACTURER\_\_\_\_\_ADDRESS\_\_\_\_\_



## CONCLUSIONS AND RECOMMENDATIONS

places to encourage public use. Those complaints which were determined to be within the jurisdiction of a regulatory or other agency, should then be transmitted to the proper agency. However, the Office investigators would be responsible for notifying the complainant of the referral and of following up on the complaint to make sure that satisfactory action was taken by the agency within a reasonable time period.

Both complainant and the person or business complained against should be notified of the actions being considered by the Office unless the advocate determines that notification of the person complained against would prejudice or impede an action, investigation, or prosecution being contemplated by the Office. Complaints could be filed in convenient places and be made available for public inspection, including the findings of the Office investigator, comments of the business involved, and the formal resolution of the complaint.

Under this alternative, a new role, one that the Office has not formally played, might be that of adviser and counsel for the consumer complainants. Sometimes, when a complaint cannot be settled to the satisfaction of the complainant, the complainant is left at a loss as to what to do next. This option provides that the Office will be responsible for providing consultative services. For example, an advisor might explain how to prepare a case for Small Claims Court, what documented evidence is needed for an agency presentation, how to find private legal services, etc. They would let complainants know where to go for help and how to go about getting it. While the Office of Consumer Protection does make some referrals of this kind, offering advice on Small Claims cases or further legal action, this activity should be made a matter of Office policy. Consumers should understand that this help will be made available to them if needed.

Another new aspect of complaint handling would be that of administrative adjudication. This would be a service offered by the Office and provided for through the hiring of hearing officers. If the investigators could not mediate an amicable settlement, they could recommend that the case be submitted to a hearings officer for arbitration. The structure would be similar to that of the workmen's compensation system. If the settlement were unsatisfactory to either party, he could appeal his case through regular court procedures. However, before initiating the arbitration procedures both parties could agree to binding arbitration. In that case, no appeal procedure would be available.

## SANCTIFY THE SCALES

### Information and Education

The Office would be responsible for conducting research into areas of consumer concern. Researchers would be hired to conduct studies and publish the results so that the consumers could be informed about current market happenings. The advocate would also be authorized to request reports on answers to specific questions from governmental or private agencies and individuals and to require that the answers be submitted to him within a reasonable length of time. Some restrictions on the release of private, confidential information would be imposed similar to the federal guidelines in S. 707.<sup>1</sup>

A strong educational and public informational program would also be stressed. Informing the consumers about what to do, where to go, and how to recognize and solve a problem is essential to effective consumer protection. Therefore, strengthening this area with funds, equipment, and most importantly good staffing is a major recommendation for improving current services.

### ALTERNATIVE 2 REORGANIZATION OF REGULATORY AGENCIES

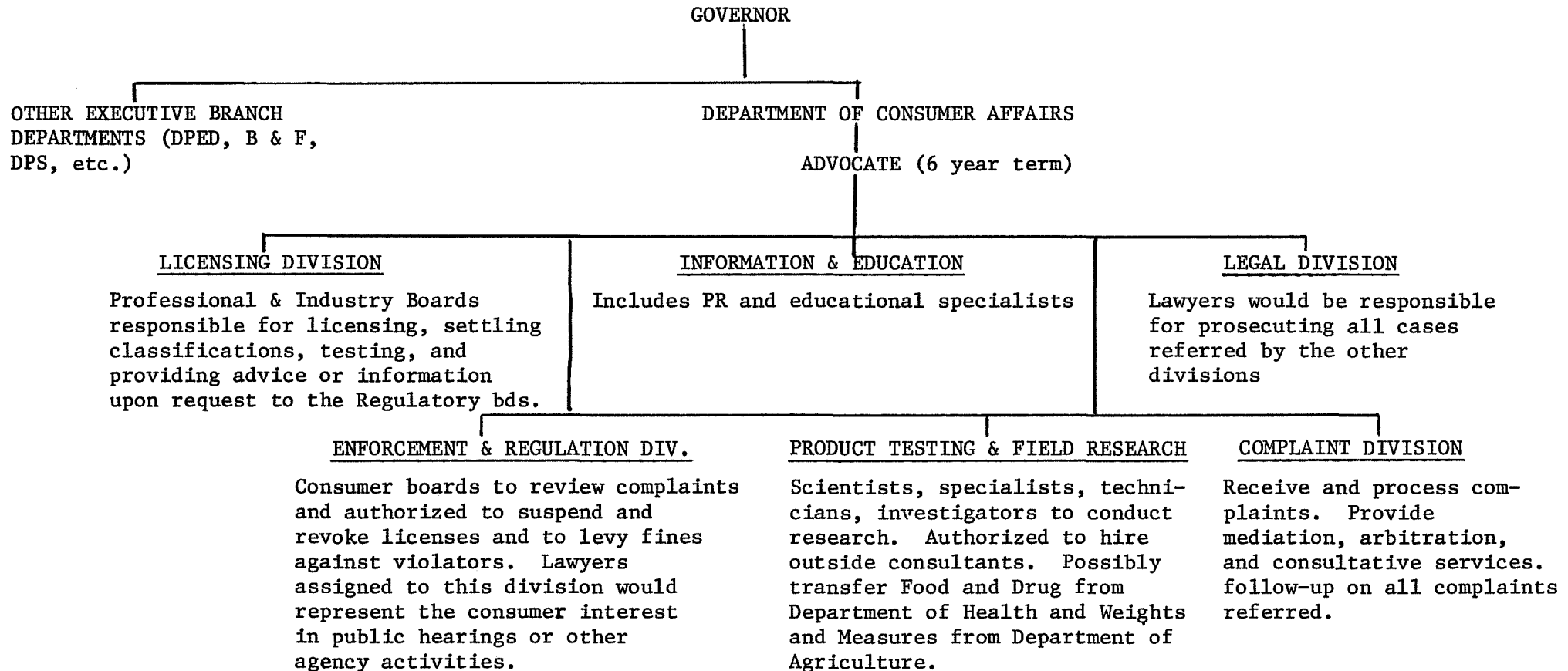
This alternative is functionally similar to Alternative One, but because it involves major structural changes and governmental reorganization, further study may be warranted, particularly in regard to the reorganization of the State Regulatory Agencies. The major program differences are:

- (1) It would be responsible for extensive product testing and field research.
- (2) It would assume State regulatory and licensing functions.
- (3) It would be structurally different, and it would encompass an entire department.
- (4) There would be separate industry and professionally represented licensing boards and consumer represented regulatory boards.

The basic structure of this alternative department is described in *Figure 4*. It should be pointed out, however, that because the formulation of this new department includes the elimination of the Department of Regulatory Agencies and the transfer of its functions as well as some from various other agencies, additional information on the existing operations and policies of the Regulatory Agencies may be desirable before action is taken.

FIGURE 4

STRUCTURE OF ALTERNATIVE DEPARTMENT PROPOSALS



## SANCTIFY THE SCALES

### Conclusions

One effective means to correct the imbalance between representation of business and consumer interests is to assure an effective voice for consumers in governmental decision-making processes. A consumer advocate, and an Office of Consumer Protection with expanded powers are essential to improving the quality and quantity of current consumer protection efforts.

Alternative One, which is recommended as the first step toward improved services in this area, avoids creating yet another over-large governmental agency with bureaucratic tendencies. It is fairly evident that no matter how big an agency is established or how much money it spends, no single State agency can be expected to act adequately to perform all consumer services and all consumer protection activities. At the same time, no one State agency can be expected to act adequately as both a decision maker and as a critic of its own decisions.

The recommended alternative is based on a role of advocacy and makes specific provisions for the supply of necessary information. Accordingly, the consumer would have someone to represent them before governmental agencies. The traditional belief in this State, that the way to assure as fair a decision as possible is to let advocates for the different sides present the best arguments each can, would be upheld. In order to effectively represent consumer interests, the advocate could be authorized to participate in both formal and informal agency proceedings. In formal proceedings, the Office would work under the same constraints as any other party in the proceeding. One administrative law expert has estimated that as much as ninety per cent of governmental work is conducted outside the boundaries of the Administrative Procedures Act. Decisions that directly affect the consumers may be merely those that decide not to take action or not to investigate.

If the recommendations are implemented, a single, visible agency to receive, refer, and follow-up on consumer complaints would become available for consumer use. With wide publicity and new educational efforts, the Office could become more familiar to the populace, and greater use would be encouraged. Media campaigns, television spots, news releases, public speeches, and other informal and formal educational practices might be increased if the consumer were to become a "market-literate".

## CONCLUSIONS AND RECOMMENDATIONS

The provision for consumer representation by the Office recognizes that there may sometimes possibly be more than one consumer interest involved in proceedings in which the Office is participating. If these interests are not in conflict with each other, the Office may represent all such interests at the same time. If there is a conflict, the Office may suggest a solution which reconciles the differing interests. On the other hand, one of the conflicting groups may already be represented by another party, thus freeing the Office to concentrate on the other interest. If none of these solutions is appropriate, the Office may decide that the best way to advance consumer interests is to simply present to the decision maker all relevant information without taking any sides. The ultimate goal is to encourage consumer interests to represent themselves in the governmental decision-making process.

As consumer interests become more fully articulated, it should become apparent that the interests of consumers and businesses need not be dramatically opposed to each other. By helping to eliminate the few examples of bad business practices wherever they occur, and by helping to inform and educate the consumer, the Office will also help the great majority of honest businessmen in an industry who sell good dependable products. It should promote business by giving the consumer confidence to rely on the products he buys and the sellers with whom he does business. It is now the time for consumers to actively participate in action to improve the marketplace in Hawaii. They need to communicate with governmental agencies which make decisions which affect them, and they need to actively help to improve the marketplace.

It is time to strengthen the consumers' rights once described in a Presidential message, as follows, by improving the operations of the Office of Consumer Protection and expanding its services.

1. The right to safety--to be protected against the marketing of goods which are hazardous to health or life.
2. The right to be informed--to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling, or other practices, and to be given the facts he needs to make informed choices.
3. The right to choose--to be assured, wherever possible, access to a variety of products and

## SANCTIFY THE SCALES

services at competitive prices; and in those industries in which competition is not workable and government regulation is substituted, an assurance of satisfactory quality and service at fair prices.

4. The right to be heard--to be assured that consumer interests will receive full and sympathetic consideration in the formulation of government policy and fair and expeditious treatment in its administrative tribunals.

### **Summary of Other Recommendations Based on Problems Made Evident During the Course of the Study**

Throughout the study, specific recommendations as to means of improving consumer protection activities have been made. In this section, the consumer problems that have become evident and a brief description of possible solutions will be described. The recommendations are divided into four general sections: complaints, education and information, small claims and legal problems, and office operational procedures. Some of these recommendations have been discussed earlier in the study, others have not.

## CONCLUSIONS AND RECOMMENDATIONS

### COMPLAINTS

Widespread efforts to minimize consumer frustrations in complaint handling are essential. It is in this way that consumer problems may be quickly, efficiently, and effectively handled.

Problem: Bureaucratic run-around.

Solution: A single, universal complaint form. Based on the California model (See *Figure 3*). It is designed so that any agency can use the form to start action or refer it to another agency. Provides an immediate governmental response.

Problem: Consumers do not know where or how to file a complaint.

Solutions: Develop geographically applicable guides on where to go for various problems and distribute these widely, free of charge.

Develop a list of consumer complaint and protection telephone numbers which include various common problems and the appropriate agency numbers. (See *Appendix U*.)

Simplify complaint procedures.

Widely publicize an easily memorized telephone number for the Office of Consumer Protection.

Expand branches on the Neighbor Islands or support local county offices.

Support the concept of a consumer section in the satellite city halls.

Problem: Governmental agencies are sometimes guilty of "Pass-the-buck" strategies.

Solution: Require the Office to notify the party complained against and to request appropriate relief for the consumer in addition to transmitting the

## SANCTIFY THE SCALES

complaint. Furthermore, after a complaint has been referred, require the Office to follow up on it to make sure that appropriate action has been taken.

Encourage regulatory agencies to receive and informally resolve consumer complaints against regulated merchants.

Problem: Prostitution of the public interest in the field of individual licensing occurs because the licensing function is transferred to the profession being licensed.

Solution: Require that a majority of consumers, general public, be represented on each board or commission charged with licensing or regulation. Review the licensing and complaint handling functions of the Department of Regulatory Agencies.



## CONCLUSIONS AND RECOMMENDATIONS

### EDUCATION AND INFORMATION

Because consumers are relatively illiterate in terms of consumer purchases and product marketability, it is imperative that the public have a better understanding and knowledge of their collective rights and responsibilities. In this way, consumer fraud in the public marketplace may be attacked and decreased.

Problem: How to inform a diverse public about consumer concerns.

Solutions: Bombard the media with information releases about current consumer activities. Press releases on fraudulent activities, recent prosecution efforts, and consumer tips on wise buying are effective.

Television and radio appearances and alerts. Have staff members address consumers through the media and personally before groups on a regular basis. Alert them to new laws and rights.

Advertise consumer tips on what to do before buying, when buying, if a problem arises, and where to go for help, in the telephone book.

The State can more effectively protect the consumer by:

- (1) Disseminating information to the public on the functions of the various governmental agencies.
- (2) Cautioning the public about doing business with unlicensed individuals.
- (3) Strengthening a centralized information and referral service.
- (4) Encouraging stricter enforcement of rules and regulations by State agencies.

Offer community meetings sponsored by the Office of Consumer Protection to inform people about their rights and to encourage the filing of complaints when an investigation warrants it.

## SANCTIFY THE SCALES

Encourage the schools to familiarize students with governmental services beginning in the elementary school and continuing through high school.

Support more lower education programs in consumerism.

Educate consumers about the danger of doing business with unlicensed businessmen.

Consider bilingual aides at neighborhood locations or other centers of population to offer advice, consul, and aide.

Concentrated efforts toward developing contracts which laymen can easily read and understand by the Office.

Have the public library subscribe to consumer periodicals like Consumer Reports.

Establish a consumer center at which any interested buyer may pick up a wide variety of consumer education materials and some impartial advice on which local service representatives can best serve their purposes.

Problem: Local consumer groups lack information resources.

Solutions: Distribute free of charge a monthly newsletter on current laws, regulations, and consumer activities.

The State should offer special training for all governmental personnel who are most involved in receiving public inquiries. These employees would be schooled in who does what in government, thus cutting down on the number of multi-referrals. This would help to prevent the frustrating consumer experience of being shuttled around until lost in the maze of governmental bureaucracy.

Problem: Language barriers prevent many consumers from knowing their rights.

## CONCLUSIONS AND RECOMMENDATIONS

Solutions: Conduct information seminars and conferences in basic consumer knowledge of rights and laws, including such areas as health, education, nutrition, buying food, credit ratings, loans, and housing. (Samoan, Filipino, Japanese, Chinese, etc.)

Translate brochures distributed by the Office.

Consider locating field offices in low-income areas.

Problem: Consumer input is sometimes missing when governmental programs are being developed.

Solution: Request the Office to develop a procedure whereby consumers could have some input in the development of programs and services.

Problem: Governmental employees are not sure about where to refer calls.

Solution: Provide a special training for all governmental personnel who are involved in receiving public inquiries. Educate them as to who does what in government so that the frequency of multi-referrals is lessened.

