

Healthcare and Regulatory Subcommittee

Thursday, October 19, 2023

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AGENDA



South Carolina
House of Representatives
Legislative Oversight Committee

HEALTHCARE AND REGULATORY SUBCOMMITTEE

Chairman Joseph H. "Joe" Jefferson, Jr.

The Honorable April Cromer

The Honorable Roger K. Kirby

The Honorable Thomas Duval "Val" Guest, Jr.

The Honorable Marvin "Mark" Smith

AMENDED AGENDA

Thursday, October 19, 2023

10:30 a.m.

Room 521 – Blatt Building

Pursuant to Committee Rule 4.7, S.C. ETV shall be allowed access for internet streaming
whenever technologically feasible.

- I. Approval of Minutes
- II. Discussion of the Study of the Department of Consumer Affairs
- III. Adjournment



MINUTES



South Carolina House of Representatives Legislative Oversight Committee

LOC Page 5

Chair Jeffrey E. “Jeff” Johnson

William H. Bailey
Gary S. Brewer
April Cromer
Kambrell H. Garvin
Leon Douglas “Doug” Gilliam
Thomas Duval “Val” Guest, Jr.

First Vice-Chair Chris Wooten

Timothy A. “Tim” McGinnis
Adam M. Morgan
Travis A. Moore
Russell L. Ott
Marvin R. Pendarvis
Marvin “Mark” Smith

Cathy A. Greer
Administration Coordinator

Lewis Carter
Research Director

Roland Franklin
Counsel/Associate General Counsel for Litigation

Riley E. McCullough
Research Analyst

Post Office Box 11867
Columbia, South Carolina 29211
Telephone: (803) 212-6810 • Fax: (803) 212-6811
Room 228 Blatt Building

Tuesday, September 26, 2023

10:30am

Blatt Building Room 110

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.7, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly’s website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Healthcare and Regulatory Subcommittee meeting was called to order by Chair Joseph H. Jefferson, Jr. on Tuesday, September 26, 2023, in Room 110 of the Blatt Building. Four subcommittee members (Chair Jefferson; Representative Marvin “Mark” Smith; Representative Roger Kirby; and Representative April Cromer) were present, and one absent (Representative Thomas Duval “Val” Guest, Jr.) for all or a portion of the meeting.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings.

Approval of Minutes

Representative Smith made a motion to approve the meeting minutes from the Thursday, July 20, 2023, meeting. A roll call vote was held, and the motion passed.

Rep. Smith's motion to approve meeting minutes.	Yea	Nay	Not Voting
Rep. Cromer	✓		
Rep. Guest			✓
Rep. Kirby	✓		
Rep. Smith	✓		
Rep. Jefferson	✓		

Discussion of the Study of the Department of Consumer Affairs

- I. Chair Jefferson states the purpose of the meeting, which is to begin the study of the South Carolina Department of Consumer Affairs (SCDCA or DCA).
- II. Sims Floyd, Executive Vice President of the South Carolina Automobile Dealers Association, provided testimony regarding the Department of Consumer Affairs' relationship with the state's automobile dealers. Mr. Floyd also discussed legislation passed by the General Assembly regarding how the automobile industry is regulated by the agency.
- III. Carrie Grube-Lybarker, Administrator/ Consumer Advocate, of the South Carolina Department of Consumer Affairs, provided an overview of the agency and address outstanding questions raised at the February, 23, 2023, public input meeting.

The following topics were presented during the meeting:

- Public Hearing Follow-Up: Closing Fees; Motor Clubs; and Debit Card Processing Fees
- SCDCA Overview:
 - Organizational Structure
 - Commission on Consumer Affairs members
 - Council of Advisors on Consumer Credit
 - Consumer Services Division
 - Consumer Advocacy Division
 - Identity Theft Unit
 - History of Consumer Credit
 - South Carolina Consumer Protection Code
 - Required Reports
 - Agency Statistics
 - Agency Challenges and Successes

Adjournment

- I. There being no further business, the meeting is adjourned.



South Carolina House of Representatives Legislative Oversight Committee

LOC Page 7

Chair Jeffrey E. “Jeff” Johnson

William H. Bailey
Gary S. Brewer
April Cromer
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Cathy A. Greer
Administration Coordinator

First Vice-Chair Chris Wooten

William M. “Bill” Hixon
Joseph H. “Joe” Jefferson, Jr.
Wendell Keith Jones
Roger K. Kirby
Josiah Magnuson
John R. McCravy, III

Lewis Carter
Research Director

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Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings.

Approval of Minutes

The committee did not have a quorum and did not vote on the Wednesday, August 9, 2023, meeting minutes.

Discussion of the Study of the Department of Consumer Affairs

- I. Chair Jefferson states the purpose of the meeting, which is to hear from agency leadership regarding internal agency operations and consumer protection initiatives.
- II. Carrie Grube-Lybarker, Administrator/ Consumer Advocate; Bailey Parker, Communications Director; and Mandy Self, Identity Theft Unit, Director; addressed the subcommittee regarding the following topics:
 - Administration Division (e.g., staffing, services and processes, etc.);
 - Public Information & Education Division (e.g., marketing, reporting, partnerships, etc.); and
 - Identity Theft Unit (e.g., consumer education, reporting and data, scams and fraud, etc.)

Adjournment

- III. There being no further business, the meeting is adjourned.



AGENCY SNAPSHOT



DEPARTMENT OF CONSUMER AFFAIRS

ABOUT

The South Carolina Department of Consumer Affairs (“DCA”/ “Department”) is the state’s consumer protection agency. Established in 1974, DCA has nearly fifty years of experience in protecting South Carolina consumers while recognizing those businesses that act honestly and fairly. The General Assembly has charged the DCA with administering, interpreting and enforcing over one hundred twenty statutes, including the S.C. Consumer Protection Code. Our mission is to protect consumers from inequities in the marketplace through advocacy, mediation, enforcement and education.

HISTORY



- Prior to implementation of South Carolina Consumer Protection Code (SCCPC), little protection existed for consumers in the marketplace.
- The SCCPC is Title 37 of the *Code of Laws of South Carolina*. It was adopted in 1974 and became effective January 1, 1975.
 - Major amendments were made to the SCCPC in 1976 and 1982.
 - The 1976 amendments added the Chapter on Consumer Loans.
 - The 1982 amendments deregulated interest rates in South Carolina.
 - Significant amendments were made to the Chapter on Credit Insurance in 1999.
- Other states having a version of the uniform code are:
 - Colorado, Maine, Indiana, Oklahoma, Iowa, Wisconsin, Utah, Kansas, and Wyoming.

OVERVIEW

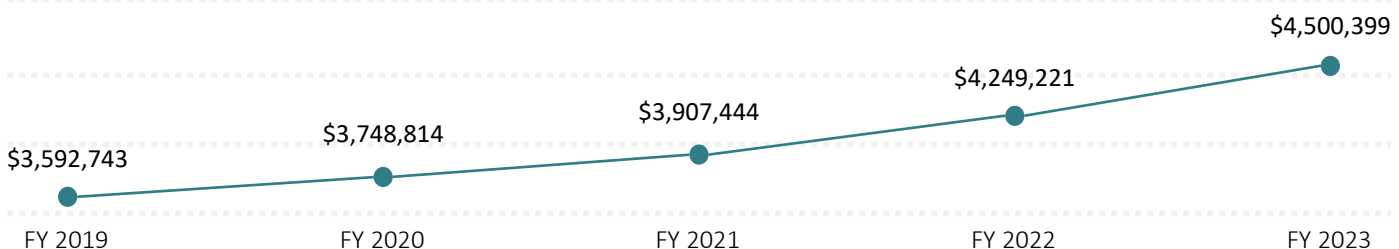


45 State FTEs

120 statutes to
administer &
enforce



Total Funding by Fiscal Year



The Commission on Consumer Affairs is the policy making and governing authority of the S.C. Department of Consumer Affairs, appoints the Administrator and is responsible for enforcement of the S.C. Consumer Protection Code.

Agency Head

- Carolyn Lybarker began her career with the agency in June 2004 as a law clerk, later becoming a Staff Attorney.
- She was named Acting Director of Public Information in July 2010 then Deputy Director of Public Information, Consumer Services and Education in October 2010.
- She served as Acting Administrator from February 2011- October 2011, when she was appointed DCA's fifth Administrator

Commission

- The Commission on Consumer Affairs is composed of nine members, one of whom is the Secretary of State
- The General Assembly elects four other members from outside the legislature
- The Governor appoints four members whose appointments are confirmed by the Senate

DIVISIONS

The Department of Consumer Affairs is organized into six divisions.

Administration

- Provides support for the other Divisions including personnel, accounting, data processing and purchasing.

Public Information and Education

- Serves as the main consumer education portal for consumers, business and the media.
- Informs consumers and businesses on their rights and responsibilities in the marketplace through traditional and alternative media distribution.

