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Legislative Oversight Committee

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VIA EMAIL

Carri Grube Lybarker, Administrator and Consumer Advocate
South Carolina Department of Consumer Affairs
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RE: Additional questions from members of the subcommittee

Dear Director Lybarker:

The Healthcare and Regulatory Subcommittee appreciates the Department of Consumer Affairs’ participation in the oversight process. As follow-up to previous subcommittee meetings, below are questions of interest to various members of the subcommittee. Please provide this information by Monday, January 29, 2024.

As a reminder, formal written responses provided are considered sworn testimony. Additionally, please inform the Subcommittee, prior to responding, of any information requested that cannot be published online due to provisions in contract or law.

Budget

1. Does the DCA need approval from the General Assembly to increase fees and fines? If so, when did the agency last seek to increase fees and fines?
2. Which fees or fines contribute most to the agencies other funds total?
3. Provide a list of the following:
 - Licensing fees, associated statute or regulation, and date fee was last modified.
 - Fines, associated statute or regulation, and date fine was last modified.

Expert Witnesses

4. Is there any state regulation regarding how or when your agency can procure expert witnesses or consultants?

Consumer Advocacy in Other States

5. Several states in the southeast (e.g., Alabama, Arkansas, Georgia, Kentucky, Florida, Louisiana, North Carolina, etc.) do not have standalone consumer advocacy agencies. The Attorney General's Office, in many cases, is the entity responsible for consumer advocacy and protection.
 - What is the benefit of having a standalone consumer advocacy agency?

H. 3952

6. At the August 9, 2023, meeting, the committee received testimony regarding the agency's relationship with the state's automobile dealers.
 - How has the DCA sought to inform the state's automobile dealers regarding the law change put into effect by H.3952?
 - How has agency leadership trained its staff regarding the parameters of the new law? How has the new law impacted the agency's processes and procedures?
 - How has the DCA sought to improve relations with the state automobile dealers?
 - Has the new law improved the agency's relationship with the state's automobile dealers?
 - If yes, how?
 - If no, why?

Agency Staffing

7. Agency personnel, on several occasions, has pointed to limited human resources as a factor inhibiting the agency's ability to reach the state's consumers.
 - Has DCA leadership considered training volunteer community members to extend the agency's reach across the state?
 - If the agency were able to train volunteer community members, in what capacity could these volunteers serve the agency and their local community?

Public Information Division

8. The Public Information Division has 3 FTEs. How many in-person presentations did the division facilitate in the prior fiscal year? Does the agency have targets for the total number in-person and virtual presentations given annually?

Workers' Compensation Insurance

9. Are any of the industries licensed by the Department of Consumer Affairs required to attest to having workers' compensation insurance? If not, would there be a benefit to requiring this information be provided during initial and renewal filings?
10. Does the DCA have authority to request licensed businesses provide proof of workers' compensation insurance during compliance reviews and inspections?
 - If so, would the agency be amenable to informing the SC Workers' Compensation Commission of businesses found to not have workers' compensation insurance?
11. At the October 19, 2023, meeting, agency representatives stated the South Carolina State Accident Fund has not been reviewed by DCA. The State Accident Fund provides mandatory workers' compensation insurance for all state agencies and offers coverage to local and municipal governments. Why would the DCA not review this agency?

Department of Insurance

12. According to staff testimony presented at the October 19, 2023, meeting, statute requires insurance companies to submit filings to the DCA.
 - Please identify the associated statute and provide an opinion as to whether the statute should be amended to reflect the Department of Insurance's submission of insurance filings to DCA on behalf of insurance companies.
13. According to staff testimony presented at the October 19, 2023, meeting, DCA engaged the Department of Insurance (DOI) regarding access to their online system. Access to this system would allow DCA to obtain insurance filings without DOI needing to transfer the information.

- Would access to this system resolve any known conflicts with statute?
- Has DCA leadership reengaged the Department of Insurance to discuss shared access to their online system?

Reports

14. The DCA produces several reports that examine consumer protection trends. The dates for several reports are not current. Are the identified reports still produced by the agency? If so, will updated reports be posted online?

- Complaint Report – 2017
- Credit Counseling Report – 2016
- Scam Report – 2017
- Security Breach Notice Report – 2017
- Identity Theft Unit (Fifth Anniversary Report) – 2018

15. The State of Credit Report, Identity Theft Unit Report, and 2022 Mortgage Log Data Report provide a variety of metrics to inform interested parties regarding the state of consumer access to services and consumer safety in the marketplace.

- DCA does not provide any opinions, suggestions, or recommendations regarding the data, which may provide context or assist in the development of public policy decisions.
 - Is DCA averse to providing such feedback?

Licensed Businesses

16. According to information provided by agency personnel at the Thursday, November 9, 2023, meeting, the Investigator Team has five staff members who are responsible for visiting licensees to verify adherence to state laws and regulations. Additionally, agency personnel stated the agency does not have the resources or capacity to visit all licensed businesses.

- What percentage of licensed businesses are visited in an average year?
- Does the agency have targets for the total number visits conducted annually by industry type?
- What percentage of licensed businesses should be visited annually to safeguard against violations of state law? How many investigators would be needed to achieve this percentage?
- How many inspectors would the agency need to visit 25%, 50%, and 75% of licensed businesses respectively?
- Please identify the total number of businesses by industry type (e.g., pawn brokers, continuing care retirement communities, etc.) and the percentage of those businesses visited by an investigator in the prior fiscal year.

- Provide the committee a list of licensed businesses by industry type (include addresses).

Homeowners Associations

17. Are developers required to ensure HOA's have a certain amount of financial reserves available prior to turning over control of the HOA to a community governing board? Insufficient reserves could require significant increases in regime fees once the community governing board takes control of the HOA.
- Would there be a benefit to having such a requirement?

Future Outlook

18. The DCA has been in existence for nearly 50 years and has provided services to consumers and businesses successfully over that period.
- Will the DCA need to abandon its current operational paradigm to meet the challenges consumers and businesses will experience in the next 5-15 years? Please explain.
 - What significant changes to the consumer and business environment does DCA leadership and the commission board anticipate may disrupt how the agency serves its core constituency (e.g., artificial intelligence (AI), etc.)?
19. Has agency leadership or the commission board conducted a study to determine if the agency should receive additional resources to establish a physical presence regionally (e.g., Upstate, Midlands, etc.)?
- If not, do you believe there is value in conducting such a study?

Sincerely,



Joseph H. Jefferson, Jr.
Subcommittee Chair

cc: The Honorable Jeffrey E. "Jeff" Johnson
House Legislative Oversight Committee