## SANCTIFY THE SCALES

### SMALL CLAIMS AND LEGAL PROBLEMS

- Problem: Consumers do not know their legal rights.
- Solutions: Conduct information campaigns and together with media support disseminate a consumer IQ Quiz on recently passed consumer laws affecting credit, nutrition, products, sales, and advertising.
- Do five minute radio dramas on small claims cases to popularize Small Claims Court as a consumer weapon. Also use ETV programs, public service announcements on commercial television, etc.
- Increase funding and personnel of OCP for educational specialists, public information officers, etc. to publicize consumer alternatives.
- Problem: Consumer complaint cases are sometimes ignored by other state and county agencies or given low priority either because of a basic unfamiliarity with the field or other criminal problems which seem more pressing.
- Solution: Authorize the Office to prosecute any violation of law assigned to the jurisdiction of any state or county agency. In this way, if an agency does not choose to prosecute, the Office could do so on its own.
- Establish strong criminal penalties for consumer crimes. Additional criminal penalty to Hawaii Revised Statutes, section 480-2.
- Authorize the counties to secure restitution for consumers.
- Problem: Consumers are not represented in public hearings and other decision-making activities.
- Solution: Authorize the Office to represent consumers (upon petition) before any public or private agency in which there is a definite consumer interest.

## CONCLUSIONS AND RECOMMENDATIONS

Problem: Often times laws are not clear on defining impermissible acts or practices and offer few guidelines to businessmen as to acceptable practices.

Solution: The Office might be authorized to promulgate rules and regulations that are improper under deceptive practice statutes.

Problem: Few people are familiar with small claims court procedures.

Solutions: Create and broadcast professionally prepared commercials to make the public aware of the courts and their procedures. As Ralph Nader explained, "Courts are basically dispensing public services, but as with any dispenser of a service, if a consumer doesn't know its there, it isn't going to be used".

Keep court procedures informal and easily understandable.

More widely distribute the small claims informational pamphlet and have it translated into Filipino, Japanese, etc.

Problem: Because of inflationary living costs, many cases which involve more than \$300 but less than \$3,000 are determined to be impractical to take to court because of the attorney's fee and costs involved.

Solutions: Increase the jurisdictional ceiling on the Small Claims Court to between \$1,500 and \$3,000 and provide for automatic escalation of the ceiling as the cost of living increases.

Bar all attorneys from the Small Claims Court.

Consider night and weekend court sessions. Once per week and one Saturday per month.

The availability of recourse to Small Claims Courts should be printed on the buyer's copy of a contract or receipt relating to such goods and services as appliance repairs, automotive repairs and leases, etc.

## SANCTIFY THE SCALES

Use a paralegal small claims advisor to assist citizens in the preparation of small claims suits and to publicize small claims services.

## CONCLUSIONS AND RECOMMENDATIONS

### OFFICE OPERATIONAL PROCEDURES

Problem: The budgetary limitations and extensive red-tape procedures which are required for unexpected travel plans, etc. sometimes prevent fast action on the part of the Office and discourage certain investigations.

Solutions: Establish a revolving fund, moneys from which can be used by Office staff for emergency investigations, travel, transportation of witnesses, etc. all at the discretion of the director.

Increase mileage fee allotments to encourage field investigations.

Problem: Jurisdictional delays.

Solution: Authorize the Office to investigate and prosecute any violation of the law, regardless of jurisdiction. In this way, the public can be assured that something will be done, no matter which agency has jurisdiction. If the appropriate agency does not act, the Consumer Protector may step in.

Problem: Consumers are not guaranteed of restitution even in cases where the business has been guilty of wrongdoing.

Solutions: Authorize the Office to seek restitution for consumers as well as levy fines. The fines could be deposited into the revolving fund for emergency use.

Adequate enforcement action, including strong litigation powers and authority to levy fines and seek restitution, is important. While this may consume a relatively large amount of governmental resources to effectuate a remedy, it is especially necessary to protect consumers and to deter unscrupulous businessmen.

Problem: The Consumer Advisory Council has low visibility, is seldom used, and is ineffective.

## SANCTIFY THE SCALES

Solution: Abolish the Consumer Advisory Council.

Problem: Low visibility and accessibility of the Office.

Solutions: The Office must make contact with consumers and their problems, and one way to do this is through the establishment of a number of storefront offices in frequently habited locations and a convenient and easy to find central headquarter.

Locate the Office in a more convenient and easy to locate place. Consider storefront locations in any expansion plans; satellite offices.

Expand the duties of the Office and increase its staff and funding.

Problem: No one knows everything, not even lawyers.

Solution: While lawyers are trained in a specific technical field, they can in no way be considered experts in everything, therefore the Office should make a concerted effort to hire a limited number of professional experts (physicians, engineers, etc.), automotive experts to continually advise the attorneys investigating the complex items that characterize today's living patterns. A similar recommendation was made in the Nader report on the FTC, but it provides even further that these experts should be hired even if the legal staff must be reduced in return.

Problem: There has been little coordination of efforts among consumers, thus effective consumer action in Hawaii has been slow in coming.

Solutions: The Office should directly represent the interests of consumers before governmental agencies and decision-making bodies.

When contrasting views are presented to a decision-maker, the end product is a decision that is based on consideration of a broader range



## CONCLUSIONS AND RECOMMENDATIONS

of factors. These decisions tend to be more balanced and observant of the diverse interests that may be affected and they also tend to accommodate the competing interests in a truly independent decision. The opportunity for as many views as possible to be heard and considered together is an essential ingredient of fair and reasoned decision-making. To insure the consumer a voice, along with that of organized, well-financed, and well-counseled special interest groups, it is recommended that the Office of Consumer Protection assume the role of consumer advocate and provide effective representation of consumers in the realm of governmental decision-making.

Problem: Investigation delays.

Solution: Rather than tying down one investigator with cumbersome statistical details on "work produced", rely on estimates and use the investigator for the job intended. Devise a more workable record-keeping system.

Problem: The strain of continual complaints over a long period of time sometimes result in the "hardening" of those who receive the barrages.

Solutions: Encourage field work on the part of investigators, and other such safeguards to prevent the "hardening" of complaint handlers.

The Office should encourage more formal legal action on its part and concentrate on attacking common and serious practices to prevent their spread.

## SANCTIFY THE SCALES

### Summary

The consumer story is an important one. During today's deteriorating economic situation, climbing inflation and towering unemployment, consumers are becoming more concerned and careful about the dollars they spend. They are becoming, out of necessity, smarter shoppers, and they are looking to government to assure fair marketing practices.

While the Office of Consumer Protection has done a wonderful job with the staff and resources which they have been allotted, there is room for improvement and a need for expansion of services. The primary recommendation of the study is to place the Office of Consumer Protection within the Department of Regulatory Agencies for administrative purposes only. It would operate independently, similar to the No-Fault Insurance Commissioner. Consumer advocacy would be one of its major endeavors, with the advocate (director) appointed by the Governor.

A summary of detailed recommendations in four areas is also described, including:

Complaints

Education and Information

Small Claims and Legal Problems

Office Operational Procedures

It is recommended that various actions be undertaken to improve consumer services and to re-direct the trend of "caveat emptor" to the more consumer-appealing one of "caveat venditor".

## FOOTNOTES

### CHAPTER III

1. National Institute for Consumer Justice, Staff Studies, Prepared for the...on State and Federal Regulatory Agencies [and] Miscellaneous Redress Mechanisms (Washington: 1973), p. 301.

### CHAPTER IV

1. National Institute for Consumer Justice, Staff Studies, Prepared for the...on State and Federal Regulatory Agencies [and] Miscellaneous Redress Mechanisms (Washington: 1973).
2. Arthur Allen Leff, "Injury, Ignorance and Spite - The Dynamics of Coercive Collection", Yale Law Journal, 80(1) (November, 1970), 21.
3. National Institute for Consumer Justice, Staff Studies, Prepared for the...on Small Claims Courts (Washington: 1973).
4. John H. Weiss, Little Injustices: Small Claims Courts and the American Consumer, A Preliminary Report to the Center for Auto Safety by the Small Claims Study Group (Washington: 1972).
5. Ibid.

### CHAPTER V

1. President Nixon's 1970 message on the environment.

### CHAPTER VI

1. Chris Wheeler, "Evaluating Complaint - Handling Mechanisms", Proceedings of the Public Policy Forum: Consumer Complaints--Public Policy Alternatives, November, 1974.
2. Ibid.
3. Ibid.

4. GASPLAN refers to the gasoline distribution policies instituted by the Governor during the 1973-74 energy crisis.
5. National Institute for Consumer Justice, Staff Studies, Prepared for the...on State and Federal Regulatory Agencies [and] Miscellaneous Redress Mechanisms (Washington: 1973).

### CHAPTER VII

1. S. 707 is a Congressional bill proposing to establish a federal Consumer Protection Agency.

## **APPENDICES**

APPENDIX A

LEGISLATIVE REFERENCE BUREAU  
State Capitol, Room 004  
Honolulu, Hawaii 96813

QUESTIONNAIRE TO CONSUMER PROTECTION AGENCIES

- (1) Which agency in your state is primarily responsible for consumer protection?

Office Name or Division: \_\_\_\_\_  
Location within state's administrative structure (Attorney General, Governor's Office, separate department, etc.): \_\_\_\_\_

Number of branch offices: \_\_\_\_\_

*\*NOTE: All of the following questions refer to the operations of the office which you have listed as being primarily responsible for consumer protection in your state.*

- (2) What is the yearly budget for the above office?

1972-73 Fiscal Year: \_\_\_\_\_  
1973-74 Fiscal Year: \_\_\_\_\_

- (3) What is the present staff allotment for this office?

	<u>Present Allotment</u>	<u>Optimum (as estimated by staff)</u>
Attorneys	_____	_____
Investigators	_____	_____
Educational Specialists	_____	_____
Other Specialists	_____	_____
Clericals	_____	_____
Students	_____	_____

- (4) What are the salary ranges in effect for the following personnel:

	<u>Minimum</u>	<u>Maximum</u>
Attorneys	_____	_____
Investigators	_____	_____
Specialists	_____	_____
Students	_____	_____

- (5) Please describe the consumer complaints received in a one-year period (most recent fiscal or calendar year):

What was the total number received? \_\_\_\_\_

What percentage of these were received directly? \_\_\_\_\_

What percentage were referred by another agency? \_\_\_\_\_

List some of the major sources of referrals.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What percentage of the cases were litigated? \_\_\_\_\_

- (6) Place a check after the activities listed below for which this office is responsible:

Enforces State's Type of Unfair & Deceptive Trade

Practice Law..... \_\_\_\_\_

Receives and refers complaints:

-- On broad consumer issues..... \_\_\_\_\_

-- On specific areas only..... \_\_\_\_\_

Arbitrates complaints:

-- On broad consumer issues..... \_\_\_\_\_

-- On specific areas only..... \_\_\_\_\_

Investigates individual complaints:

-- On broad consumer issues..... \_\_\_\_\_

-- On specific areas only..... \_\_\_\_\_

Studies problems of general concern..... \_\_\_\_\_

Accepts assurances of discontinuance..... \_\_\_\_\_

Executes investigative demand..... \_\_\_\_\_

Holds hearings..... \_\_\_\_\_

Has power of subpoena..... \_\_\_\_\_

Issues cease and desist orders..... \_\_\_\_\_

Seeks and obtains restraining orders; temporary or  
permanent injunctions..... \_\_\_\_\_

Seeks court orders for restitution..... \_\_\_\_\_

Prosecutes cases..... \_\_\_\_\_

Submits to other agency for prosecution..... \_\_\_\_\_

Revokes licenses, charters, franchises..... \_\_\_\_\_

Promulgates rules and regulations:

-- Procedural..... \_\_\_\_\_

-- Interpreting provisions of act..... \_\_\_\_\_

Represents general consumer interests before:

-- Administrative agencies..... \_\_\_\_\_

-- Regulatory commissions..... \_\_\_\_\_

-- Legislature..... \_\_\_\_\_

Has consumer education responsibilities to:

-- Develop and conduct programs.....

-- Assist others in programs.....

Has consumer advisory committee.....

Law establishing office provided for advisory committee..

(7) Please describe the educational and informational programs sponsored by this office.

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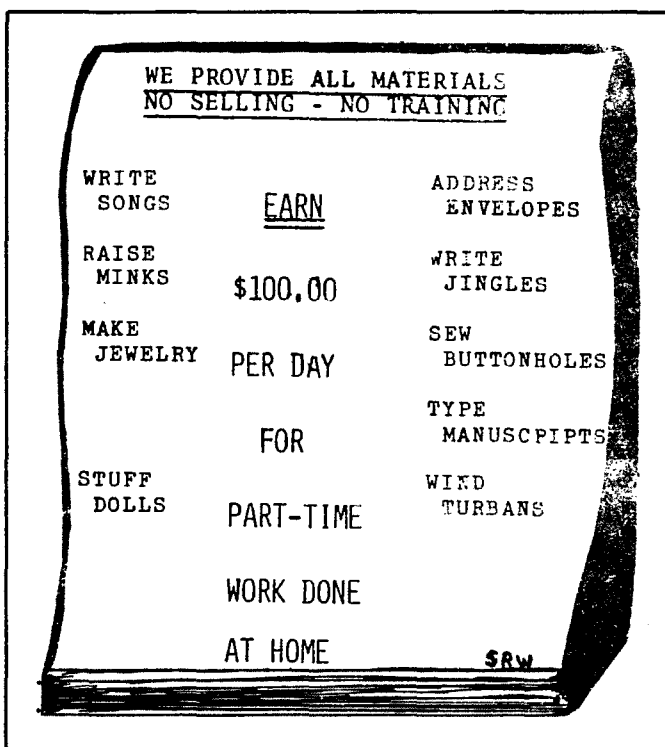
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# BE A CAUTIOUS CONSUMER

CAMDEN COUNTY BOARD OF CHOSEN FREEHOLDERS

OFFICE OF CONSUMER AFFAIRS

BARNABY W. McAUSLAN, CHAIRMAN  
CAROL J. BROOKS, DIRECTOR



WORK AT HOME

SCHEMES

ARE NOT

ALL

THEY SEEM

**THERE IS NO EASY WAY TO EARN MONEY AT HOME:  
YOU END UP WITH:**

1. SOMETHING YOU HAVE TO BUY.
2. NO MARKET FOR WHAT YOU PRODUCE.
3. THE END PRODUCT NOT UP TO STANDARD (THEIRS)

**DIRECTOR, CAROL J. BROOKS URGES CONSUMERS TO KEEP THE FOLLOW-  
ING LIST OF "HOW TO SPOT WORK-AT-HOME GYPS" HANDY.**

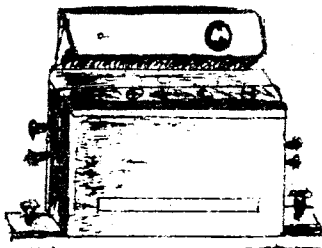
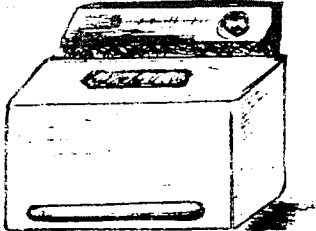


# BE A CAUTIOUS CONSUMER

CAMDEN COUNTY BOARD OF CHOSEN FREEHOLDERS  
OFFICE OF CONSUMER AFFAIRS

BARNABY W. McAUSLAN, CHAIRMAN  
CAROL J. BROOKS, DIRECTOR

## BETTER BEWARE OF BAIT & SWITCH SELLING

BAIT	NATIONALLY FAMOUS
	18 LB WASHER \$175.95
NATIONALLY FAMOUS	SWITCH
18 LB WASHER \$324.99	

DON'T  
BE  
TEMPTED  
BY  
BARGAINS;

LOW, LOW PRICES ARE  
USUALLY "COME ONS" FOR  
OTHER HIGHER PRICED MODELS.