Consumer Services

- Takes and attempts to resolve consumer complaints against businesses, with due regard for the rights of the business.
- Handles complaints against industries we regulate, and those where no one else has jurisdiction.

Identity Theft Unit

- Provides education and outreach to consumers across the state to increase public awareness about what identity theft is, the steps consumers can take to protect themselves, and what consumers should do in the event of identity theft.

Advocacy

- Represents the public at large in intervening in rate cases/filings. (Includes investor-owned utilities, homeowner's insurance and worker's compensation insurance).
- Intervenes in state and federal agency rulemaking process when attempting to fix prices for consumer goods or services.

Legal

- Helps the Administrator administer and enforce applicable laws.
- Processes regulatory filings, investigates potential issues, and brings enforcement actions.

AGENCY PRESENTATION

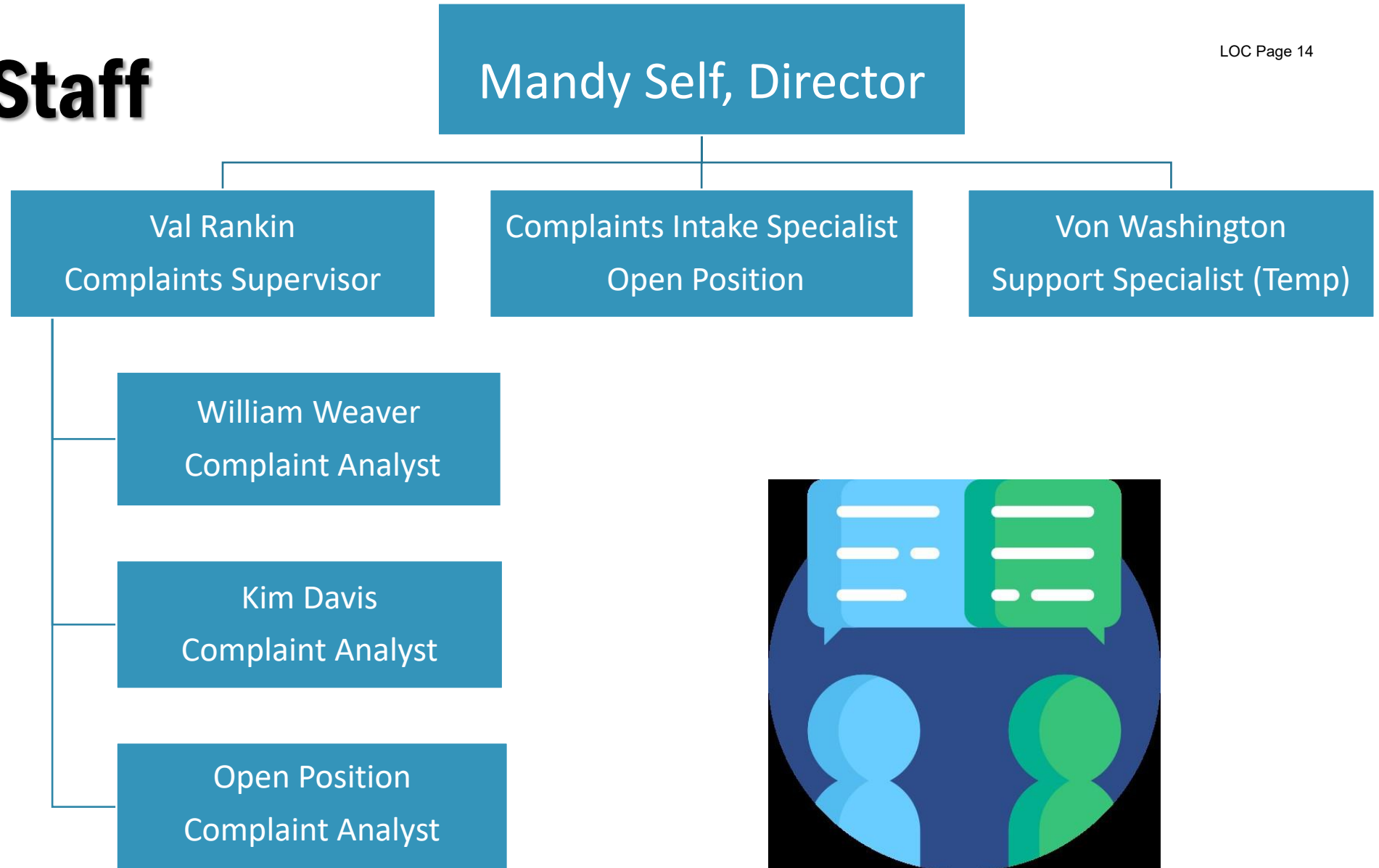
Consumer Services Division

Mandy Self

Consumer Services Division, Director

Services - Staff

LOC Page 14



Services – Director Responsibilities

Manage the daily activities of the ID Theft Unit.

Establish and maintain division policies and ensure compliance, including information security measures .

Assist in initial complaint reviews and distribution.

Assist staff with more complex consumer concerns and respond to escalated issues.

Responsible for preparing and reporting monthly to our agency head and Commission on division activities and accomplishments.

Report quarterly to our Council of Advisors.

Services – Complaint Supervisor

Reviews and assigns complaints added to the online complaint system daily.

Review complaint files throughout the month and ensures compliance with policies and procedures.

Monthly and Quarterly audits for aged complaints to determine proper action.

Trains and supervises the Complaint Analyst.

Manages the FOIA request process for Services Division.

Services – Complaint Analyst

Responsible for ensuring a complaint is assigned, processed, analyzed, and closed as per division guidelines and accountability goals.

Receive and return calls for consumers and businesses in a timely manner.

Complete follow up calls at designated times during complaint process

Reviewing and processing Suspense Reports and Batch Letters daily.

Review business response data and ensure that the information sufficiently responds to all concerns outlined in the consumer's complaint.

Services – Complaint Support Specialist

LOC Page 18

Responsible for entering complaints that are received by mail or email into the complaint system.

Performs daily administrative duties to assist complaint analyst with mailing complaints.

Assist services division with general incoming calls from consumers and businesses.

Assist with review and redaction of data associated with FOIA request.

In the absence of the front desk receptionist serves a backup to answer calls.

Services – Complaint Intake Specialist

Screens, directs and refers incoming telephone calls. Greets, directs and provides visitors with appropriate information. Notify appropriate staff of visitors.

Receives and date stamps paper complaints received and determines minimum requirements for processing. Scans to appropriate folder for complaint set up.

Performs daily administrative duties associated with complaint processing such as scanning and distributing additional documents and business responses.

Assist with review and redaction of data associated with FOIA request.

Processing Services Division Mail and monitoring Services SCDCADOC email box.

Responsible for preparing and mailing complaints that the Complaints Supervisor determines fall under the jurisdiction of another agency.

Front Desk Call Logs FY22 and FY23

Total Incoming Calls FY22 - 24,784

Total Incoming Calls FY23 - 24,324

Consumer Services Purpose



- Receive complaints of individuals pertaining to any consumer transaction arising out of the production, promotion or sale of consumer goods and services; endeavor to determine the probable basis and merit of such complaint and advise the complainant of such determination.
- Refer to the appropriate state or federal agency any complaint which is under the jurisdiction of such agency, for appropriate action.

Filing Complaints



FILE ONLINE AT
CONSUMER.SC.GOV



REQUEST A PRINTED
COPY TO MAIL IN



SCDCA's Website

🔍

- About Us
- Business Resources/Laws
- Consumer Resources
- News
- Identity Theft/Scams
- Contact Us

Protecting Consumers from Inequities in the Marketplace

How Do I ... ▾

- File a complaint?
- Get a license?
- Background a business?
- Report identity theft?
- Report a scam?
- Request a presentation?



Consumer Complaints Website Page



- About Us
- Business Resources/Laws
- Consumer Resources
- News
- Identity Theft/Scams
- Contact Us

[Home](#) » [Consumer Resources](#) » Consumer Complaints

Consumer Complaints

SCDCA processes and mediates written consumer complaints, seeking to find fair solutions for the consumer and the business. We encourage consumers to contact the business first to try and resolve a complaint. If you would like to file a complaint with SCDCA, please read the following information so we can better assist you.

- File a General Complaint
- File an HOA Complaint
- Search Complaints
- Top Referrals Agencies
- Videos About the Complaint Process

Helpful Links

Questions?

South Carolina
DEPARTMENT OF CONSUMER AFFAIRS

PO Box 5757 | 293 Greystone Blvd, Suite 400 | Columbia SC 29250-5757
Phone: 800-922-1594 | Fax: 803-734-4286 | consumer.sc.gov



PLEASE INDICATE YOUR AGE RANGE: 17 and Under ☐ 18-24 ☐ 25-34 ☐ 35-44 ☐ 45-54 ☐ 55-64 ☐ 65-74 ☐ 75-84 ☐ 85+ ☐

1. Have you filed a complaint with any other consumer services agency? Yes ___ No ___
2. Have you filed a summons and complaint with a magistrate's office? Yes ___ No ___
3. Is an attorney handling your complaint? Yes ___ No ___

PLEASE ATTACH A COPY OF CONTRACTS, WARRANTIES, CHECKS, BILL OF SALE, ETC.

PLEASE DO NOT SUBMIT SENSITIVE INFORMATION SUCH AS SOCIAL SECURITY NUMBERS, ACCOUNT NUMBERS, ETC.

PLEASE SIGN AND DATE THIS COMPLAINT. YOUR INFORMATION MAY BE RELEASED AS A MATTER OF PUBLIC RECORD.

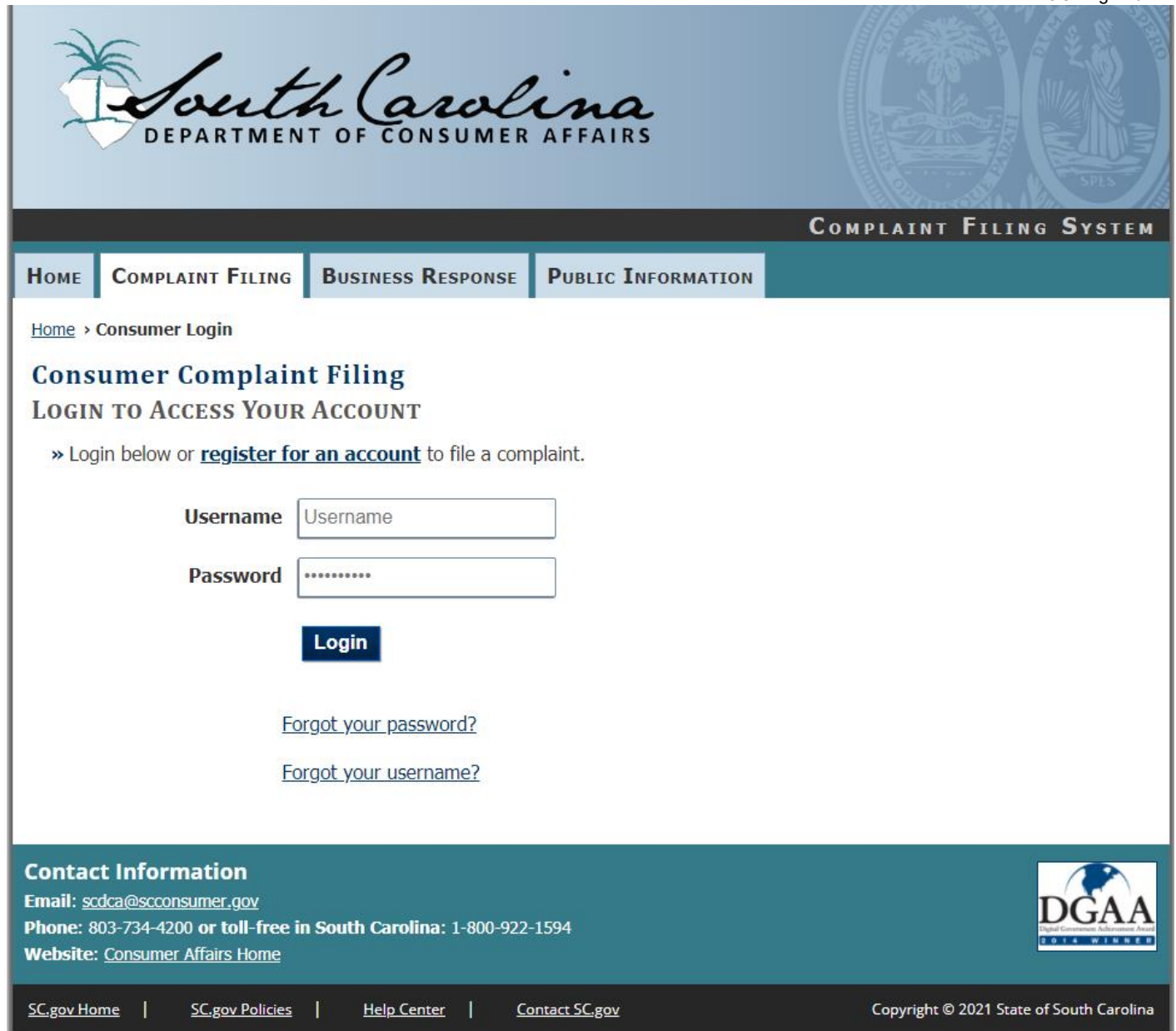
DATE _____

SIGNATURE _____

AGENCY COPY

Why should I
file
my
complaint
online?

Access to everything
in one place!



The screenshot shows the 'COMPLAINT FILING SYSTEM' login page for the South Carolina Department of Consumer Affairs. The page features a header with the department's logo and name, and a navigation bar with links to HOME, COMPLAINT FILING, BUSINESS RESPONSE, and PUBLIC INFORMATION. The main content area is titled 'Consumer Complaint Filing' and 'LOGIN TO ACCESS YOUR ACCOUNT'. It includes a login form with fields for Username and Password, a Login button, and links for 'Forgot your password?' and 'Forgot your username?'. A footer section provides contact information and a DGAA award logo.

South Carolina
DEPARTMENT OF CONSUMER AFFAIRS

COMPLAINT FILING SYSTEM

[HOME](#) | [COMPLAINT FILING](#) | [BUSINESS RESPONSE](#) | [PUBLIC INFORMATION](#)

[Home](#) > [Consumer Login](#)

Consumer Complaint Filing
LOGIN TO ACCESS YOUR ACCOUNT

» Login below or [register for an account](#) to file a complaint.

Username

Password

[Login](#)

[Forgot your password?](#)

[Forgot your username?](#)

Contact Information
Email: scdca@scconsumer.gov
Phone: 803-734-4200 or toll-free in South Carolina: 1-800-922-1594
Website: [Consumer Affairs Home](#)

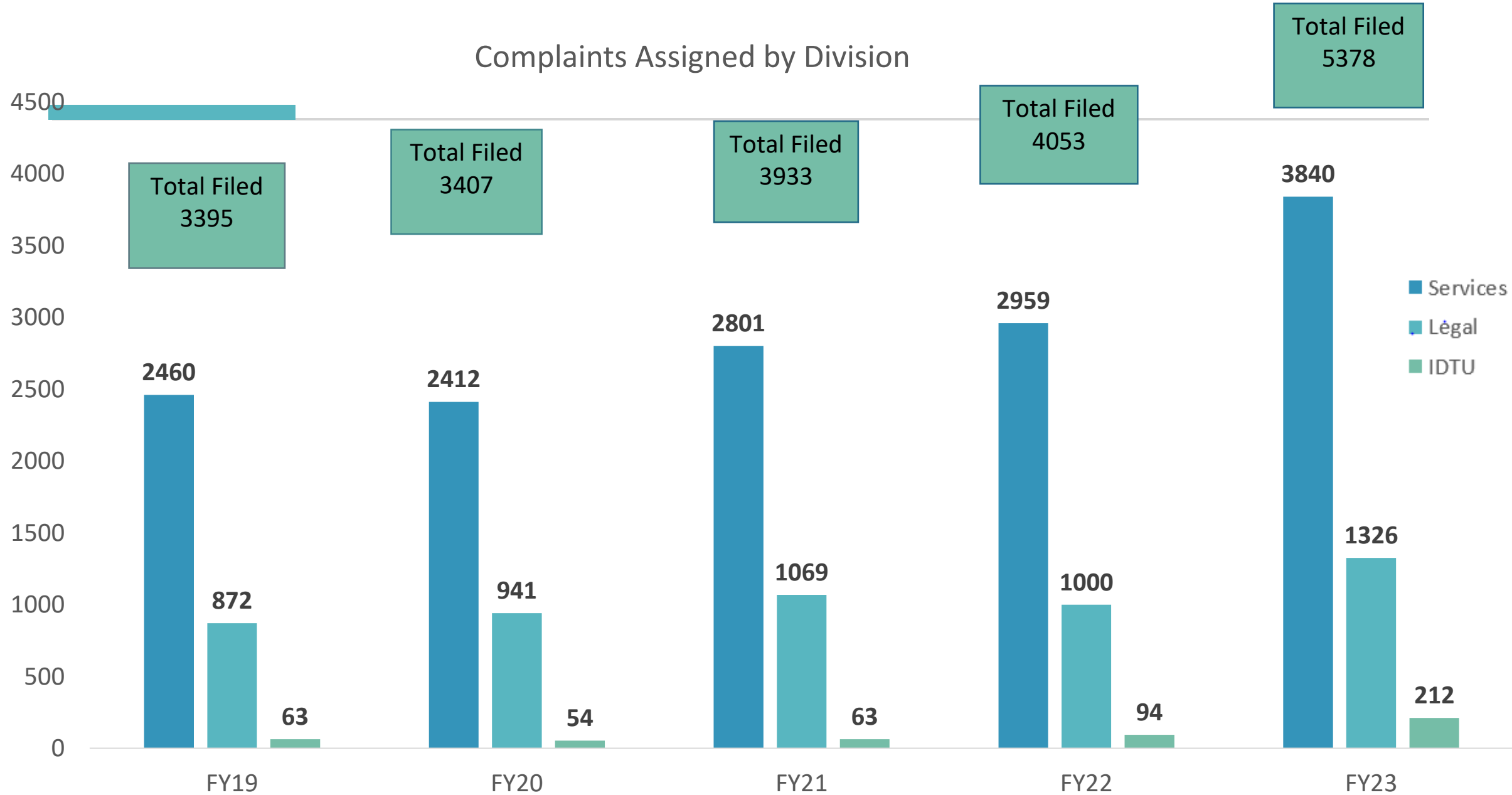
DGAA
Digital Government Achievement Award
2014 WINNER