DON'T BE BAITED BY: FABULOUS OFFERS, BARGAIN PRICES, "ONCE IN A LIFETIME",  
"SELLING OUT" AND "GOLDEN OPPORTUNITY".

THEN SWITCHED TO: SOMETHING ELSE, YOU DIDN'T WANT, HIGHER PRICED AND  
MORE ADVANTAGEOUS TO THE SELLER ONLY.

BECAUSE:

1. THE PRODUCT JUST "SOLD OUT" 10 MINUTES AGO.
2. THE SELLER IS UNABLE TO GIVE A DELIVERY DATE WITHIN A REASONABLE PERIOD OF TIME.
3. THE COMPANY MAKING THE PRODUCT IS OUT OF BUSINESS AND THEREFORE REPLACEMENT OF PARTS IS IMPOSSIBLE.
4. NO WRITTEN GUARANTEE IS PROVIDED.
5. YOUR SIZE (NO MATTER WHAT IT IS) IS OUT OF STOCK.
6. THE ADVERTISED ARTICLE IS DEFECTIVE.
7. THE MERCHANDISE IN QUESTION IS INFERIOR.
8. MANY COMPLAINTS WERE RECEIVED ABOUT THE ARTICLE'S PERFORMANCE.

INSTEAD, DIRECTOR OF CONSUMER AFFAIRS, CAROL BROOKS URGES, KNOW  
YOUR BUYING RIGHTS:

# BE A CAUTIOUS CONSUMER

CAMDEN COUNTY BOARD OF CHOSEN FREEHOLDERS  
OFFICE OF CONSUMER AFFAIRS

BARNABY W. McAUSLAN, CHAIRMAN  
CAROL J. BROOKS, DIRECTOR

## BUYING FROM A DOOR-TO-DOOR SALESMAN



CAREFULLY  
CONSIDER  
HIS  
OFFERS  
AND  
HIS  
WARES

### DON'T BE PRESSURED INTO BUYING BY:

1. HIGH VOLTAGE SALES TECHNIQUES.
2. SYMPATHY APPROACHES.
3. BARGAIN PRICES.

INSTEAD, DIRECTOR OF CONSUMER AFFAIRS, CAROL BROOKS SUGGESTS  
CONSUMERS KEEP THE FOLLOWING GUIDELINES HANDY WHEN FACED WITH A  
SALE, FROM A DOOR-TO-DOOR SALESMAN:

# BE A CAUTIOUS CONSUMER

CAMDEN COUNTY BOARD OF CHOSEN FREEHOLDERS  
OFFICE OF CONSUMER AFFAIRS

BARNABY W. McAUSLAN, CHAIRMAN  
CAROL J. BROOKS, DIRECTOR

## KNOW WHAT TO LOOK FOR WHEN BUYING A USED CAR



### WHO

OWNED IT ?

### WHAT

IS YOUR ACTUAL MILEAGE ?

### WHAT

KIND OF CONTRACT AND  
GUARANTEE IS OFFERED ?

### AVOID

1. BEING HIGH-PRESSURED INTO A QUICK SALE.
2. OVER EXTENDING YOUR BUDGET.
3. PLACING RELIANCE SOLELY ON THE SALESMAN'S RECOMMENDATION.

INSTEAD, DIRECTOR OF CONSUMER AFFAIRS, CAROL BROOKS SUGGESTS  
THAT CONSUMERS FOLLOW THESE GUIDELINES WHEN BUYING A USED CAR.

OVER

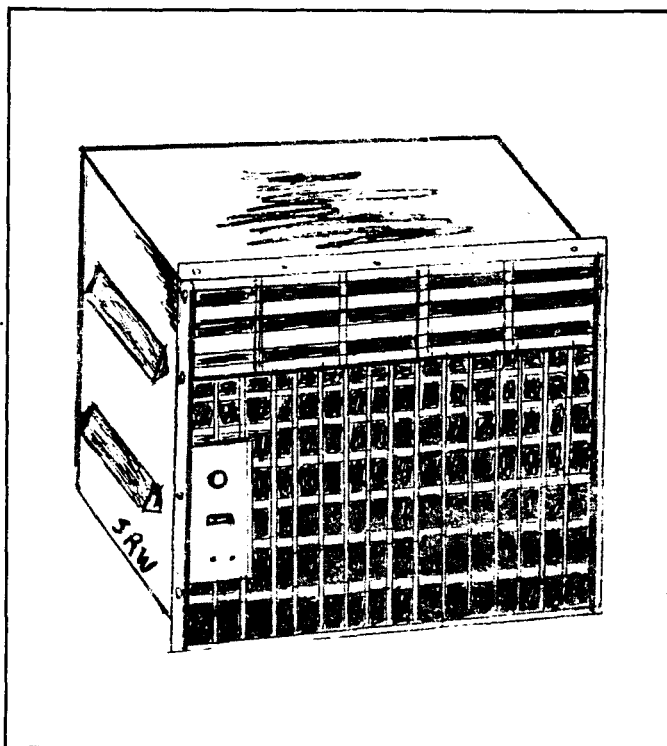
# BE A CAUTIOUS CONSUMER

CAMDEN COUNTY BOARD OF CHOSEN FREEHOLDERS

OFFICE OF CONSUMER AFFAIRS

BARNABY W. McAUSLAN, CHAIRMAN  
CAROL J. BROOKS, DIRECTOR

## GETTING READY FOR SUMMER



BEFORE  
BUYING OR REPAIRING  
A UNIT  
KNOW YOUR  
AIR-CONDITIONING  
FACTS

### DON'T

1. BUY IN HASTE - COMPARE PRICES, SHOP AROUND.
2. BUY BEFORE A COMPETENT ELECTRICIAN CHECKS FOR ADEQUATE WIRING AND VOLTAGE.
3. DECIDE ON A UNIT BEFORE YOU MAKE SURE:
  - a. IT FITS THE SPACE YOU'RE ALLOWING FOR IT.
  - b. IT WILL ADEQUATELY PROVIDE THE DESIRED COOLING.

INSTEAD, DIRECTOR OF CONSUMER AFFAIRS, CAROL BROOKS SUGGESTS YOU KEEP THE FOLLOWING "HELPFUL HINTS FOR BUYING AN AIR-CONDITIONER" HANDY:

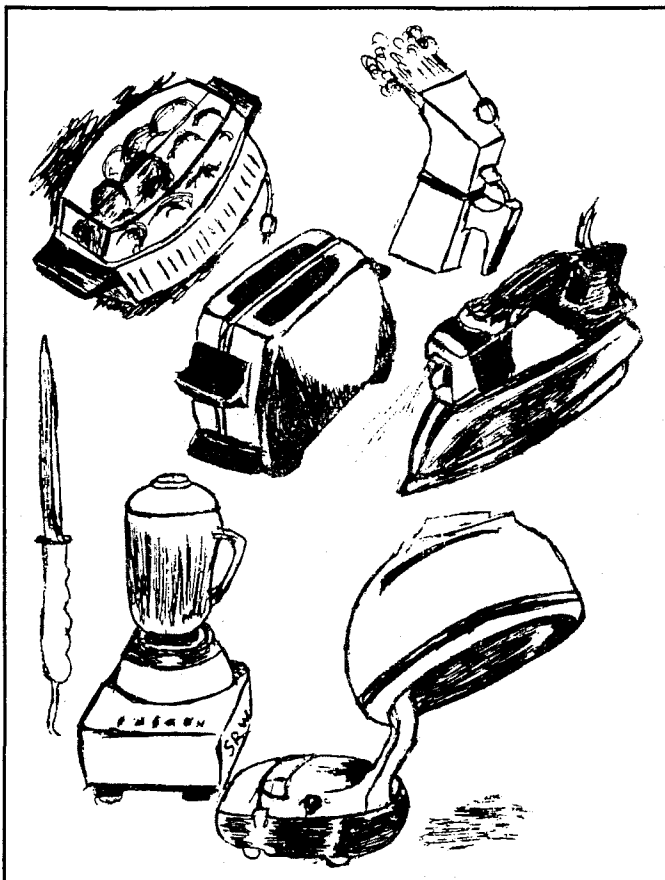
# BE A CAUTIOUS CONSUMER

CAMDEN COUNTY BOARD OF CHOSEN FREEHOLDERS

OFFICE OF CONSUMER AFFAIRS

BARNABY W. McAUSLAN, CHAIRMAN  
CAROL J. BROOKS, DIRECTOR

## WHEN BUYING AN ELECTRICAL APPLIANCE



MAKE

SURE

YOU

GET

YOUR

MONEY'S

WORTH

## KNOW YOUR APPLIANCE FACTS

1. THE NAME, MODEL AND MAKE --- ITS SPECIAL FEATURES.
2. HOW IT PERFORMS --- WHAT IS IT CAPABLE OF DOING.
3. WHAT IS NEEDED FOR INSTALLATION --- VOLTAGE, WATTS, SPACE, LOAD ON CIRCUIT AND MINIMUM CLEARANCE.
4. HOW TO USE AND MAINTAIN IT --- NORMAL MAINTENANCE COST AND ACCESSIBILITY.
5. HOW DOES IT OPERATE --- HOW MUCH POWER, NOISE AND INTERFERENCE WITH OTHER APPLIANCES.

# BE A CAUTIOUS CONSUMER

CAMDEN COUNTY BOARD OF CHOSEN FREEHOLDERS

OFFICE OF CONSUMER AFFAIRS

BARNABY W. McAUSLAN, CHAIRMAN  
CAROL J. BROOKS, DIRECTOR

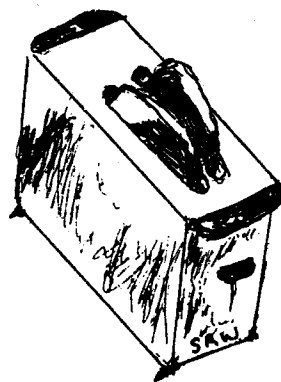
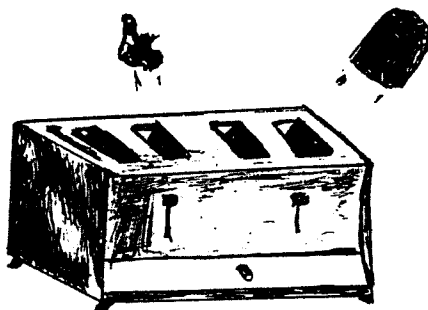
## GUARANTEED?

BY WHOM?

FOR WHAT?

FOR WHOSE LIFETIME?

WHAT PARTS?



### DON'T BE CONFUSED BY:

1. LIFETIME GUARANTEES.
2. FREE TRIAL OFFERS.
3. GUARANTEED TO SAVE YOU 50%.
4. UNCONDITIONALLY GUARANTEED.

INSTEAD, DIRECTOR OF CONSUMER AFFAIRS, CAROL BROOKS SUGGESTS  
CONSUMERS KEEP THE FOLLOWING GUARANTEE GUIDELINES HANDY:

# BE A CAUTIOUS CONSUMER

CAMDEN COUNTY BOARD OF CHOSEN FREEHOLDERS

OFFICE OF CONSUMER AFFAIRS

BARNABY W. McAUSLAN, CHAIRMAN  
CAROL J. BROOKS, DIRECTOR

## WHEN CONSIDERING HOME IMPROVEMENTS



DON'T BE TAKEN IN BY PROMISES  
OF  
GUARANTEED PERFORMANCES  
QUICK JOBS  
BARGAIN PRICES

### DON'T END UP WITH:

1. DRIVEWAYS REPAIRED WITH NEVER DRYING MATERIAL.
2. REPAIRS TO ROOFS WITH NON-EXISTENT LEAKS.
3. REPAIRS OF STUFFED CHIMNEYS, NOT REALLY IN NEED OF REPAIR.
4. GENERAL HOUSEHOLD REPAIRS NEVER AUTHORIZED.

INSTEAD, DIRECTOR OF CONSUMER AFFAIRS, CAROL BROOKS SUGGESTS  
CONSUMERS FOLLOW THESE GUIDELINES FOR HOME IMPROVEMENTS:

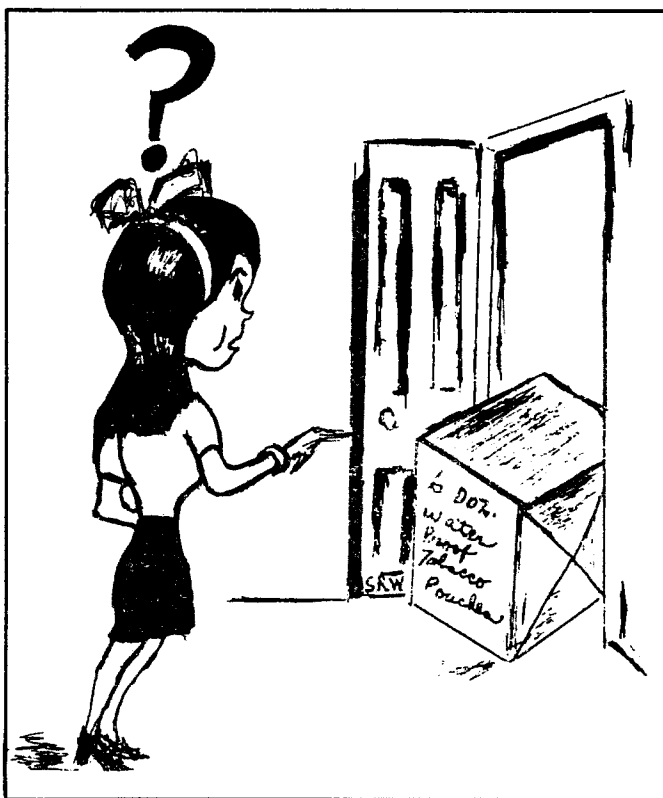
# BE A CAUTIOUS CONSUMER

CAMDEN COUNTY BOARD OF CHOSEN FREEHOLDERS

OFFICE OF CONSUMER AFFAIRS

BARNABY W. McAUSLAN, CHAIRMAN  
CAROL J. BROOKS, DIRECTOR

## UNSOLICITED GOODS BY MAIL



RECEIVE  
SOMETHING  
IN  
THE MAIL  
YOU DID NOT  
ORDER?

**YOU DON'T HAVE TO ACKNOWLEDGE ITS RECEIPT, AND YOU ARE UNDER NO OBLIGATION TO PAY FOR IT, OR RETURN IT.**

YOU CAN:

KEEP IT AS A GIFT

GIVE IT AWAY

THROW IT AWAY

ACCORDING TO DIRECTOR CAROL J. BROOKS, THE FOLLOWING LEGISLATION  
EFFECTIVE DECEMBER 17, 1969 APPLIES TO YOU:  
(CHAP. 30 A. SEC. 46:30A-1)



## HELPFUL HINTS FOR SAVING \$\$\$\$\$



### WATCH FOR THIS SEAL!

The inspection seal of the Texas Department of Agriculture is your assurance that the gasoline pump is under the surveillance of the Weights & Measures men. The seal indicates the date of the first annual inspection for the current year. While the seal cannot guarantee that the pump is still accurate when your purchase is made, it does mean that the pump is checked at unannounced intervals to encourage the pump owner to keep it in proper working order. If it is incorrect at the time of these inspections, its use is forbidden until repaired.