[SC.gov Home](#) | [SC.gov Policies](#) | [Help Center](#) | [Contact SC.gov](#)

Copyright © 2021 State of South Carolina

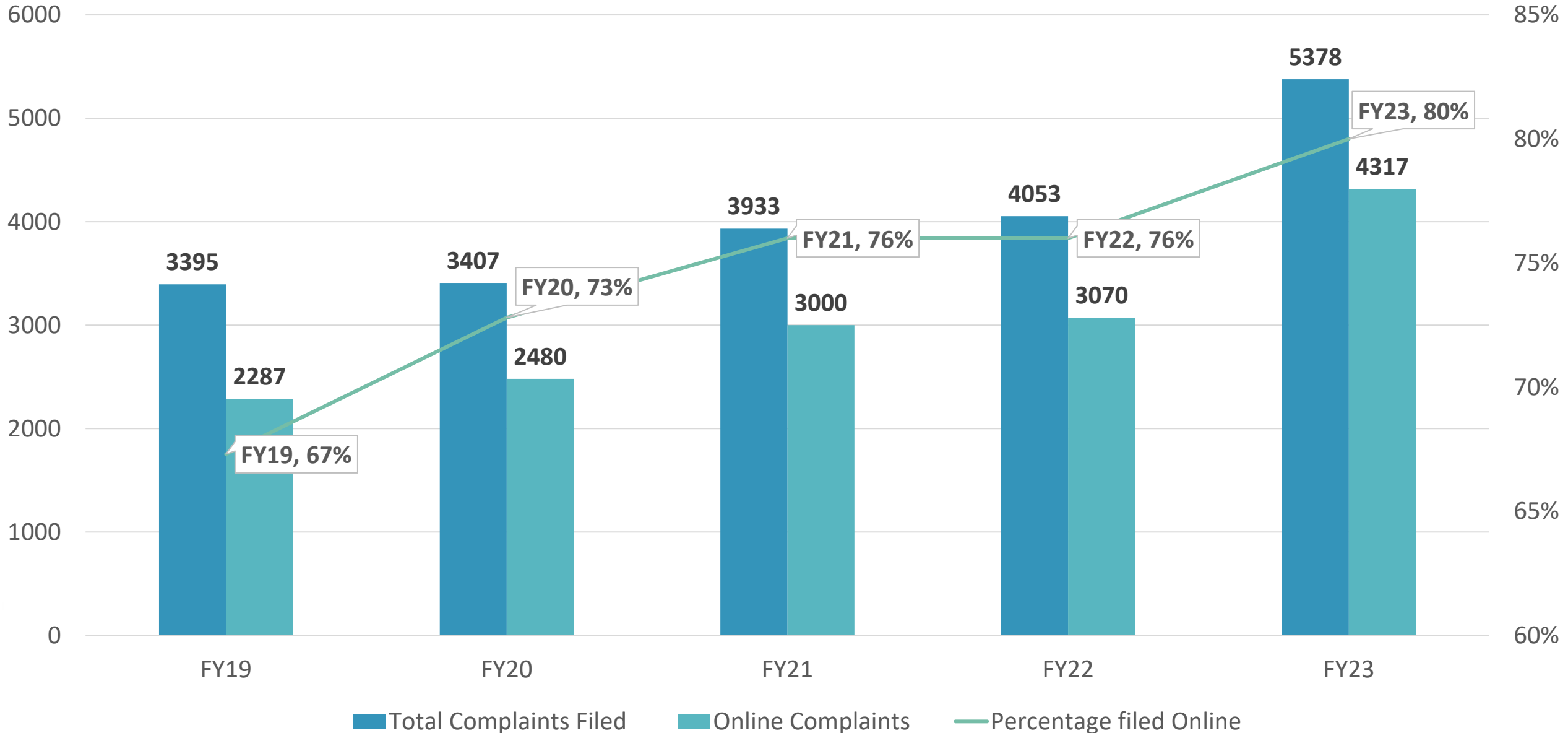
Total Complaints Filed FY19 – FY23

Complaints Assigned by Division



Online Complaint Filings – Accountability Goal

Complaints filed Online FY19 - FY23



Top 3 Complaint Categories in FY23



VEHICLES

1051 ^{+50%}



REAL ESTATE

772 ^{+36%}



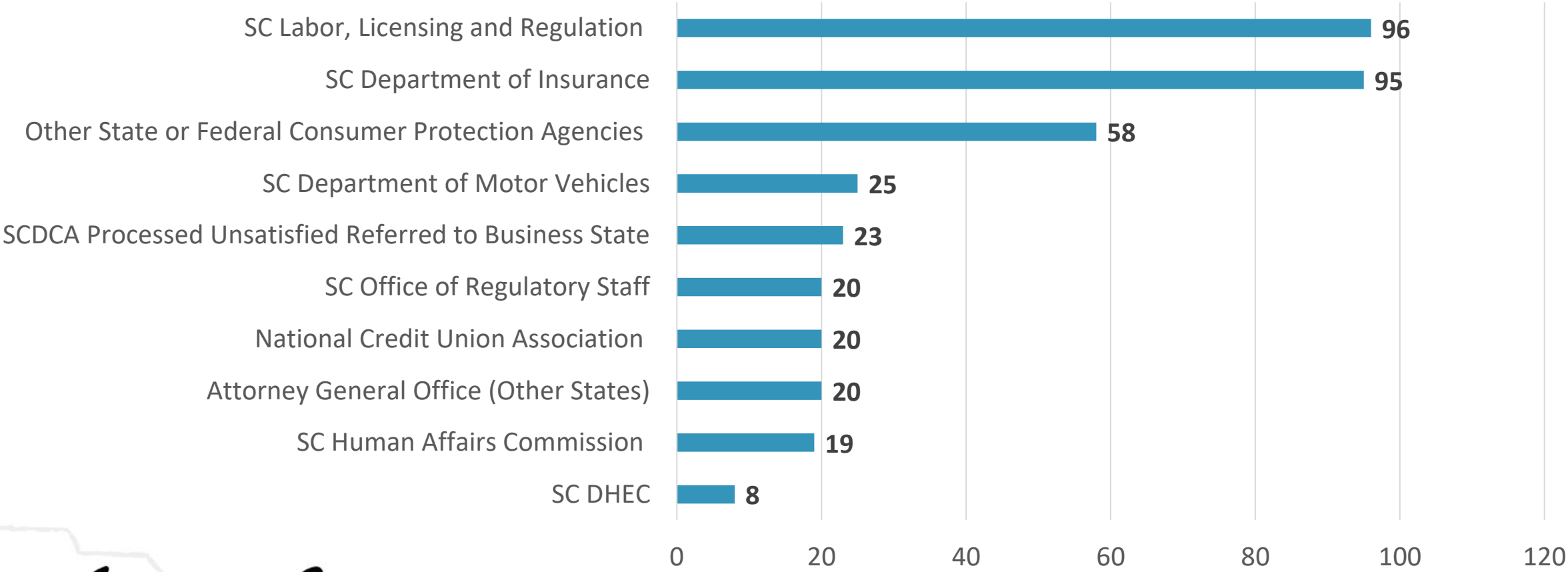
CONTRACTORS

483 ^{+29%}

Top 10 Referrals

Total Referred FY 2023 10.2%

■ Number of Referrals



Complaint Agency Overview FY23

\$1,330,316.72

TOTAL Refunds, Credits and Adjustments.



Services

• **\$792,735.96**

Legal

• **\$504,854.58**

Identity Theft Unit

• **\$32,726.18**

Top 3 Complaint Refund Categories FY23



VEHICLES

\$413,960.66



CONTRACTORS

\$229,408.86



REAL ESTATE

\$130,029.57

What Makes an Effective Complaint?



WHAT HAPPENED,
INCLUDING KEY DETAILS
AND COPIES OF
SUPPORTING
DOCUMENTS.

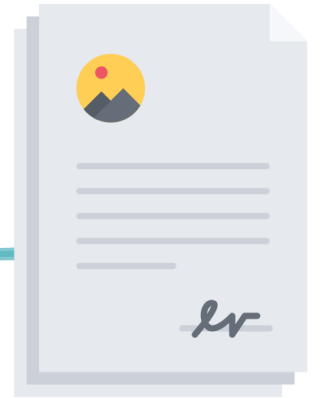


WHAT YOU'VE
DONE TO TRY AND
RESOLVE IT.



WHAT YOU THINK
WOULD BE A FAIR
RESOLUTION.

Complaint Consumer Disclaimer



- **Complaints containing profanity or vulgar language will not be processed**
- **Anonymously filed complaints cannot be submitted through our complaint process.**
- **Complaints cannot be removed from the online complaint system once it has been submitted.**
- **An exact copy of consumers complaint and supporting documents will be sent to the business.**
- **The South Carolina Freedom of Information Act may require SCDCA to release documents submit including the complaint.**

South Carolina

Complaints Not Handled



- Business versus business
- Between Individuals
- Employer/Employee disputes
- Complaints against government agencies at a local, state or federal level (this includes the US Postal Service)
- Complaints about discrimination
- If you are represented by an attorney; or
- If legal action has already been started, with limited exceptions.

Consumer Services vs. Legal Complaints

- All complaints start in the consumer services division of SCDCA.
- If it's an industry or issue not regulated, it stays in consumer services to go through voluntary mediation.
- If the complaint involved an industry or issue that we regulate it goes to the legal department for analysis.
 - Consumer Protection Code – Mostly credit related



Complaints Handled by IDTU Division

- Complaints that include:
 - Identity Theft
 - Credit Reporting Errors
 - Hacked or Fraudulent Accounts

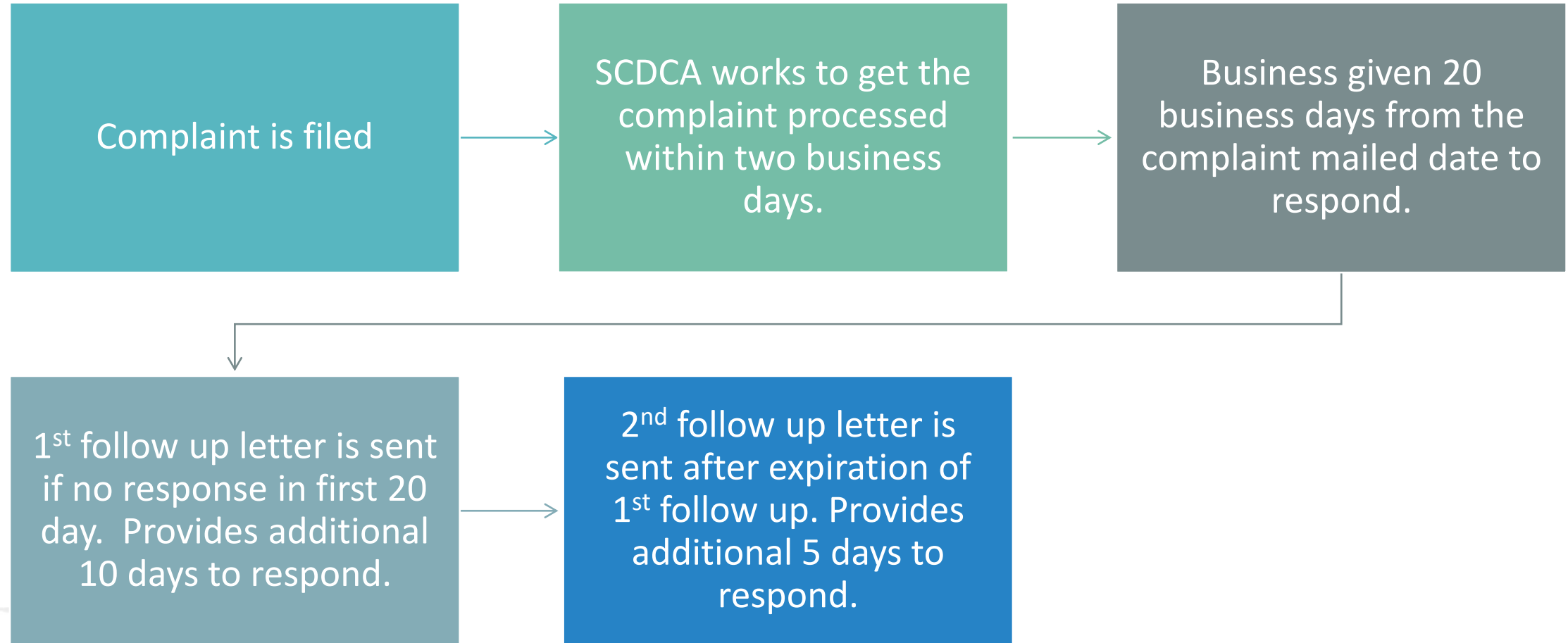


Ways We Use Complaint Data

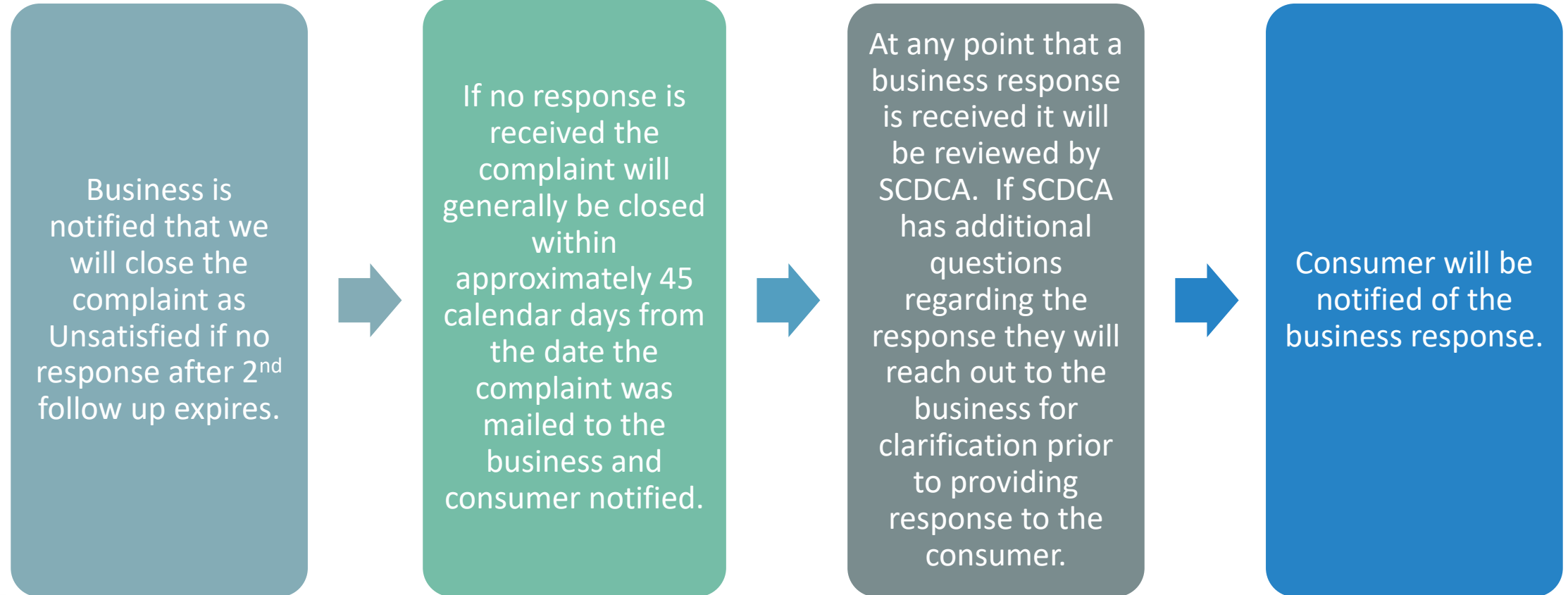


- Complaints are shared directly with the appropriate business.
- Complaints are available on our public search site.
- We analyze complaint data to help us find out about illegal business practices, enforce consumer protection laws and identify trends in the marketplace.
- Monthly we share complaint data through the Federal Trade Commissions Consumer Sentinel database.

Starting Complaint Process



Business Response



Closing Categories

SATISFIED – CONSUMER SATISFIED

- A business response has been received that the consumer deems satisfactory.

SATISFIED – ADEQUATE BUSINESS RESPONSE

- A business response has been received that may not satisfy the wishes of the consumer, but the business has responded to all points of contention in the complaint and referred to a policy that supports their claim.

UNSATISFIED

- A business response was never received after complaint and reminder letters were sent out.

REFERRED

- The complaint was referred to an outside agency including other government agencies.

INFORMATION

- The complaint simply notified SCDCA of something occurring.

Closing Categories cont.

DUPLICATE

- The complaint was already filed by the consumer, or the complaint is simply an update to a previously existing complaint.