### 20 INTO 18 DOESN'T GO!

Know the capacity of your gasoline tank! If your car only holds 18 gallons and the pump registers 20 or more gallons on a fill-up, something is wrong! The pump may not have been reset to zero or it may be out of order for another reason.

All cars do not have the same capacity tank, however, so check your capacity in the manufacturer's booklet.

### IS THE PUMP SET TO "ZERO"?

Check the price and gallon computer gauges on the face of the pump before the attendant services your car. These gauges should all read "zero" before gasoline is dispensed from the pump.

A properly working pump will not dispense gas until the attendant resets the gauges --- but some malfunctioning pumps WILL pour gas without resetting. This could mean that you will pay for your gas and also that already sold to the last customer.

If this happens, call it to the attention of the attendant immediately. Also report the incident to us since this type of malfunction makes the pump in violation of the Weights & Measures Law.

### READ THE RIGHT PUMP!

Many stations have two or more "regular" or "ethyl" pumps side by side. Especially during rush hour business, an attendant may mistakenly read the wrong pump while filling out your ticket. Your alertness can prevent this error!

### CHECK THE PRICE ON THE PUMP!

Does the price on the face of the pump agree with the advertised price you intended to buy? A few unscrupulous operators may post a large sign on the station advertising a low price gasoline, yet the price at your pump will be higher for the advertised grade. If you ask about it, the operator may then point to a single pump at another location which he says is the only one of that grade with the "special price." This dubious "bait and switch" practice is frowned upon by most operators and major oil companies and should be reported to your local Weights & Measures inspector.



### WATCH THE "PRICE OF 10" TO CHECK COMPUTER!

A good way to check the accuracy of the pump price and gallon computer is to note the price when the pump has dispensed 10 gallons of gas. If the gas is 36.9 cents per gallon, the computer should register \$3.69 when 10 gallons have been put into your tank.

This quick check can be done while your tank is being filled. Or, you can have the attendant stop on 10 gallons until you check the calculation. If the price and gallons agree, he can then continue to fill your tank.

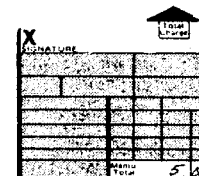
If the pump is improperly computing the price, tell the attendant and also notify us!

### CHECK YOUR CREDIT CARD SALES TICKET!

The attendant writes in your purchase of gas on your credit card ticket and also sets the price on the automatic printer. Look at this imprinted price and the written price on the ticket to make sure they agree!

If there is an error, call it to the attention of the attendant immediately. This will also prevent problems and confusion in the accounting department of the oil company when they post the ticket to your account.

\$ 00500

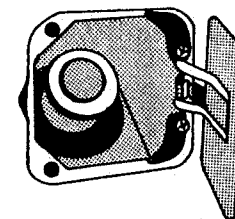


### DON'T FORGET YOUR CREDIT CARD!

Oil companies spend hundreds of dollars each year returning credit cards accidentally left at service stations. Many consumers also lose money by unauthorized use of their card. Be certain to get yours back from the attendant.

### DON'T LOSE YOUR GAS TANK CAP!

Your gas tank cap accidentally left at the station adds dollars to your operating costs when you have to replace it. Just double-check to see if the attendant remembers to replace it. He won't be offended --- and it will save you money.



### INQUIRE ABOUT NON-POSTED PRICES!

If the price isn't posted for services such as a wash job, oil change, lubrication, etc., be sure to ask the cost before authorizing the attendant to perform such services. This inquiry will avoid later misunderstandings.

**REPORT ANY IRREGULARITIES TO YOUR NEAREST TEXAS DEPARTMENT OF AGRICULTURE DISTRICT OFFICE.**

## BUREAU OF REPAIR SERVICES — WHAT CAN IT DO FOR YOU?

### FUNCTION

The Bureau of Repair Services is a part of the State Department of Consumer Affairs. The objective of the Bureau is to provide certain consumer safeguards to California citizens in their repair of appliances and electronic equipment. The Bureau administers the Electronic and Appliance Repair Dealer Registration Law and has authority to establish reasonable regulations to carry out the purpose of the law. The law, in general, prohibits 1) untrue and misleading advertising, 2) the making of false promises likely to induce a customer to authorize repairs, 3) any conduct which constitutes fraud or dishonest dealings, 4) conduct constituting gross negligence in the repair of electronic equipment and appliances.

### REGISTERING A COMPLAINT WITH THE BUREAU

#### A. How to Register Complaints

The standard complaint form used by the Bureau may be obtained by writing or telephoning the Bureau.

#### B. Complaints Within Bureau Jurisdiction

Complaints involving the repair, service, or maintenance of the following electronic equipment and appliances normally used or sold for use in the home or private vehicle: television sets, radios, audio or video recorders or playback equipment, washers, dryers, dishwashers, refrigerators, ranges, ovens, freezers, and room air conditioners.

#### C. Complaints Outside Bureau Jurisdiction

1. Sale of electronic equipment or appliances.
2. Repair of any appliance or electronic equipment not specified in part B above, including:
  - a. television antennas
  - b. small home appliances
  - c. two-way radios (commercial or citizens band)
  - d. electronic organs or guitar amplifiers
  - e. electronic garage door openers
3. Electronic equipment and appliances used in commercial, industrial, or government establishments.

### SUGGESTIONS TO CONSUMERS TO AVOID DECEPTIVE OR FRAUDULENT METHODS OR PRACTICES

- a) Avoid bait advertising; for example, ads offering free or extremely low-priced service calls.
- b) Request an estimate for repairs. (The repair dealer is required to honor your request and may charge for the estimate).
- c) Make sure the dealer is registered with the Bureau of Repair Services.
- d) Choose an established repair dealer if possible.
- e) When choosing a service dealer, request price of a service call and exactly what it includes. Most service call charges include up to ½ hour in the home. Parts are extra if not covered by warranty.
- f) Choose several names from the Yellow Pages and call the Better Business Bureau to see if complaints have been filed against them.

### ASSOCIATIONS OR ORGANIZATIONS WHICH MIGHT ASSIST CONSUMERS

- a) California State Electronics Association  
P.O. Box 202  
Hawthorne, California 90250
- b) Attorney General's Office  
Consumer Fraud Unit  
San Francisco, Los Angeles,  
and Sacramento
- c) Better Business Bureau  
18 locations in California
- d) Electrical Industries Association  
of Southern California  
6055 E. Washington Blvd.  
Los Angeles, California 90040
- e) Consumer Affairs Committee  
Bureau of Home Appliances,  
San Diego County  
P.O. Box 1831  
San Diego, California 92112

### GET THE MOST FROM YOUR TV REPAIR DOLLAR — TIPS ON HANDLING YOUR REPAIR JOB

- a) Before calling a service dealer, make sure your set is plugged into a live outlet and the antenna wires are securely fastened to the terminals.
- b) Do not remove the back of the set since certain parts store electrical power and can be highly dangerous even after the set is unplugged.
- c) When you have decided service is needed call an established service dealer. Observing his place of business may help you decide. Contact the local distributor of the make TV you own and ask that he recommend a service dealer.
- d) Find out how much a service call costs and exactly what is included in the charge. In most cases, you can save the price of a home call by personally taking the set into the shop.
- e) Keep in mind that the average cost of maintaining a color set in top condition could cost as much as \$100.00 per year, after the warranty expires.

### CONSUMER TIPS ON APPLIANCE SERVICE

Because appliances are machines, they require care, cleaning and occasional service. The best time to find out about service is before you need it, or best of all, before you buy an appliance.

When you buy ask your dealer whether he provides service. If he doesn't, ask him to refer you to a service agency. To maintain your warranty, most manufacturers require that servicing be done through a factory or authorized service location. Repairs by independent servicemen may be perfectly satisfactory, but could invalidate your warranty. So check with the dealer or the manufacturer first to see if such repairs are covered by the warranty. Do-it-yourself servicing can be dangerous and may damage your appliance.

Read the warranty carefully before making your purchase. Know what protection you have against basic faults in workmanship and parts, and whether all or part of the labor costs will be covered. When a product is out of warranty, service costs will depend upon the parts, labor and travel time.



RONALD REAGAN  
Governor

JOHN T. KEHOE  
Director

## THE CONSUMER AND THE SMALL CLAIMS COURT

### WHAT IS THE SMALL CLAIMS COURT ?

The Small Claims Court is a special court where you can sue anyone who owes you money. However, the maximum amount of money you can collect in this court is \$500. If your claim is larger, you may either speak to an attorney about taking your case to a higher court, or you may choose to accept only the \$500 and give up your claim to the rest. You may *not* divide your claim and file two suits to obtain all of it.

If you are suing someone, you are called the **PLAINTIFF**. The person you are suing is called the **DEFENDANT**. Neither of you may bring a lawyer to represent you in this court, but, if you follow the rules explained in this booklet, you should not have trouble presenting your case.

When your suit comes before the judge, you simply tell him why you feel the defendant owes you the money you asked for, and present any evidence or witnesses you can to help you prove your case. After the judge has heard from both sides, he will decide who is right. **YOU MAY NOT SUE IN THIS COURT TO OBTAIN ANYTHING OTHER THAN MONEY. AND REMEMBER, IF YOU LOSE ON YOUR CLAIM YOU MAY NOT APPEAL THE DECISION UNLESS YOU ARE A DEFENDANT.**

**IT IS YOUR RIGHT TO USE THIS COURT ANYTIME YOU FEEL IT IS NECESSARY. IT IS NOT COMPLICATED. HERE IS HOW YOU GO ABOUT IT.**

### Who may sue in Small Claims Court ?

Any person who is 18 or older may file a suit in this court. A minor may do so only if he has a parent or guardian accompanying him to file his suit to appear in court.

### Where do you file your suit ?

The judges of the Small Claims Courts are members of the Justice and Municipal Courts. They set aside certain days and times to hold the Small Claims Court, and they may be different for each county. Look in your phone book, under the name of your County, to learn where the Municipal or Justice Court near you is located, and the phone number of the **Small Claims Court Clerk**.

In almost all cases, you must file your suit at the court located in the district where the defendant lives or works. If, for example, you live in Sacramento, but the store where you bought a defective T.V. is located in San Francisco, you must file your suit in San Francisco. If in doubt, you should ask the Clerk at your own Municipal or Justice Court where you must go to file your claim.

In certain cases, such as, the person you are suing failed to pay you money owed you under a contract, or someone damaged your car in an accident and refused to pay, you may, if you wish, file your suit in the district where the damage was done, or where the person agreed to pay you, rather than in the district where he lives or works. In this instance, however, it will take longer (about a month longer) for the case to be set for hearing.

### How to start your suit in Small Claims Court

The Clerk of the Court is located in the same building as the Municipal or Justice Court of the district where you are filing your suit. You must go see him. Tell him you have a claim to bring in Small Claims Court.

The Clerk will give you a form to fill out. He will also ask for a \$2.00 fee, in cash. On this form, along with your own name and address, you will be asked to give the name and address of each person you are suing in this claim (you may sue more than one if you are not sure who is responsible — there are certain types of claims, such as those involving automobiles, where the judge must decide who is responsible). There is also a place to fill in the amount of money you claim, and for a brief statement of the nature of your claim.

Don't be afraid to file your claim, even if it has been many months since the incident in question. However, if the claim is over some personal injury, you must file within one year. Limitations of other claims are less strict. If there are doubts, it will be up to the judge to decide whether the suit was filed too late.

## What then ?

The Clerk will prepare an order to be given to — or “served on” — the defendant, telling him he is being sued and must appear in court if he wishes to defend himself against your claim. You may not serve the order yourself. Except for this, you have several alternatives as to how it may be served. If there is enough time, allowing for the mails, you may ask the Clerk to send the order by Certified Mail, which means there will be a receipt showing the defendant received and signed for the order. For this, you must pay the Clerk a mailing fee of \$1.50 for each defendant.

You may choose to have a marshal, sheriff, or constable serve the order, but this will require a slightly larger fee. Ask the Clerk about this possibility. Also, any person 18 or older, who is not involved in your case, may serve the order by delivering it to the defendant personally. The person doing the serving must sign a special form (proof of service) given to him by the Court Clerk saying he did this.

The defendant must receive the order at least 5 days before the date of the trial, if he lives or works in the same county as the court, or 15 days before the trial, if he lives or works in another county. The form completed by the person who served the order — the “process server” — must be given to the Court Clerk no later than 48 hours before the trial.

## What to do while waiting for the trial

When you file, the Clerk will tell you on what date your trial is scheduled. You will be expected to remember this. In the meantime, you will want to gather and have ready all important papers and documents. These may include a bill for repairs, or a sales slip, a canceled check, or a receipt. If the case involves a contract or a note, bring the original to court on the day of the trial.

Also, you will want to bring any witnesses who can testify in your behalf. A friend who happened to be at your house when you brought your new T.V. home, and saw it was defective, could be a witness for you if you sue the store. Or he might have seen the accident in which your car was damaged. If he will come to court voluntarily then all you have to do is tell him the date of the trial, and be sure he is there.

If you believe a certain person could be a witness for your case, but he will not come to court voluntarily, ask the Court Clerk to “issue a **SUBPOENA**” to this person. This subpoena must be served on the witness personally (it may not be done by mail), by a marshal or sheriff, by a disinterested person at least 18 years old, or by yourself. Proof of service must be filed with the Clerk. The witness has the right to demand a fee of \$12.00 a day, and 20 cents a mile, one-way, for travel expenses. If he does, you will have to pay this. If you win your case, this will be added to the amount of your judgment, as part of your court costs.

Keep in mind, you must do everything you can to prove your case. It is a good idea, if your claim involves a repair, or something complex, such as a car or T.V., to have an expert in the field come to court to testify for you.

Once the defendant receives the order telling him you are suing, he may decide to pay you before going to court. If he does settle with you “out-of-court”, go back to the Clerk and arrange a dismissal of your case.

If either you or the defendant cannot be in court on the date of the trial, both of you must sign a statement asking the judge to postpone the trial (issue a continuance). In case of an emergency, have someone go to court for you, to ask the judge for a continuance.

## What to do when you get to court

Come early and check with the Court Clerk to see where your case is to be heard (in what room of the building). By coming early, you will also have a chance to get settled. Posted outside the courtroom, usually on the door will be the **CALENDAR**. This is a list of the cases to be heard in Small Claims Court that day. They will not necessarily be heard in that order. If you don't find your case listed on the Calendar, check with any officer of the court. Before the judge comes in, an officer of the court will attempt to find out whether all the parties of all the cases being heard that day are present.

After the judge has been seated, he may say something about the procedures he will be using. Listen carefully. When it comes time for your case to be heard by the judge, the clerk of the court will announce your case. At that time, you must come forward with your witnesses, if you have any. The defendant will do the same.

All of you, including the witnesses, will then take an oath together, saying each of you will tell the truth.

As plaintiff, it will be your turn first to tell what happened, and why you are suing the defendant. The judge will be interested in hearing only the facts and he may ask you questions to obtain the information. Do not attempt to argue your case, unless the judge so requests you. The judge will also direct questions to your witnesses.