INSUFFICIENT MERIT

- The complaint is not a true substantive complaint. The nature of the complaint can't be determined.

ABANDONED

- The consumer failed to provide the SCDCA with the requested information necessary to proceed with the complaint process.

UNDETERMINED

- This complaint typically has received a response from the business and SCDCA there are disputed facts that remain regarding the consumers concerns and the business response.

Complaint Agency Overview for FY23



- Closed Complaint Categories

Closed Satisfied – 63%

Closed Unsatisfied – 16%

Closed Other – 21%

Consumer Services Stats FY23

- Services closed 3,735 complaints.
- Service Staff answered 8759 phone calls.
- Closed 73.4% of complaints as Satisfied Adequate Business Response.
- Closed 26.6% of complaints Satisfied - Consumer Satisfied.



Complaints

Consumer Services Accountability Goals

- Resolve Complaints through mediation in and average of 30 days or less.

Target 30 Days / FY23 – 26 Days

- Percentage of Complaints Closed.

Target 95% / FY 23 - 97.3%

- Percentage of Complaints Closed Unsatisfied.

Target 15%/ FY23 – 22%

Consumer Services Division Return on Investment

Accountability Goal

Amount of credits, refunds and adjustments received through voluntary mediation deducted from budget for the Consumer Services Division. Divide difference by fund allocation.

FY23 Services Budget

\$367,134.00

FY23 Return on
Investment

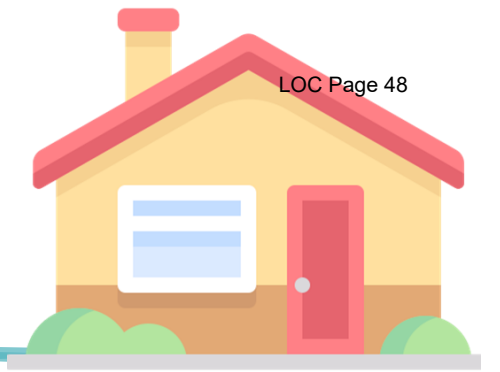
116%

FY23 Credits, Refunds
Credits and Adjustments

\$792,735.96





**“What role does
DCA play in the
new HOA act?”**



HOA Complaints

- Changes to state law (S.C. Code Ann. § 27-30-340) require us to collect certain data from consumers filing complaints against HOAs.
- Info collected will be reported yearly to the Governor, General Assembly and the public.
- Complete the Supplemental Questionnaire.
- We cannot process your complaint without the completed questionnaire.

HOA Complaint Forms



South Carolina
DEPARTMENT OF CONSUMER AFFAIRS
Complaint Form
PO Box 5757 | 293 Greystone Blvd, Suite 400 | Columbia SC 29250-5757
Phone: 800-922-1594 | Fax: 803-734-4286 | consumer.sc.gov

Consumer Information		Business Information The name and mailing address of the business must be provided to proceed.	
Name:		Name:	
Address:		Address:	
County:		Contact:	
Phone:		Phone:	
Email:		Email:	

PLEASE INDICATE YOUR AGE RANGE: 17 and Under 18-24 25-34 35-44 45-54 55-64 65-74 75-84 85+

- Have you filed a complaint with any other consumer services agency? Yes ☐ No ☐
- Have you filed a summons and complaint with a magistrate's office? Yes ☐ No ☐
- Is an attorney handling your complaint? Yes ☐ No ☐

If you answered yes to any of the above questions, please provide the corresponding name, address, and telephone number.

PLEASE ATTACH A COPY OF CONTRACTS, WARRANTIES, CHECKS, BILL OF SALE, ETC.

PLEASE DO NOT SUBMIT SENSITIVE INFORMATION SUCH AS SOCIAL SECURITY NUMBERS, ACCOUNT NUMBERS, ETC.

Complete Explanation of Complaint (Attach additional page(s) as necessary):



Company Response:

What do you want the business to do?

PLEASE SIGN AND DATE THIS COMPLAINT. YOUR INFORMATION MAY BE RELEASED AS A MATTER OF PUBLIC RECORD.

DATE _____ SIGNATURE _____

AGENCY COPY



South Carolina
DEPARTMENT OF CONSUMER AFFAIRS
SUPPLEMENTAL HOMEOWNERS ASSOCIATION
QUESTIONNAIRE
800-922-1594 | www.consumer.sc.gov | Fax: 803-734-4286
scdca.doc@consumer.sc.gov

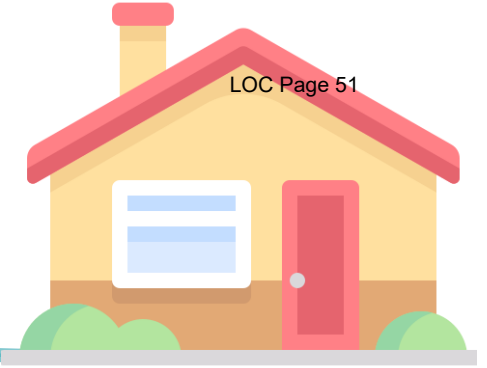
LOC Page 49
Street Address
2221 Davis St., Ste. 200
Columbia, SC 29205

FOR OFFICE USE ONLY:

Complaint Trends – Year Over Year (2018-2022)

Year Filed	Total Complaints Filed	Closed Consumer Satisfied	Refunds/Credits/Adjustments
2018 (June-December)	92	2	\$0.00
2019	212	7	\$0.00
2020	240	13	\$7,193.70
2021	309	13	\$8,449.00
2022	331	11	\$1,260.93

FAQs



What Role Does DCA Play in HOAs in SC?

• DCA Does Not:

- Regulate HOAs in SC
- Administer the HOA Act
- Enforce the HOA Act

DCA Does:

- Take and Collect HOA Complaint Data
- Share HOA Complaint data with Governor and General Assembly Annually
- Provide general HOA education to Homeowners and HOAs

FAQs



Does SCDCA have any enforcement or authority over HOAs?

- No.
- DCA Cannot:
 - Force an HOA or Homeowner to participate in the process.
 - Require a specific outcome.
 - Attempt to settle the dispute.

Success Stories:

- Refund, credit or adjustment
- Documents provided
- Repairs/ maintenance done



FAQs



Can SCDCA provide legal advice related to HOAs?

- We can provide a broad education of laws related to HOAs in SC.
- Because we don't have administration or enforcement over the laws, we cannot provide legal advice based on specific situations.

- DCA's HOA Education Page: <https://consumer.sc.gov/HOA-Education>


[Online Filing](#)
[Licensee Lookup](#)
[Contact Us](#)
 Search Consumer Affairs

[About Us](#)
[Business Resources/Laws](#)
[Consumer Resources](#)
[News](#)
[Identity Theft Unit](#)
[Consumer Complaints](#)
[Consumer FAQs](#)
[Money & Credit](#)
[Dealing with Debt](#)
[Computers, Identity & Privacy](#)
[Housing & Mortgages](#)
[Health & Fitness](#)
[Scams](#)
[Financial Literacy](#)
[LifeSmarts](#)
[Help for Homeowners](#)
[Recalls](#)
[Other Resources](#)

Our mission is to protect consumers and provide information and education. We hope you find this page helpful.

Education

Please note, this material is for informational purposes only, is general in nature, and is not intended to and should not be relied upon or construed as a legal opinion or legal advice regarding any specific issue or factual circumstance.

General - A compilation of information to answer frequently asked questions DCA receives.

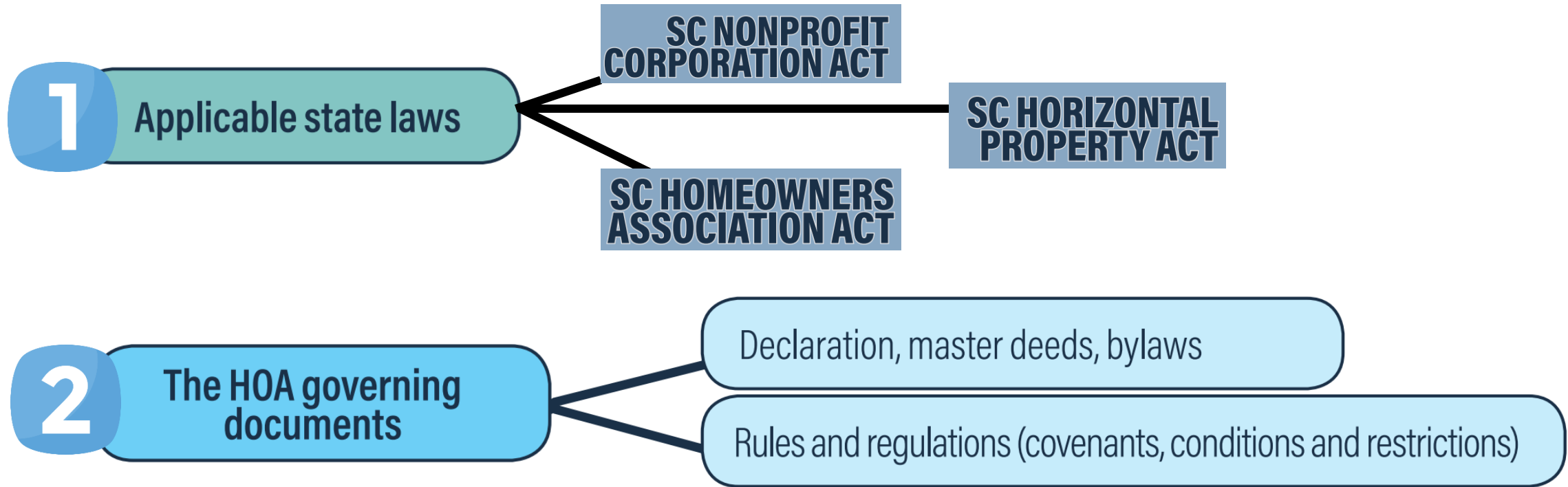
- [Top Five Questions about SCDCA and HOAs \(YouTube\)](#)
- [FAQs about HOAs \(PDF\)](#)
- [HOA: Before You Buy \(PDF\)](#)
- [How Does an HOA Know What They Can and Cannot Do? \(PDF\)](#)