In your testimony, you have a responsibility to be brief and to-the-point. You must tell the truth. If you have an important document or paper you think the judge should know about, mention it during your turn to speak and give it to the judge. In this way, you can help make your trial as speedy as it should be.

After you have presented your case the judge will turn to the defendant and ask him to tell his side of the story. He will ask questions of the defendant's witnesses. Don't interrupt or argue.

When the judge has heard both sides, he will quite often give his judgment right then. Sometimes, however, he may want to think it over, or examine some particular law. He may then take the case "under submission". The court will inform you later, in writing, what the judge has decided.

If he concludes you are correct, he will award you what you requested when you filed suit, or less if he thinks you requested too much. He can not give you more than this. In certain circumstances you may amend your original request before the day of the trial, but this must be filed with the Clerk and served on the defendant.

Often, either the plaintiff or the defendant does not show up for the trial. If it is the plaintiff, the judge may dismiss the case and no money is awarded. If it is the defendant who does not appear, the judge will still take your testimony. He may at this time rule the defendant was in "default", and award you the money. You must sign a statement, however, saying that to the best of your knowledge the defendant was not a member of the military at the time of the trial (Declaration of Non-military Status).

Also, before the trial, you may receive a notice from the defendant saying he has filed a counter claim against you. This means he believes you owe him money as a result of the same incident, and he will try to collect in the trial. The judge hears both the claim and the counter claim at the same time. (See section titled "What If You Are The Defendant").

Unfortunately, there are usually no translators in Small Claims Courts. So, if you do not speak English well, you may want to bring someone with you who can act as interpreter for you.

## How to collect after the trial

If the judge decides you are right in your claim, and awards you some or all of the money you asked for, the Clerk will "enter a judgment" against the defendant. This may specify whether the money is to be paid at once, or in installments. The judgment is good and collectable for ten years.

**THE COURT IS NOT A COLLECTION AGENCY. IT WILL NOT OBTAIN THE MONEY FOR YOU, BUT WILL SUPPLY ORDERS AND DOCUMENTS TO HELP YOU COLLECT.**

If the defendant is not in court, or if he refuses to pay, demand payment from him by letter, by telephone, or in person. If you are unsuccessful, go back to the Court Clerk and request a "writ of execution". This form directs a marshal, sheriff, or constable to "levy upon" (take control of) some asset of the defendant, such as salary, bank account, car, or other personal property. It will be up to you to tell the marshal or sheriff where the defendant's property is located, or where he has money. If you do not know where the defendant's property is located, you can file a "Supplemental Proceeding" against the defendant which would require him to appear in court and answer your questions about the location of his property. The clerk will assist you in filing a supplemental proceeding and will inform you on how to serve the defendant with notice of this special action.

If the defendant is an employee of the state, county, or city government, or if you suspect the defendant will sell all of his property without paying you, there are further steps you can take, with the assistance of the Court Clerk. You may only receive one writ of execution at a time, but you may obtain as many as you need to collect the judgment. Each writ is good for 60 days.

As the winning party in the suit, you are also entitled to receive payment from the loser for court costs, including all of the related fees before and after the hearing. You must file with the Clerk a "memorandum" of all the costs you accumulated in trying to collect the judgment.

If you have any difficulties in collecting, do not hesitate to ask the Court Clerk what steps you can take.

## What if you are the defendant ?

If you receive an order to appear in Small Claims Court, you probably already know the nature of the claim being made against you. If not, you should find out immediately from the person suing you. If the claim is justified, you may settle "out-of-court" to avoid paying more than minimum court costs, or you might prefer going to trial so you have the opportunity to ask that the judge specify a particular payment plan, or to challenge some part of the plaintiff's complaint which you feel is unjustified (watch for extras, such as "interest", "carrying charges", "collection fees", "late charges", which the plaintiff is not allowed to collect).

If the claim is unjustified, be sure to come to the trial, and bring any evidence or witnesses to help you in your defense. If you have a claim against the plaintiff as a result of the same incident, file a counterclaim. For example, in an automobile accident, you may receive a document stating the plaintiff believes you owe him money

to pay for his repairs. You, on the other hand, believe him responsible instead and you wish to collect for your own repairs. Your counter claim must be filed with the Small Claims Court Clerk of the same district where the suit has been brought, and served upon the plaintiff at least 48 hours before the court date. Your claim may not be larger than \$500 (if more, see an attorney).

Whether or not you file a counter claim, you have all the rights given to the plaintiff, in bringing evidence to support your side of the story, in bringing witnesses with you, and in having a subpoena issued to a witness who will not come voluntarily.

If you lose your case, you have the right to appeal to the Superior Court within 20 days from the entry of judgment (the plaintiff does not have the right to appeal, unless he loses to a counter claim). If you wish to appeal, you must pay a filing fee with the Superior Court. Ask the Court Clerk for further information. It is unnecessary for you or the plaintiff to bring an attorney to the Superior Court, however, either of you may be represented by counsel if you wish.

If the Clerk enters a judgment against you, and it represents a considerable hardship financially, you may check with the Clerk to see if you qualify under certain exemptions allowable by law.

#### THE SMALL CLAIMS COURT:

### A SIMPLIFIED CHECKLIST

1. Determine the full, legal name and address of the person (or persons) you are suing. This will help you decide where you must file your claim.
2. Visit the Clerk of the Small Claims Court, and fill out the form he gives you. You must pay him a fee of \$2.00.
3. Arrange for the order to be served on the defendant (but not by yourself). The Clerk will mail it for a \$1.50 fee, or you may authorize someone to personally serve it.
4. While waiting for the trial, gather all important documents and have them ready. Contact all potential witnesses, and arrange for them to come with you to the trial — or obtain a subpoena from the Clerk for any witness who will not come voluntarily. If you need an interpreter, find out if one is available at Small Claims Court. Otherwise bring your own.
5. Come to the court building early and ask the Clerk where your case is being heard. When you get to the courtroom, check the Calendar to see that your case is listed.
6. Give your testimony, presenting only the facts. Be Brief. Submit all papers and documents you think will help your case.
7. If you win, ask the defendant courteously for the money awarded you in the judgment.
8. If you have difficulties in collecting your money, ask the Clerk to assist you.
9. As plaintiff, you are not allowed to appeal if you lose (unless you must pay as the result of the counter claim).

## APPENDIX N

### QUESTIONNAIRE SENT TO STATE AGENCIES

In studying the questionnaire, you will note that it deals with your functioning as a consumer service agency. While at first glance you may feel that you do not perform such a function, please understand that by consumer service we mean your efforts in helping to resolve consumer complaints as a result of routine consumer contact. (Example: The Department of Health in the areas of food preparation, pest control, and environmental pollution performs a consumer service function; as does the Department of Regulatory Agencies through its licensing program.) Please carefully consider the roles and functions you fulfill before deciding that your agency does not have any consumer complaint service functions.

1. What types of consumer affairs and consumer services does your agency handle?

Types:

Quantity (yearly, daily):

2. What type of consumer matters are you unable to process or solve?

Why?

3. What do you do with unresolved consumer matters or those out of your jurisdiction?

4. How do consumers know that they should contact your agency with their complaints?
  - a. If they don't contact you directly, then who refers them?
  - b. Is this system effective?
5. Do you distribute or offer any educational material relating to consumer problems?
6. What is your department's working relationship with the Office of Consumer Protection?
  - a. Is this system effective?
  - b. Does the Office of Consumer Protection fully understand your jurisdiction and capabilities in forwarding complaints?
7. Do you use the Office of the Attorney General in resolving complaints?



8. What do you think is the most effective way of protecting the consumer?

9. What suggestions do you have for better serving the consumer?

**What is the Small Claims division?**

It is a division of the district court in which certain types of claims between two or more parties are settled by a judge in a simple and informal manner. A person who files a claim is called a *plaintiff*; a person defending against a claim is a *defendant*.

**May a claim filed in this division exceed \$300?**

No, *except* in cases when

- (a) the court allows interest and court costs to be added to the \$300 as a part of the court judgment, *or*
- (b) the rental security deposit in residential accommodations is involved. Even though such a claim may exceed \$300, it must be filed in the Small Claims division.

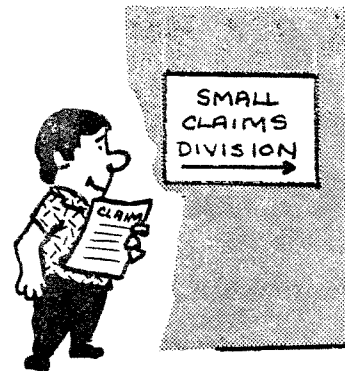
**Is there a Small Claims division on each island?**

Yes:

Oahu	36 Merchant Street Honolulu, Hawaii 96813 Telephone 548-5735
Hawaii	75 Aupuni Street Hilo, Hawaii 96720 Telephone 961-7241
Maui	High and Aupuni Streets Wailuku, Maui 96793 Telephone 244-4268
Kauai	3059 Umi Street Lihue, Kauai 96766 Telephone 245-4464
Molokai	Kaunakakai, Molokai 96748 Telephone 553-5412
Lanai	Lanai City, Lanai 96763 Telephone 565-5285

**What steps must I take to file a claim in the Small Claims division?**

You must file a Statement of Claim with the clerk of the court. Upon request, he or she will prepare the Statement of Claim from the information you furnish.



**Where must the claim be filed?**

Usually in the Small Claims division located on the island where the defendant resides. However, to initiate a claim, you should first go to the division listed above that is located on *your* island of residence. Consult the clerk of the court if you have any question about filing.

**Who may ask the clerk for assistance?**

The assistance of the clerk is available only to an *individual* who seeks help with a *personal* claim. Anyone filing a claim arising out of a *business* operation is not entitled to such assistance.

**May I file my small claim in the regular division of the district court instead?**

Yes.

**What are the advantages of filing in the Small Claims division?**

The procedure is simple and informal. You may ask the clerk for assistance in preparing any papers that are necessary.

**What are the disadvantages?**

There is no right of appeal from a judgment of the Small Claims division.

**What does it cost to file a Statement of Claim?**

The filing fee is \$3.

**When will the case be heard?**

The clerk will set a hearing date not less than five nor more than 30 days from the date of filing.

**How much notice will the defendant have of the hearing?**

The defendant must be notified at least 48 hours before the hearing.

**How is the defendant notified?**

The clerk prepares a notice listing the time and place at which the defendant must appear. The plaintiff must then have a copy of the notice and a copy of the Statement of Claim served on the defendant.

**What does it cost to notify the defendant, and who pays the cost?**

The serving officer receives a nominal fee for serving the papers, plus a mileage fee which varies according to the distance he or she must travel. Or, you may wish service by certified mail, which costs less than registered mail. For further information, please check with the clerk.

The plaintiff must pay these costs, but if the plaintiff wins the case, then the court may require the defendant

to pay such costs as a part of the judgment.

**What should the plaintiff and the defendant do in preparation for the hearing of the case?**

They should be prompt and ready to proceed. Each party should bring to the hearing any witnesses and other necessary evidence, such as a promissory note or a receipt showing payment. A party who wishes to have reluctant witnesses summoned to appear at the hearing should at once apply to the clerk for assistance.

**May a party be represented by an attorney?**

Yes, unless the case involves a disagreement between a landlord and a tenant about a security deposit for residential accommodations.

**What happens if the defendant is not present at the time and place set for the hearing?**

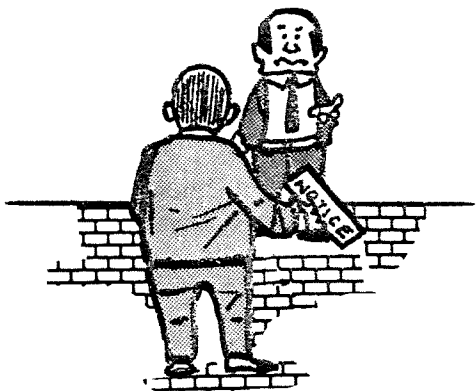
The plaintiff may win judgment by default, but he or she may have to present proof of the claim in order to do so.

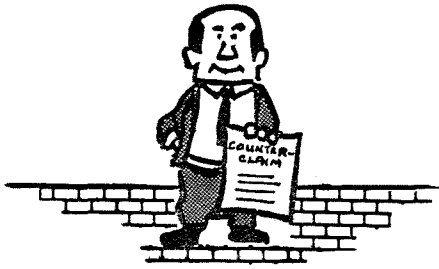
**What happens if the plaintiff is not present at the time and place set for the hearing?**

The case may be dismissed.

**Must the defendant answer the Statement of Claim in writing?**

No, unless the defendant sets up a counterclaim against the plaintiff. A defendant may orally deny the plaintiff's claim at the hearing and seek to defeat it on any valid grounds. But if a defendant has a counterclaim, it must be filed in writing. This counterclaim may exceed, reduce or defeat the plaintiff's original claim and may exceed \$300.





**How can a person prepare a counterclaim without an attorney?**

Upon request, the clerk of the court will prepare the counterclaim from the information furnished by the defendant. This service is available to an individual in connection with his or her *personal* affairs only, and not with any business operation. A counterclaim may be in the same form as a Statement of Claim.

**How is the plaintiff notified of a counterclaim?**

If there is sufficient time before the hearing date, the counterclaim may be served by mail. If not, a copy should be handed to the plaintiff at the time of the hearing.

**May the claim be transferred from the Small Claims division to the regular division of the district court?**

The defendant may choose to have the case transferred, except for security deposit cases arising out of a residential landlord-tenant relationship.

If the defendant counterclaims, the plaintiff also may choose to have the case transferred to the regular division.

**May the plaintiff or the defendant have a jury trial?**

Yes. Before the hearing begins, either party may have the case transferred to the circuit court for jury trial *if more than \$100 is in question*. A demand for a jury trial must be filed and \$10 deposited with the clerk of the district court.

**What happens after the court decides the case?**

The judgment must be prepared in written form and filed. Usually, the clerk prepares the judgment. However, the court may order the party who wins to prepare it. This may be done, for example, in a case in which the parties are represented by attorneys. After the judgment is filed, both parties are notified. If both of them have appeared for the hearing, the clerk notifies them. If only the plaintiff has appeared and subsequently obtains judgment, he or she must mail a copy of the judgment, showing the filing date, to the defendant at his last known address.

**May the losing party appeal?**

There is no right of appeal from a judgment of the Small Claims division.

**May the losing party ask the court to reconsider the judgment?**

The losing party may ask the court to alter or set aside the judgment within 10 days after filing of the judgment. For example, the losing party may wish to correct a mistake made in computing the amount of the judgment or present new evidence discovered after the time of the hearing.

**Once the judgment is final, what steps may be taken to collect it?**

There are several remedies which are governed by State and Federal laws and regulations. See the clerk for further information.

**How can a judgment creditor (the party who has won a claim or counterclaim) make out the papers necessary to collect a judgment if he or she does not have an attorney?**

The creditor may call upon the clerk

## COMPLAINT FORM USED BY THE OFFICE OF CONSUMER PROTECTION

For Office Use Only

[illegible]

COMPLAINT/INQUIRY FORM

[illegible][illegible]

175

[illegible]

Did you sign a contract \_\_\_\_\_ Date complained to company \_\_\_\_\_

Date of transaction	Where
---------------------	-------

Where \_\_\_\_\_ Person to whom you  
complained

Name of sales person	Is there a court action pending and where
-------------------------	--

If advertised, when \_\_\_\_\_ Your attorney's name  
and address

Who referred you  
to this office

Under 18

HAVE YOU PREVIOUSLY FILED A COMPLAINT WITH THIS OFFICE \_\_\_\_\_

[illegible]

Continuation of Summary of the Transaction: (Please notify this office if your complaint has been resolved)

I authorize sending of this form to the company and/or individual complained against.