Law Outlines - While South Carolina does not have a comprehensive law detailing how a homeowners association must operate, homeowners must follow the South Carolina Homeowners Association Act. Certain other laws may apply as well. The



HOW DOES A HOA KNOW WHAT THEY CAN AND CANNOT DO?

100 Page 36



Applicable Laws

Laws

Click on the name of a statute below to view the law in its entirety:

- [SC Homeowners Association Act](#)
- [SC Nonprofit Corporations Act](#)
- [SC Horizontal Property Act](#)

Click [here](#) to view of listing of SC laws referencing homeowners associations.

Homeowners Association Report


A compilation of certain data from complaints received by DCA involving HOAs presented in a categorized, filterable and searchable format. The report is published annually beginning January 31, 2019. All of the reports are available on our [HOA report page](#).

Contacts

- **SC Secretary of State**- To find out if an HOA is registered as a non-profit, visit the SC Secretary of State's [website](#).
- **County Clerks of Court** - Click [here](#) for a full listing.
- **County Register of Deeds** - Click [here](#) for a full listing.
- **Magistrate's Court** - The [Magistrate's Court](#) may hear monetary disputes involving a homeowners association if the amount in issue does not exceed \$7,500.
- **SC Department of Labor, Licensing and Regulation (LLR)**- LLR creates the form, known as the [South Carolina Residential Property Disclosure Statement](#), a seller of real property must use to disclose if a home is governed by an HOA.
- **South Carolina Bar** - The SC Bar has a referral service if you need help contacting an attorney. They can be reached at 800-868-2284 or by visiting <https://lrs.scbar.org/>.

SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS

SC NONPROFIT CORPORATION ACT



The **Nonprofit Corporation Act** (Act) applies to a business, including homeowners associations (HOA), that have filed its nonprofit articles of incorporation with the Secretary of State. The law provides details on meetings (including notice & quorum requirements), rules for the board of directors, access to records and more. Below are highlights of the law. It does not serve as a substitute for reviewing the actual statute.

SETTING UP A NONPROFIT CORPORATION:

Filing Requirement — To become a nonprofit corporation, Articles of Incorporation ("articles") must be filed with the South Carolina Secretary of State. For filing forms and more information on what is required, visit <https://businessfilings.sc.gov/businessfilings>. To see if an HOA is registered as a nonprofit corporation, visit <https://sos.sc.gov/searches> and click "Business Entities Search."

Bylaws — The incorporators or board of directors must adopt the corporation's initial bylaws. The bylaws set out how the business will operate, including what it can and cannot do. A corporation can put what they wish in the bylaws so long as it doesn't conflict with the law or the business' articles. Amendments to the bylaws can be made by either the board of directors, or the members, depending on (1) the topic and (2) what the law, articles and bylaws provide.

DIRECTORS & OFFICERS:

A nonprofit corporation must either have a board of directors or someone named in the articles who has powers normally held by the board. When the business chooses a board, it must consist of 3 or more people either elected by members or appointed through the bylaws for a term of five years or less.

Unless otherwise provided in the articles or bylaws, a corporation must have a president, a secretary, a treasurer. One officer must be given the duty to take minutes at directors' and members' meetings.

MEMBERS:

The articles or bylaws must set out how someone becomes a member of the corporation. All members have the same voting rights and obligations unless the articles or bylaws lay out different member classes.

ACCESS TO DOCUMENTS:

Members of the HOA have the right to inspect and copy records held by the corporation. The law requires nonprofit corporations to keep certain items, including:

- Minutes of director's and members' meetings, including committees of the board;
- Articles and any current amendments;
- Names and addresses of its current directors and officers;
- Written communications to members made within the past three years, including financial statements;
- Records of all actions approved by members for the past three years;
- Copies of reports filed with the Secretary of State.

SC HOMEOWNERS ASSOCIATION ACT

The **Homeowners Association Act** applies to communities and horizontal property regimes that require residents to pay assessments. The law requires governing documents to be filed, provides for enforcement of assessments and access to association budget and membership lists. The Act requires the Department of Consumer Affairs (DCA) to collect specific data on HOAs and report it to the Governor and the General Assembly each year.

GOVERNING DOCUMENTS, RULES, REGULATIONS & AMENDMENTS

Governing documents existing before the Homeowners Association Act became effective must be recorded in the county clerk of court's Register of Mesne Conveyance, or the new or amended governing documents, rules, regulations, and amendments must be recorded in the county by January 10th of each year following their adoption or amendment. The Act includes the HOA declaration, master deeds and bylaws.

ACCESS TO DOCUMENTS:

Amendments — HOAs must make rules, regulations and their amendments available to members upon request, unless they are:

- Relating to a common area in the community; OR
 - Relating to a common area maintained by the HOA, where the member can do so.
- At the association's discretion, the association may send the items via email or by mail.

All HOAs are subject to certain access to documents. The purpose of letting homeowners inspect and copy records is to ensure transparency.

BUDGET INCREASE:

HOAs incorporated under the SC Nonprofit Corporation Act must obtain a decision to raise the annual dues or assessments.

HOAs must provide a common area in the community; and

HOAs must provide a common area maintained by the homeowners association.

HOAs must provide a common area maintained by the association's bylaws that enforce the association's rules.

FREQUENTLY ASKED QUESTIONS about HOAs

[Home](#) » [Recent News](#) » Reports

Reports

The DCA produces a number of reports that examine consumer protection trends. The agency uses this research to perform its mission, including to produce legislative recommendations, determine education and outreach initiatives and provide comments to state and federal agencies.

^ [Complaint Reports](#)

General Report - A compilation of certain data received from consumer complaints filed with the Department, including top complaint and refunds categories and complaints received by county.

- [2017 Complaint Report \(PDF\)](#)

[Homeowners Association Reports](#) - A compilation of certain data from complaints involving homeowners associations (HOA) presented in a categorized, filterable and searchable format. The report is published annually on or before January 31st.

✓ [Credit Counseling Reports](#)

✓ [Identity Theft and Scams Reports](#)

✓ [Mortgage Reports](#)

✓ [State of Credit](#)

✓ [Scam Reports](#)

✓ [Security Breach Reports](#)



Annual Reports

Homeowners Association Complaint Reports

Background

A 2018 change to state law (S.C. Code Ann. Â§ [27-30-340](#)) requires DCA to collect certain data from complaints involving homeowners associations (HOA). Information collected is to be reported to the Governor, General Assembly and the public by January 31st each year. The Department issued the first report on January 31, 2019. The report is in a categorized, filterable and searchable format. The Department is reviewing the complaint data received in conjunction with the complaints forms for potential improvements. Any suggestions for content or process improvements may be submitted to DCA by [e-mail](#) or [snail mail](#).

For more information on the Homeowners Association Act, click [here](#).

[View tips on searching and filtering data within the spreadsheet \(PDF\).](#)

Special Report Information

View the 2023 Five-Year Complaint Report (PDF) - In celebration of the "Homeowners Association Act" fifth anniversary, SCDCA is releasing a compilation of the HOA complaint data received from June 1, 2018 - December 31, 2022. Individual annual reports can be found below.

Current Report Information

[View the 2023 HOA Complaint Report \(XLS\)](#) - The information contained in the report is compiled from complaints received January 1, 2022 - December 31, 2022.