Your signature \_\_\_\_\_ Date \_\_\_\_\_

[illegible]

## APPENDIX Q

FORMAT USED BY THE OFFICE OF CONSUMER PROTECTION AS A RECORD OF COMPLAINTS

[illegible]

## APPENDIX R

### INFORMATION ON THE LANDLORD-TENANT CODE DISTRIBUTED BY THE OFFICE OF CONSUMER PROTECTION

#### THE LANDLORD-TENANT CODE

The following summary of the new Landlord-Tenant Code, which became effective January 1, 1973, was prepared by Star-Bulletin writer, Miss Diane Coughlin, and appeared in the June 8, 1972 edition of The Honolulu Star-Bulletin. Included in this summary are the amendments passed by the 1974 Legislature.

The purpose of this summary is to explain the respective rights, duties and remedies which are available to both landlords and tenants in their relation with each other.



## THE LANDLORD-TENANT CODE

### What the Code Does Not Do

It does not set the amount of rent which may be charged or the length of lease that may be set.

It does not cover nursing homes, prisons, hospitals, University of Hawaii housing for students or faculty, employer-provided quarters, or any other living arrangement where residence is incidental to another primary purpose.

It does not cover transient occupancy in a hotel or motel on a day-to-day basis.

It does not cover a non-profit residence operated for members of a fraternal organization.

It does not supersede any requirements of the federal government for subsidizing a housing program.

### Landlord Obligations Under Code

The landlord must deliver the dwelling unit on time and in fit condition to the tenant.

He must keep common areas of the rental units clean and safe.

He must comply with all State and County laws and regulations.

He must properly maintain electrical, plumbing, and other facilities and appliances supplied by him.

He must make necessary repairs.

He must provide garbage receptacles and garbage removal (except in case of single family home).

He must inform tenant in the written rental agreement of the name and address of the owner of the rental unit or its responsible manager. If the rental agreement is oral, the tenant may demand such information and the landlord must provide it within 10 days or be liable to the tenant for \$100 plus reasonable attorney fees.

### Tenant Obligations

The tenant must pay the rent on time.

He must keep his rental unit as clean and safe as possible.

He must dispose of garbage.

He must comply with State and County laws and regulations.

He must properly use appliances and electrical and plumbing fixtures provided by the landlord.

He must not willfully damage premises or allow his guests to do so.

He must obey house rules, provided they are reasonable, fair and clear.

#### Security Deposit

The security deposit is not to exceed one month's rent.

No other payment than the security deposit and one month's advance rent may be demanded of the tenant at the beginning of a rental term. The landlord may not demand a cleaning fee or key deposit.

The entire security deposit must be returned at the end of a rental term unless the tenant has damaged the property, failed to keep it as clean as he received it, failed to pay the rent, failed to return the keys, or wrongfully quit the dwelling unit.

All the security deposit, or that part due the tenant after damages, must be returned to the tenant at least 14 days after termination of the rental agreement.

If all or part of the security deposit is retained by the landlord, he must notify the tenant in writing of the reason, together with receipts for any repairs necessary, within 14 days of the end of the rental agreement. Failure to provide notification entitles the tenant to the return of the entire security deposit unless the tenant has wrongfully quit the dwelling unit.

If tenant is absent 30 days without notice, landlord may keep all the security deposit.

If there is disagreement over retention of part or all of the security deposit, either the landlord or the tenant may bring the dispute to Small Claims Court, and no other court, for settlement. No attorneys are permitted in a security deposit dispute.

If the court decides the landlord knowingly kept a security deposit in violation of the law, it may award the tenant an amount equal to three times the security deposit retained by the landlord plus cost of suit.

If the court decides the landlord wrongfully kept the security deposit, but did not realize he was violating the law, it shall award the tenant an amount equal to the security deposit retained, plus cost of suit.

If the court decides the landlord was within his rights to keep all or part of the security deposit, it shall award him the amount of the security deposit he retained, plus cost of suit.

#### Right of Access

Landlord must not abuse right of access or use it to harass the tenant. The landlord must give at least two days notice to the tenant of his intent to enter the rental unit unless he cannot practically do so or it is an emergency. The landlord may enter only during reasonable hours.

The tenant must not unreasonably refuse access to the rental unit by the landlord for legitimate purposes.

Tenant is liable to the landlord for any damages caused by unreasonably refusing access to the rental unit.

Except in an emergency such as a fire, landlord is liable to the tenant for any damage caused by his unauthorized entry into the rental unit.

Any unreasonable entry, not consented to by the tenant, or unreasonable demands for entry, are grounds for the tenant to cancel the rental agreement.

The tenant may obtain an injunction from a Circuit Court judge to prevent unreasonable entries.

#### Terminating Tenancy

If tenancy is on a month-to-month basis, landlord or tenant must give 28 days notice before terminating a tenancy.

If tenancy is less than month to month, 10 days notice is necessary.

If tenant continues to live in the rental unit, without permission of the landlord, after the rental agreement has been terminated, he may be charged twice the monthly rental for up to 30 days, prorated on a daily basis for each day he remains. After the first 30 days, the tenant is liable for the normal rent, prorated on a daily basis for each day he remains. Landlord may bring suit during the first 60 days of holdover for possession of the rental unit.

If after the first 30 days of holdover the landlord accepts rent in advance, he has established a month-to-month tenancy which requires 28 days notice on his part to terminate.

#### Office of Consumer Protection

If a landlord brings an action against a tenant, other than in Small Claims Court, and the court determines the tenant cannot afford an attorney and cannot obtain an attorney from a nonprofit organization like Legal Aid, then the State Office of Consumer Protection will provide the attorney.

### If Landlord Fails to Maintain Unit

The tenant may make needed repairs and deduct the cost from his rent if the landlord has failed to do the repairs after proper written notice. The tenant does not have this option if the conditions requiring the repairs are his fault or the fault of his guests.

If the cost of needed repairs are under \$100, the tenant may write the landlord of the need for repairs and give him 30 days to take action.

If the cost of repairs are over \$100, the tenant must obtain from the State Department of Health, and have sent to the landlord, a notification that the objectionable condition constitutes a health violation. Landlord must be given 30 days to make repairs.

Once the 30 days are up, the tenant may do the repairs himself or have them done and deduct up to \$100 from his rent.

Or he may obtain two estimates from workmen of the cost of repair and choose the workman submitting the lower estimate. In this case he may deduct up to one month's rent for costs incurred. Landlord has the option of providing a substitute repairman or substitute materials. Tenant must provide landlord with receipts paid for work.

At the time the tenant notifies the landlord of the objectionable condition, he must also notify him of every other condition requiring the landlord's attention. Failure to list such a condition prevents the tenant from having it repaired at the landlord's expense for a period of six months.

Total repairwork done by the tenant at the landlord's expense is not to exceed an amount equal to three months' rent during any six-month period.

The landlord may not evict a tenant, increase his rent or decrease his services in retaliation for a tenant's demands for repairs.

### If Landlord Fails to Meet Terms

Tenant is not liable for rent during any period he cannot move into the rental unit because the previous tenant is still living there.

Tenant may terminate the rental agreement at any time during the period he is prevented from moving into the unit because of the holdover tenant.

Tenant may recover from the landlord or have deducted from his rent any reasonable expenditures necessary to secure adequate substitute housing.

If the previous tenant is still living in the rental unit, the new tenant may sue in district court for possession of the unit.

If a court case is necessary to enforce his rights under this section, the court may award the tenant damages plus cost of suit.

#### If Tenant Fails to Pay Rent

A landlord may terminate a rental agreement if a tenant remains in default of his rent five business days after receiving a written demand for the overdue rent. The landlord may bring suit in court for possession of the rental unit.

A landlord may bring a court action for payment of past due rent at any time after he has demanded its payment and notified the tenant of his intention to bring such action.

#### If Tenant Fails to Maintain Unit

If tenant doesn't make the necessary corrections after 30 days written notice, landlord may terminate the rental agreement and bring suit for possession of the rental unit.

The landlord may remedy the condition, after 30 days notice, and bill the tenant for the cost. No notice is needed in an emergency. The bill for the repairs is to be treated the same as rent and will be due when the next rent is due. Failure to pay the bill puts the tenant in default of his rent.

#### If Tenant Wrongfully Quits Unit

Landlord may bill the tenant, if he wrongfully quits the rental unit, for the lesser of these two amounts:

(1) The entire rent due under the remainder of the rental contract.

(2) The rent lost during the time the dwelling is being re-rented and any difference between the new rent and the rent that would have been collected during the remainder of the old rental agreement, plus a reasonable commission for re-renting the dwelling unit.

#### Tenant's Right to Terminate

The tenant may terminate the rental contract during the first week of occupancy if landlord is not observing the contract or is not maintaining the premises properly. Tenant retains the right beyond the first week if he receives a promise, either oral or written, from the landlord to correct the offensive conditions.

If the tenant is prevented from enjoying a substantial part of the benefits of his rental unit by conditions existing on the premises, and which are the fault of the landlord, he may terminate the rental contract if the landlord does nothing to correct the conditions within one week of receiving written notice. No notice need be given in an emergency. Damages may be recovered in court.

### ADDENDUM

Contained in this Addendum are excerpts of the amendments passed by the 1974 State Legislature, effective June 7, 1974:

1. When tenancy is from month-to-month, the amount of rent shall not be increased by the landlord without written notice given 28 days preceding the end of such rental period.

2. In the case of a written rental agreement, the landlord shall furnish to the tenant a copy of the lease or rental agreement.

3. The landlord shall issue a receipt for rents paid. Cancelled checks constitute such a receipt. If rent is paid by check a receipt shall be furnished by the landlord, if it is requested by the tenant.

4. The purpose of the security deposit includes accidental or intentional damages and the failure to return all keys furnished by the landlord.

5. The security deposit shall not be construed as payment of the last month's rent by the tenant.

6. The landlord must repair minor defects within twenty days after notification thereof. The former law allowed the landlord thirty days.

7. When a tenant has indicated before occupancy that he will not honor the tenancy, he shall be liable to the landlord for the least of the following amounts:

1. All monies paid to the landlord.
  2. One month's rent at the rate agreed upon.
  3. Pro-rated rent on a daily basis beginning on the agreed date for commencement of tenancy until the unit is re-rented, plus reasonable costs (advertising) and commissions incurred in re-renting the unit.
8. Disposition of the tenant's abandoned possessions:

When a tenant has abandoned possessions in the dwelling unit, which the landlord determines to be of value, the landlord shall store the possessions at the tenant's expense for a period of not less than 30 days, after which time such possessions may be sold in a public auction or in a commercially reasonable manner, provided that the landlord makes a reasonable attempt to inform the tenant of the identity and location of the possessions by mailing him notice at his forwarding address or previously known address.

Proceeds of the sale, after deduction of accrued rent and costs of storage and sale, will be held in trust for 30 days after which time proceeds will be forfeited to landlord.

When a tenant has quit after a notice to quit or the natural expiration of the term and has abandoned property which is determined by the landlord to be of no value, the property may be disposed of at the landlord's discretion without liability to the landlord.

APPENDIX S  
CONSUMER IMPACT QUESTIONNAIRE

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Phone \_\_\_\_\_

Location (other than Oahu) \_\_\_\_\_ Date \_\_\_\_\_

Questions (Check number of proper answer):

1. Please provide us with some data on yourself:

a. Male \_\_\_\_\_ (1)  
Female \_\_\_\_\_ (2)

b. Age group:  
Under 30 \_\_\_\_\_ (1)  
30-60 \_\_\_\_\_ (2)  
Over 60 \_\_\_\_\_ (3)

c. Education:  
Not beyond high school \_\_\_\_\_ (1)  
Beyond high school but not beyond  
(4 years) college \_\_\_\_\_ (2)  
Beyond 4 years of college (graduate  
school) \_\_\_\_\_ (3)

2. How did you become aware of the consumer protector as a possible source of help?

Through a friend, relative, co-worker,  
neighbor \_\_\_\_\_ (1)  
Through a newspaper or magazine \_\_\_\_\_ (2)  
Through another local or state agency \_\_\_\_\_ (3)  
Other (describe) \_\_\_\_\_ (4)  
Don't know (or don't remember) \_\_\_\_\_ (5)  
Not applicable \_\_\_\_\_ (6)

3. Was the help the consumer protector provided you:

Highly satisfactory \_\_\_\_\_ (1)  
Satisfactory \_\_\_\_\_ (2)  
Unsatisfactory \_\_\_\_\_ (3)  
No help at all \_\_\_\_\_ (4)  
Don't know (or don't remember) \_\_\_\_\_ (5)  
Not applicable \_\_\_\_\_ (6)

If dissatisfied or received no help, please explain:

\_\_\_\_\_  
\_\_\_\_\_



4. Did you contact the consumer protector by:
- |                                |       |     |
|--------------------------------|-------|-----|
| Telephone                      | _____ | (1) |
| Letter                         | _____ | (2) |
| Personal visit                 | _____ | (3) |
| Don't know (or don't remember) | _____ | (4) |
| Not applicable                 | _____ | (5) |
5. Did your complaint involve:
- |                                    |       |     |
|------------------------------------|-------|-----|
| A private individual               | _____ | (1) |
| A business                         | _____ | (2) |
| A state agency (specify which one) | _____ | (3) |
| A city or county agency (specify)  | _____ | (4) |
| Don't know (or don't remember)     | _____ | (5) |
| Not applicable                     | _____ | (6) |
6. Did the complaint concern:
- |                                |       |     |
|--------------------------------|-------|-----|
| Misrepresentation              | _____ | (1) |
| Non-delivery                   | _____ | (2) |
| Non-fulfillment of contract    | _____ | (3) |
| Poor service                   | _____ | (4) |
| Other (specify) _____          | _____ | (5) |
| Don't know (or don't remember) | _____ | (6) |
| Not applicable                 | _____ | (7) |
7. How many times did you contact the consumer protector before first getting action?
- |                                |       |     |
|--------------------------------|-------|-----|
| Once                           | _____ | (1) |
| Twice                          | _____ | (2) |
| Three times                    | _____ | (3) |
| More than three                | _____ | (4) |
| Don't know (or don't remember) | _____ | (5) |
| Not applicable                 | _____ | (6) |
8. How long did the consumer protector take to close your case?
- |                                |       |     |
|--------------------------------|-------|-----|
| Within 30 days                 | _____ | (1) |
| One to three months            | _____ | (2) |
| Three to six months            | _____ | (3) |
| More than six months           | _____ | (4) |
| Action not complete            | _____ | (5) |
| Don't know (or don't remember) | _____ | (6) |
| Not applicable                 | _____ | (7) |

9. Was the person you dealt with:
- |   |           |
|---|-----------|
| Very courteous and interested               | _____ (1) |
| Courteous but was going through the motions | _____ (2) |
| Disinterested                               | _____ (3) |
| Rude  | _____ (4) |
| Don't know (or don't remember)              | _____ (5) |
| Not applicable                              | _____ (6) |
10. Did the person you dealt with (telephone, letter or visit) explain the handling of your problem to you in a manner that was:
- |                                |           |
|--------------------------------|-----------|
| Very clear                     | _____ (1) |
| Fairly clear                   | _____ (2) |
| Confusing                      | _____ (3) |
| Don't know (or don't remember) | _____ (4) |
| Not applicable                 | _____ (5) |
11. Did you start a lawsuit in connection with your complaint?
- |                                |           |
|--------------------------------|-----------|
| Yes, before contacting agency  | _____ (1) |
| Yes, after contacting agency   | _____ (2) |
| No                             | _____ (3) |
| Still thinking about suing     | _____ (4) |
| Don't know (or don't remember) | _____ (5) |
| Not applicable                 | _____ (6) |
12. Do you believe existing laws, systems and agencies are satisfactory to handle complaints of your type?
- |                                |           |
|--------------------------------|-----------|
| Yes                            | _____ (1) |
| No                             | _____ (2) |
| Don't know (or don't remember) | _____ (3) |
| Not applicable                 | _____ (4) |
- If no, what changes would you suggest? \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
13. Do you believe the best protection for consumers with your type of problem would be at the level of:
- |   |           |
|---|-----------|
| City or county government                             | _____ (1) |
| State government                                      | _____ (2) |
| Federal government                                    | _____ (3) |
| Business organizations (such as chambers of commerce) | _____ (4) |
| Individual businesses                                 | _____ (5) |
| Lawsuits brought by consumer                          | _____ (6) |
| Don't know (or don't remember)                        | _____ (7) |
| Not applicable  | _____ (8) |

14. Since your complaint, have you recommended to anyone else that they contact the consumer protector with a complaint?

Yes	_____ (1)
No	_____ (2)
Don't know (or don't remember)	_____ (3)
Not applicable	_____ (4)

15. Would you use the consumer protector again yourself?

Yes	_____ (1)
No	_____ (2)
Don't know (or don't remember)	_____ (3)
Not applicable	_____ (4)

16. Have you had any contact with another local or state agency concerning a consumer-related complaint?

Yes	_____ (1)
No	_____ (2)
Don't know (or don't remember)	_____ (3)
Not applicable	_____ (4)

If yes, which agency? \_\_\_\_\_

Was their handling of your problem in relation to your experience with the consumer protector:

Better	_____ (1)
Worse	_____ (2)
Same	_____ (3)
Don't know (or don't remember)	_____ (4)
Not applicable	_____ (5)

## OFFICE OF CONSUMER PROTECTION

The 1969 Session of the Legislature, recognizing the need for a strong and effective consumer protection program to protect the interests of both the legitimate businessman and the consumer public, enacted Act 175 creating a permanent Office of Consumer Protection within the Office of the Governor.

A Consumer Advisory Council has also been created to advise and assist the Office of Consumer Protection. This Council consists of eleven members, who serve without pay, appointed by the Governor.

The Office of Consumer Protection is located at Room 602 Kamamalu Building, 250 South King Street, or P. O. Box 3767, Honolulu, 96811 Telephone 531-5995. Complaints may be filed with the office by calling in person, letter, or telephone. Complaints from the neighbor islands may also be filed with the Governor's liaison offices or the following State Department of Social Services offices:

Hawaii — 75 Aupuni St., Hilo, Hawaii 96720

Maui — State Office Building, Main St., or  
— P. O. Box 889, Wailuku, Hawaii 96793

Kauai — State Office Building, 3060 Eiwa St., or  
— P. O. Box 8, Lihue, Hawaii 96766

Molokai — Kaunakakai, or P. O. Box 7, Kaunakakai, Hawaii 96748

Information and requests for consumer protection educational materials may also be obtained from the above mentioned offices. In addition, feel free to contact your local member of the Consumer Advisory Council to discuss any consumer problem or suggest any improvement for rendering better service to the consumers of our state.

### UNFAIR OR DECEPTIVE BUSINESS ACTS OR PRACTICES (Sec. 480-2, HRS)\*

Unfair or deceptive acts or practices by business concerns are unlawful. Unfair practices include deceptive or misleading advertising, misrepresentations as to the guarantees on products or services, and false or deceptive labeling.

### UNIFORM DECEPTIVE TRADE PRACTICE ACT (Act 187, SLH 1969)\*

This law lists a number of specific acts or practices as deceptive trade practices. A person likely to be damaged by a deceptive trade practice of another may bring a court action to enjoin the deceptive trade practice.

## FALSE ADVERTISING (Chap. 747, HRS)\*

All types of untrue, misleading, or deceptive advertising are unlawful.

### RETAIL INSTALLMENT SALES (Chap. 476, HRS. Act 131, SLH 1969)\*

A retail installment sale is a sale of goods to a retail buyer pursuant to a retail installment contract providing for payment of a time sale price. The time sale price is the price the buyer would pay if he were to pay cash plus the amount paid for insurance and other benefits, official fees, and finance charges. A retail installment contract is an agreement to pay the purchase price of goods or services in two or more installments over a period of time. Retail installment contracts are usually used to purchase items such as major household appliances or automobiles.

This law details all of the requirements for a legitimate retail installment contract.

#### Referral Sales:

A retail installment contract which has been signed as part of a referral sale plan is void. A referral sale occurs when the seller promises to pay the buyer for referring other customers to him.

#### Cancellation of a House-to-House Retail Installment Sale:

A house-to-house sale is a sale of goods or services solicited in person and signed by the buyer at a place other than the seller's business address shown on the contract. Typically, this would be a sale where a salesman visits you at home.

When a buyer signs a house-to-house sales contract, the seller **must** give the buyer a written statement of the buyer's right to cancel the sale and a form to be sent in by the buyer to cancel the contract. The law provides that a buyer may cancel a house-to-house sale by sending a notice of cancellation to the seller by **CERTIFIED MAIL, RETURN RECEIPT REQUESTED**, within three business days after the contract has been signed. The three days excludes Saturdays, Sundays, and holidays.

If a house-to-house sale is cancelled, the seller can retain or recover from the buyer a cancellation fee of 5 percent of the **cash sale price**, or \$15, **whichever is less**, plus the cost of delivery of the goods (if delivery was made). The seller must return to the buyer any payments made over the

cancellation fee, any goods traded in, any note or evidence of indebtedness given by the buyer to the seller in connection with the sale. Note that if the seller has performed any services under the contract prior to its cancellation, the seller is **not** entitled to any compensation other than the cancellation fee. Also, if the seller's services resulted in the alteration of the property of the buyer, the seller must restore the property to the condition it was in prior to the time the seller provided the services.

### **SOLICITATION BY TELEPHONE**

#### **Free Gifts** (§445-184, 468-4, HRS)\*:

The law prohibits solicitors from calling consumers at home and offering prizes, coupons, or other "free" gifts to induce sales or appointments for sales. Simply stated, anyone who calls you and offers you a gift if you buy something or make an appointment to see a salesman is violating the law.

#### **Handicapped Persons:** (Act 213, SLH 1969)\*:

The vocational rehabilitation section of the Department of Social Services issues numbered certificates to disabled or handicapped persons who solicit goods or services by telephone.

A person who solicits sales of goods and services by telephone and represents that he is disabled or handicapped must disclose:

- (1) His name and vocational rehabilitation certificate number;
- (2) The name of his employer;
- (3) The amount he will receive from the sale; and
- (4) That he represents a business for profit not owned by persons who are disabled or handicapped, if such is the fact.

It is unlawful for any person to sell goods or services by falsely representing that the proceeds from the sale are for the benefit of handicapped or disabled persons.

### **UNSOLICITED GOODS** (Act 84, SLH 1969)\*

A business concern may not send goods or merchandise to consumers which have not actually been ordered by the consumer. Anyone doing so is engaging in an unfair method of competition and a deceptive act or practice which is made unlawful by §480-2 of the Hawaii Revised Statutes. Any unsolicited goods or merchandise may be considered unconditional

gifts by the recipient and he may use or dispose of the goods in any way without obligation to the sender.

## **AUTOMOBILES**

### **Advertising** (Chap. 437, HRS; Act 263, SLH 1969)\*

The law provides that whenever an automobile dealer advertises the sale of a specific car he must also show in the advertisement:

- (1) The year;
- (2) The make of automobile; and
- (3) If it is a used car, the license number.

If a car as advertised above has been sold, the dealer must have in his office the sales contract which shows the buyer's signature.

No automobile may be advertised or offered for sale as new, unless it:

- (1) Has not previously been sold to any person except a distributor, wholesaler, or dealer for resale, except where the automobile has not left the dealer's possession after the sale to a consumer;
- (2) Has not previously been registered or titled in the name of a consumer except where the automobile has not left the dealer's possession after the sale to a consumer; and
- (3) Has not been driven more than 500 miles.

### **Dealer Licensing** (Act 263, SLH 1969)\*

The 1969 Session of the Legislature passed Act 263 creating a state motor vehicle industry licensing board to regulate automobile dealers in the state. All dealers must obtain a license from this board and the board is empowered to suspend, revoke, or deny renewal of a license if a dealer engages in business in such a way as to cause injury to the public.

### **Odometers** (Act 252 and Act 262, SLH 1969)\*:

Act 252 makes it unlawful for anyone to disconnect, turn back, advance, or reset the odometer of any motor vehicle with the intent to alter the number of miles indicated on the odometer gauge.

Act 262 requires the seller of an automobile, prior to payment by the buyer, to give the buyer a written statement signed by the seller containing the exact odometer reading at the time of the sale and the date of the sale.

### **SOLICITATION OF FUNDS FROM THE PUBLIC** (Act 167, SLH 1969)\*

The Department of Regulatory Agencies is responsible for the registration and regulation of charitable organizations soliciting funds from the general public. In addition to the registration requirements, the law specifically prohibits any person soliciting contributions from doing the following:

(1) Using the name of any other persons except that of an officer, director, or trustee of the charitable organization for which contributions are being solicited, without the written consent of the other persons;

(2) Using a name, symbol, or statement so closely related or similar to that used by another charitable organization or governmental agency that its use would tend to confuse or mislead the public;

(3) Making misrepresentations or misleading anyone by any means to believe that the person on whose behalf the solicitation or sale is being conducted is a charitable organization or that the proceeds of the sale or solicitation will be used for charitable purposes, if that is not the case.

A professional solicitor is anyone who, for a fee, advises or acts as a consultant in connection with soliciting contributions for any charitable organization. Such persons cannot solicit in the name of any charitable organization unless he:

(1) Has written authorization of two officers of the organization, and

(2) Has the authorization with him when making solicitations and exhibits it on request to persons solicited.

### **RENTAL AGENCIES** (Act 90, SLH 1969)\*

Act 90 of the 1969 Session Laws of Hawaii provides for the regulation of rental agencies. A rental agency is a company or person who, for a fee, acts as an intermediary between a person who wants to rent or lease housing and a person seeking to rent or lease housing. This law is directed toward a referral type service and not toward management of rental units. The law requires that rental agencies be licensed by the Department of Regulatory Agencies and the posting of a \$5,000 bond is a prerequisite to licensing. The law further requires that rental agencies keep up-to-date

records on the housing accommodations for which it seeks tenants and inform each prospective customer, whether or not he requests the information, of the number of housing accommodations the rental agency has listed which meets the specific requirements of the prospective customer. Rental agencies are prohibited from requiring the customer to pay a fee until it has successfully placed him in housing.

### **ESCORT AGENCIES** (Act 174, SLH 1969)\*

The 1969 Legislature enacted a law to regulate escort agencies. These escort agencies provide or arrange for escorts or companions for social occasions for a fee. Each escort agency is required to post a \$5,000 bond with the Department of Regulatory Agencies and that department has adopted rules and regulations for such escort agencies. Any escort agency which violates the provisions of this law is subject to a fine of not more than \$1,000 or imprisonment of not more than six months.

### **SECURITIES** (Chap. 485, HRS)\*

Certain securities must be registered with the Commissioner of Securities for the protection of the public. The Commissioner of Securities also regulates security dealers, salesmen, and investment advisers. An investment adviser is someone who is engaged in the business of advising others as to the value of securities, or to the advisability of investing, purchasing or selling securities. The sale of securities through misrepresentation or fraud is prohibited.

\*Indicates where the law may be found. HRS indicates Hawaii Revised Statutes, a compilation of the Statute Laws of Hawaii. SLH 1969 indicates the 1969 Session Laws of Hawaii, laws that were passed by the 1969 Session of the Legislature.

# NUMBERS TO CALL WHEN HELP IS NEEDED

COMPLAINT AREA	LOS ANGELES	SAN DIEGO
Accountants . . . . .	620-4300	236-7384
Advertising—False or Deceptive . . . . .	800-952-5225	800-952-5225
California Companies . . . . .	620-4609	236-7351
Out of State . . . . .	824-7575	293-6030
Appliances, Major—Repairs . . . . .	620-4132	236-7384
Athletics—Boxing and Wrestling . . . . .	620-4590	232-4361
Attorneys . . . . .		
Fees . . . . .	624-8571	232-7334
Ethics, Conduct . . . . .	482-8220	232-6739
Automobile Dealers . . . . .		
New and Used Sales . . . . .	748-3161	297-3511
Salesmen and Wreckers . . . . .	748-3161	297-3511
Automotive Repair . . . . .	800-952-5210	800-952-5210
Repairs and Warranties . . . . .	620-2944	
Babysitter Agencies . . . . .	620-4360	236-7384
Banks . . . . .		
California Chartered . . . . .	620-4760	
Federal Chartered . . . . .	688-4360	239-6364
Barbers . . . . .	620-4253	236-7384
Beauty Salons . . . . .	620-4280	236-7384
Board and Care Homes . . . . .	974-2345	279-8300
Cemeteries . . . . .	620-4247	236-7384
Chiropractors . . . . .	620-4360	236-7384
Collection Practices . . . . .		
Collection Agencies only . . . . .	620-3000	236-7384
Other debt collections . . . . .	800-952-5225	800-952-5225
Contractors . . . . .	620-4180	236-7384
Cosmetologists . . . . .	620-4280	236-7384
Credit Practices and Reporting . . . . .	824-7575	293-5547
Excessive Charges . . . . .	800-952-5225	800-952-5225
Credit Unions . . . . .	620-4685	236-7341
Dance Studios . . . . .	800-952-5225	800-952-5225
Dentists and Dental Hygienists . . . . .	620-4248	236-7384
Dry Cleaners . . . . .	620-4130	236-7384
Employment Agencies . . . . .	620-4360	236-7384
Engineers—Professional . . . . .	620-4120	236-7384
Finance Companies . . . . .	620-4685	236-7341
Flammable Fabrics . . . . .	824-7575	293-6030

COMPLAINT AREA	LOS ANGELES	SAN DIEGO
Foods—Drugs—Cosmetics—Hazardous . . . . .		
Household Chemicals, Quality— . . . . .		
Ingredients—Labeling—Advertising . . . . .	620-2965	236-7213
Shortweight—Packaging and . . . . .		
Measuring Devices . . . . .	225-1357	236-2228
Franchise Industries . . . . .	620-2864	236-7341
Funeral Directors and Embalmers . . . . .	620-4249	236-7384
Fur Products . . . . .	824-7575	293-6030
Furniture and Bedding . . . . .	620-4010	236-7384
Geologists . . . . .	620-4360	236-7384
Guarantees—Deceptive or . . . . .		
Unhonored . . . . .	800-952-5225	800-952-5225
Guide Dogs . . . . .	620-4360	236-7384
Health Studios . . . . .	800-952-5225	800-952-5225
Hearing Aid Dispensers . . . . .	620-4270	236-7384
Home Furnishings . . . . .	620-4010	236-7384
Home Improvements . . . . .	620-4180	236-7417
Hospitals, Convalescent and . . . . .		
Nursing Home License . . . . .	620-2940	236-7381
Complaints . . . . .	974-7961	
Insurance . . . . .		
Brokers, Agents, Solicitors, . . . . .		
Companies . . . . .	620-2747	236-7337
Pre-paid Medical Plans . . . . .	620-3279	236-7351
Insurance Adjusters . . . . .	620-3020	236-7384
Investment Fraud . . . . .	620-3030	236-7351
Land Surveyors . . . . .	620-4120	236-7384
Mail Fraud . . . . .	688-3395	293-6433
Marriage and Family Counselors . . . . .	620-2814	236-7384
Merchandise . . . . .		
Inferior—See Advertising . . . . .		
Mobile Homes . . . . .	714-558-4161	558-4161
Modeling Agencies . . . . .	620-4360	236-7384
Nurses . . . . .		
Registered . . . . .	620-4200	236-7384
Vocational . . . . .	620-4259	236-7384
Nurses Registry . . . . .	620-4360	236-7384

COMPLAINT AREA	LOS ANGELES	SAN DIEGO
Optometrists . . . . .	620-4360	236-7384
Osteopathic Physician and Surgeon . . . . .	620-4360	236-7384
Pest Control . . . . .	620-2255	236-7384
Petroleum Products . . . . .	869-2457	236-2228
Pharmacy . . . . .	620-3860	236-7384
Physician and Surgeon, . . . . .		
Medical Doctor . . . . .	620-4270	236-7384
Private Investigators and Private . . . . .		
Patrol Operators . . . . .	620-3020	236-7384
Psychiatric Technician . . . . .	620-4259	236-7384
Psychologists . . . . .	620-4270	236-7384
Real Estate . . . . .	620-3950	236-7345
Repairs—TV, Stereo, Major Appliance . . . . .	620-4132	236-7384
Repossessors . . . . .	620-3020	236-7384
Savings and Loan— . . . . .		
California Charter . . . . .	620-2234	
Federal Charter . . . . .	624-8441	
Schools—Vocational . . . . .	620-4256	
Security Brokers . . . . .	620-4685	236-7341
Talent Agencies . . . . .	620-2100	236-7334
Television, Electronic—Repairs . . . . .	620-4132	236-7384
Tenant—Landlord Problems . . . . .	757-1893	
Textiles . . . . .	824-7575	293-5547
Toys—Dangerous . . . . .	688-3781	293-5168
Trading Stamps . . . . .	620-4685	236-7341
Truth In Lending . . . . .	824-7575	293-5547
Utilities—Electric, Gas, Water, . . . . .		
Telephone, Telegraph . . . . .	620-2570	236-7388
Transportation . . . . .		
Movers . . . . .	620-2646	236-7388
Freight Rates and Tariffs . . . . .	620-2350	236-7388
Passenger Service—Air, Bus, Rail . . . . .	620-2217	236-7388
Trucker's Permits . . . . .	620-2432	
Veterinarians . . . . .	620-2003	236-7384
Warranties, Auto . . . . .	748-3161	297-3511
Other Warranties . . . . .	800-952-5225	800-952-5225
Weights and Measures . . . . .		
False or Deceptive . . . . .	225-1357	236-2228



If you have a problem, the first place to go is the business. Many consumers with complaints mistakenly fail to contact the company before seeking outside help. The business may be able to resolve your problem right there.

If you don't receive satisfaction from the first person you talk to, ask to see a supervisor or manager. Be prepared to wait a few days. Some complaints take a while to resolve. The Better Business Bureaus handle individual consumer complaints. If you can't resolve your problem with the business, you may wish to take advantage of a new BBB service: VOLUNTARY ARBITRATION. If you and the business agree to submit to it, you may save yourself a lot of hassle. Ask the BBB about it, at the following offices:

Long Beach	(213) 435-3741	San Diego	(714) 283-3927
Los Angeles	(213) 627-6305	Santa Barbara	(805) 963-8657
Orange	(714) 633-9661	Van Nuys	(213) 627-6305
San Bernardino	(714) 825-7280		



## County Sealer of Weights and Measures

If you question the weight of a product, or the way it is labeled, if you feel that a scale is inaccurate, or if you feel you have purchased inferior brake fluid, anti-freeze, transmission fluid, oil, or gasoline, call the office in:

Imperial	(714) 352-3610	San Bernardino	(714) 383-1411
Los Angeles	(213) 225-1357	San Diego	(714) 236-2228
Orange	(714) 774-0284	Santa Barbara	(805) 966-1611
Riverside	(714) 787-2620	Oxnard-Ventura	(805) 487-5511

## District Attorney

If you suspect fraud or a bunko scheme, contact your District Attorney. Many offices have active consumer protection divisions.

## Local Police

If your complaint involves a criminal violation of the law, contact the local police.



Many communities have private organizations working to benefit the consumer. To find out where the groups in your town are located, check your telephone book or contact the Consumer Federation of California, 2200 L Street, Sacramento, CA 95816; (916) 442-5340.

**CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS**  
**LOS ANGELES—107 S. BROADWAY, LOS ANGELES 90012**  
**SAN DIEGO—1350 FRONT STREET, SAN DIEGO 92101**



## TEACHERS!

Consumer education materials for high school teachers are available through the Department of Consumer Affairs. If interested, write c/o Box 310, Sacramento, CA 95802.

# NUMBERS TO CALL WHEN HELP IS NEEDED

COMPLAINT AREA	SAN FRANCISCO	SAN JOSE
Accountants . . . . .	557-1798	247-3134
Advertising—False or Deceptive		
California Companies . . . . .	557-2828 (415)	557-2828
Local Companies . . . . .	553-1752	275-9651
Out of State Companies . . . . .	556-1270 (415)	556-1270
Appliances . . . . .	557-0966	247-3134
Attorneys . . . . .	922-1440	
Automobile		
Dealers—New and Used Sales . . . . .	557-1144	378-7011
Salesmen . . . . .	557-1144	378-7011
Wreckers . . . . .	557-1144	378-7011
Automotive Repair		
Repairs . . . . .	(800) 952-5210	(800) 952-5210
Warranties . . . . .	557-1144	277-1322
Babysitter Agencies . . . . .	557-0966	(415) 557-0966
Banks		
California—Chartered . . . . .	557-3232	(415) 557-3232
Federal—Chartered . . . . .	781-4438	
Barbers . . . . .	557-0966	247-3134
Beauty Salons . . . . .	557-0966	247-3134
Cemeteries . . . . .	557-0966	247-3134
Chiropractors . . . . .	557-0966	247-3134
Collection Practices		
Collection Agencies Only . . . . .	557-0966	247-3134
Other Debt Collections . . . . .	557-2828 (415)	557-2828
Contractors . . . . .	557-0276	371-1252
Cosmetologists . . . . .	557-0966	247-3134
Credit Practices		
Credit Reporting . . . . .	556-1270 (415)	556-1270
Deceptive Practices or Failure to		
Disclose Terms . . . . .	556-1270 (415)	556-1270
Excessive Charges . . . . .	557-2828 (415)	557-2828
Credit Unions . . . . .	557-1136 (415)	557-1136
Dance Studios . . . . .	557-2828 (415)	557-2828
Dentists and Dental Hygienists . . . . .	557-2188	247-3134
Discrimination		
Housing . . . . .	468-7464	
Employment . . . . .	557-2005	
Dry Cleaners . . . . .	557-3350	247-3134
Employment Agencies . . . . .	557-0966	247-3134
Engineers—Professional . . . . .	557-0966	247-3134

COMPLAINT AREA	SAN FRANCISCO	SAN JOSE
Finance Companies . . . . .	557-1136 (415)	557-1136
Flammable Fabrics . . . . .	556-1270 (415)	556-1270
Foods—Drugs—Cosmetics—Hazardous		
House Chemicals, Quality—		
Ingredients—Labeling—Advertising . . . . .	843-7900	293-3918
Shortweight Packaging—Inaccurate		
Weighing and Measuring Devices . . . . .	558-4911	299-2105
Franchise Industries . . . . .	557-3677 (415)	557-3677
Funeral Directors and Embalmers . . . . .	557-0966	247-3134
Fur Products . . . . .	556-1270 (415)	556-1270
Furniture and Bedding . . . . .	557-1616 (415)	557-1616
Garnishment of Wages . . . . .	556-0486	
Guarantees—Deceptive or Unhonored . . . . .	557-2828 (415)	557-2828
Also See Advertising		
Health Studios . . . . .	557-2828 (415)	557-2828
Hearing Aid Dispensers . . . . .	557-3400	247-3134
Home Improvements . . . . .	557-0276	371-1252
Insurance		
Claims Settlements by Insurance		
Companies . . . . .	557-3646 (415)	557-3646
Claims Settlements by Independent		
Adjusters . . . . .	557-0966	247-3134
Automobile—Homeowners—Life—		
Health—Accident		
Policy Problems . . . . .	557-3646 (415)	557-3646
Sales Representative . . . . .	557-1826 (415)	557-1826
Pre-Paid Medical Plans . . . . .	557-2828 (415)	557-2828
Investment Fraud . . . . .	557-2544 (415)	557-2544
Landscape Architects . . . . .	557-0966	247-3134
Land Surveyors . . . . .	557-0966	247-3134
Loans . . . . .	556-1270	
Mall Fraud . . . . .	556-2421	275-7455
Marriage—Family Counselors . . . . .	557-0966	247-3134
Merchandise		
Inferior		
See Advertising		
Non-Delivery		
Mails Involved . . . . .	556-2421	275-7455
Mails Not Involved		
See Advertising		
Mobile Homes . . . . .	557-0966	247-3134

COMPLAINT AREA	SAN FRANCISCO	SAN JOSE
Moving Companies		
Within State . . . . .	557-0647	
Outside of California . . . . .	556-5515	
Nurses		
Registered . . . . .	557-3597	247-3134
Registries . . . . .	557-0966	247-3134
Vocational . . . . .	557-0966	247-3134
Nursing Homes . . . . .	843-7900	277-1784
Optometrists . . . . .	557-0966	247-3134
Osteopaths . . . . .	557-3400	247-3134
Pest Control Operators . . . . .	557-0966	247-3134
Petroleum Products . . . . .	557-3508	299-2105
Pharmacy . . . . .	557-0546	247-3134
Physicians—Surgeons—Osteopaths . . . . .	557-3400	247-3134
Postal Fraud . . . . .	556-2421	275-7455
Private Investigators and		
Private Patrol Operators . . . . .	557-0966	247-3134
Real Estate . . . . .	557-2136 (415)	557-2136
Repair Services		
Appliances . . . . .	557-0966	247-3134
Automobile (See Auto Repair)		
TV—Radio—Tape Recorders . . . . .	557-0966	247-3134
Repossessors . . . . .	557-0966	247-3134
Security Brokers . . . . .	557-3960 (415)	557-3787
Service Stations . . . . .	557-0966 (415)	557-0966
Television Repair . . . . .	557-0966	247-3134
Tenant-Landlord Problems . . . . .	552-1740	
Textiles . . . . .	556-1270 (415)	556-1270
Toys—Dangerous . . . . .	(800) 683-2666	
Trading Stamps . . . . .	557-1136 (415)	557-1136
Utilities—PUC		
Electric—Gas—Telegraph—		
Telephone—Water . . . . .	557-0350 (415)	557-0350
Transportation		
Freight Rates and Tariffs . . . . .	557-3347	241-3553
Insurance Permits and Fees . . . . .	557-0377	241-3553
Passenger Service—Air . . . . .	557-3841	241-3553
Passenger Service—Bus—Rail . . . . .	557-3972	241-3553
Upholsterers . . . . .	557-1616	277-1251
Veterinarians . . . . .	557-0966	247-3134
Warranties		
Automobile—See Auto Repair		
Other Warranties . . . . .	557-2828	275-9651
If Unable to Locate Agency Desired, Call . . . . .	557-0966	247-3134

## BUSINESS . . . . AND THE BETTER BUSINESS BUREAUS

If you have a problem, the first place to go is the business. Many consumers with complaints mistakenly fail to contact the company before seeking outside help. The business may be able to resolve your problem right there.

If you don't receive satisfaction from the first person you talk to, ask to see a supervisor or manager. Be prepared to wait a few days. Some complaints take a while to resolve. The Better Business Bureaus handle individual consumer complaints. If you can't resolve your problem with the business, you may wish to take advantage of a new BBB service: VOLUNTARY ARBITRATION. If you and the business agree to submit to it, you may save yourself a lot of hassle. Ask the BBB about it, at the following offices:

360 22nd St., El Dorado Bldg. . . . . (415) 839-5900—Oakland 94612  
414 Mason Street, Suite 500 . . . . . (415) 398-4300—San Francisco 94102  
1153 Lincoln Ave., P.O. Box 8110 . . . . . (408) 298-5880—San Jose 95125  
P.O. Box 294, 20 N. San Mateo Dr. . . . . (415) 347-1251—San Mateo 94401  
2 Florida Street . . . . . (707) 644-5553—Vallejo 94590  
1327 N. Main Street . . . . . (415) 933-0310—Walnut Creek 94596

## LOCAL GOVERNMENT

### County Sealer of Weights and Measures

If you question the weight of a product, or the way it is labeled, if you feel that a scale is inaccurate, or if you feel you have purchased inferior brake fluid, anti-freeze, transmission fluid, oil, or gasoline, call the office in:

Alameda . . . . . (415) 874-6736 San Francisco (415) 558-4911  
Colusa . . . . . (916) 458-4818 San Mateo . . . . . (415) 369-1441  
Contra Costa . . . . . (415) 228-3000 Santa Clara . . . . . (408) 299-2105  
Del Norte . . . . . (707) 464-2716 Santa Cruz . . . . . (408) 425-2276  
Glenn . . . . . (916) 934-4651 Shasta . . . . . (916) 241-5715  
Humboldt . . . . . (707) 443-7057 Siskiyou . . . . . (916) 842-3531 ext. 80  
Lake . . . . . (707) 263-5461 Solano . . . . . (707) 422-2010  
Marin . . . . . (415) 453-0938 Sonoma . . . . . (707) 527-2548  
Mendocino . . . . . (707) 462-4731 Tehama . . . . . (916) 527-4505  
Monterey . . . . . (408) 424-8611 Trinity . . . . . (916) 623-6372  
Napa . . . . . (707) 226-8588 Yolo . . . . . (916) 666-8261  
San Benito . . . . . (408) 637-5344

## LOCAL CONSUMER ACTION ORGANIZATIONS

Many communities have private organizations working to benefit the consumer. To find out where the groups in your town are located, check your telephone book or contact the Consumer Federation of California, 2200 L Street, Sacramento, CA 95816; (916) 442-5340.

In San Francisco, you may contact:

San Francisco Consumer Action . . . . . (415) 982-4660  
312 Sutter Street, San Francisco 94108  
Radio Station KABL . . . . . (415) 398-3225  
632 Commercial Street, San Francisco 94111

## TEACHERS!

Consumer education materials for high school teachers are available through the Department of Consumer Affairs. If interested, write c/o Box 310, Sacramento, CA 95802.