2023 Executive Summary

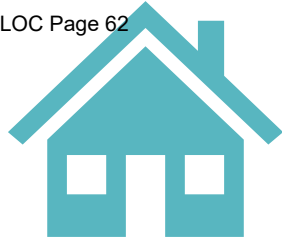
- The 2023 report contains information from **276 complaints*** filed against **208 HOAs/ Management Companies**. There was a **7% increase** in 2022 of the number of complaints filed from January 1, 2021–December 31, 2021. Although the number of complaints increased, the number of concerns decreased by eight percent.
- The complaints raised **651 concerns** with multiple included in a single complaint. The **top three types** of issues raised were: (1) Failure to adhere to and/or enforce covenants and bylaws (15.1%), (2) Concerns regarding maintenance and repairs (12.4%), (3) Failure to notify residents of Board actions (11.5%).
- **Sixty-six percent** of complaints were closed indicating an adequate business response was received. Consumers were satisfied with the outcome of the complaint resolution process in **thirteen** complaints (**4.7%**). Examples of satisfactory resolutions include refunds/credits/adjustments being issued (**\$1,260.93**), requested financial information being provided and repairs or maintenance being made.



Homeowner Assoc. 5-Year Report

HOA 5-Year Report: Highlights

LOC Page 62



1,182 complaints received
(June 2018- December 2023)

1,012 complaints reported
(June 2018- December 2023)

Number of HOA's with Complaints:



640

Number of HOA's with
Management Companies:

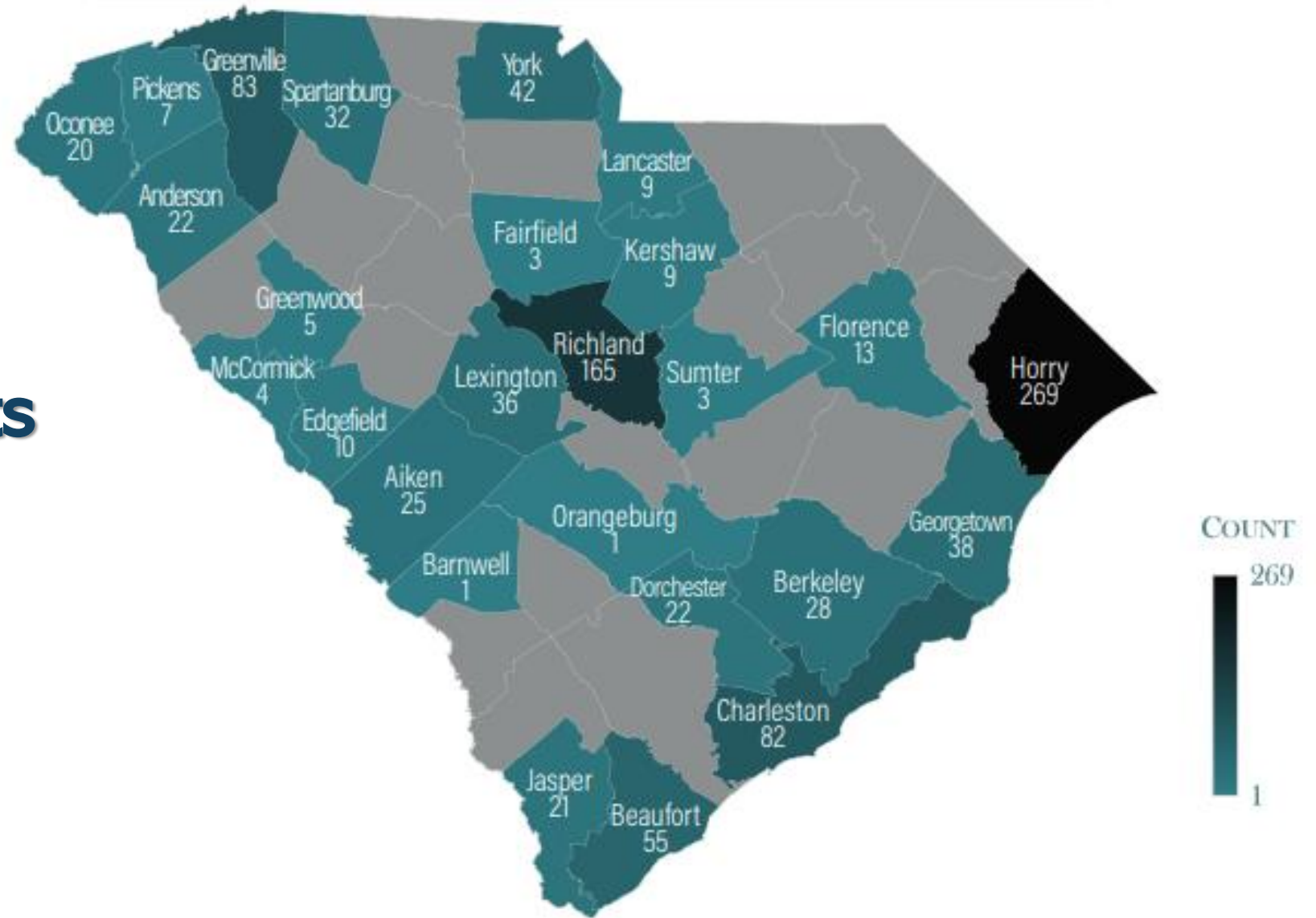


208

COMPLAINT COUNT PER COUNTY

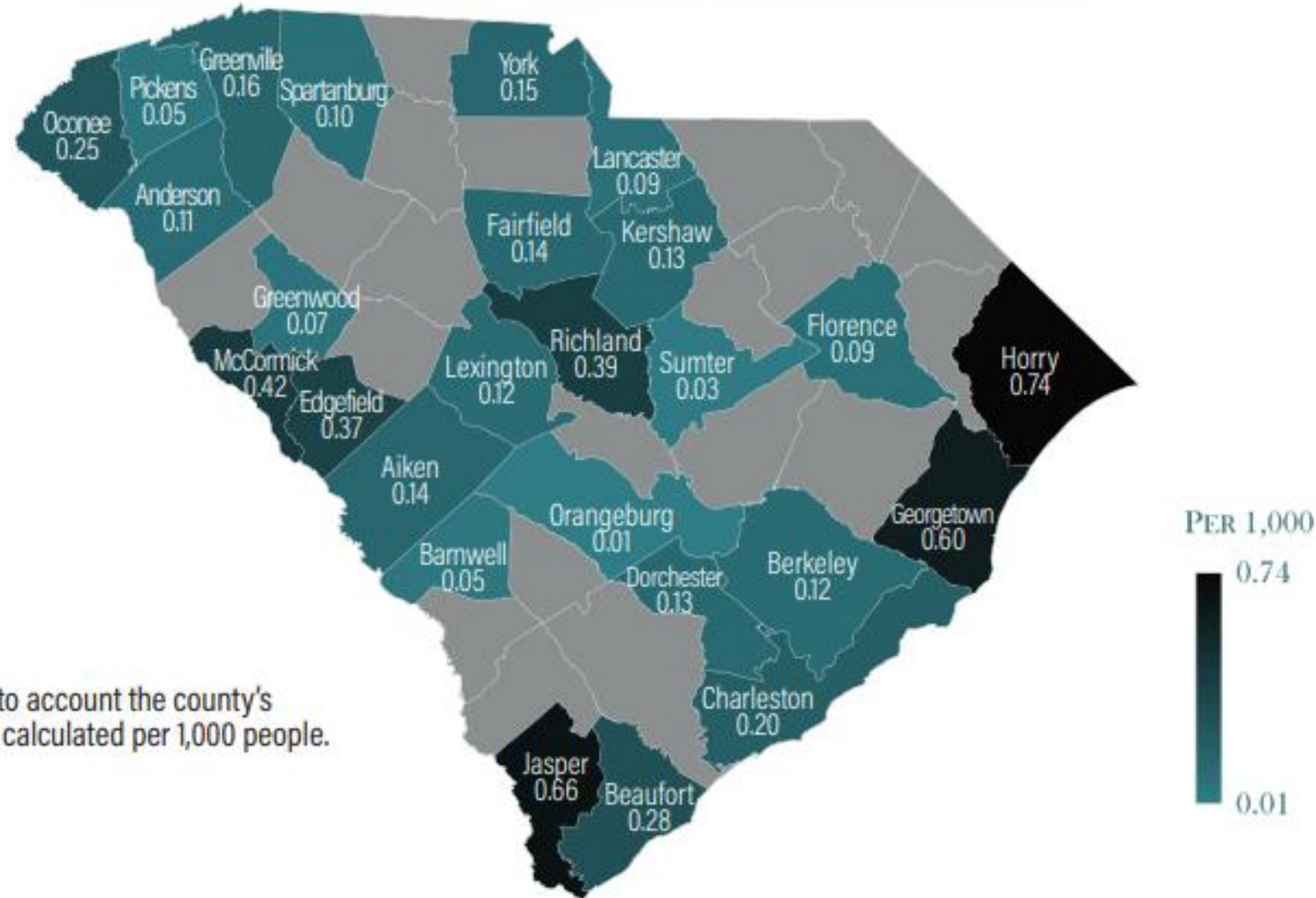
LOC Page 63

HOA 5-Year Report: Highlights

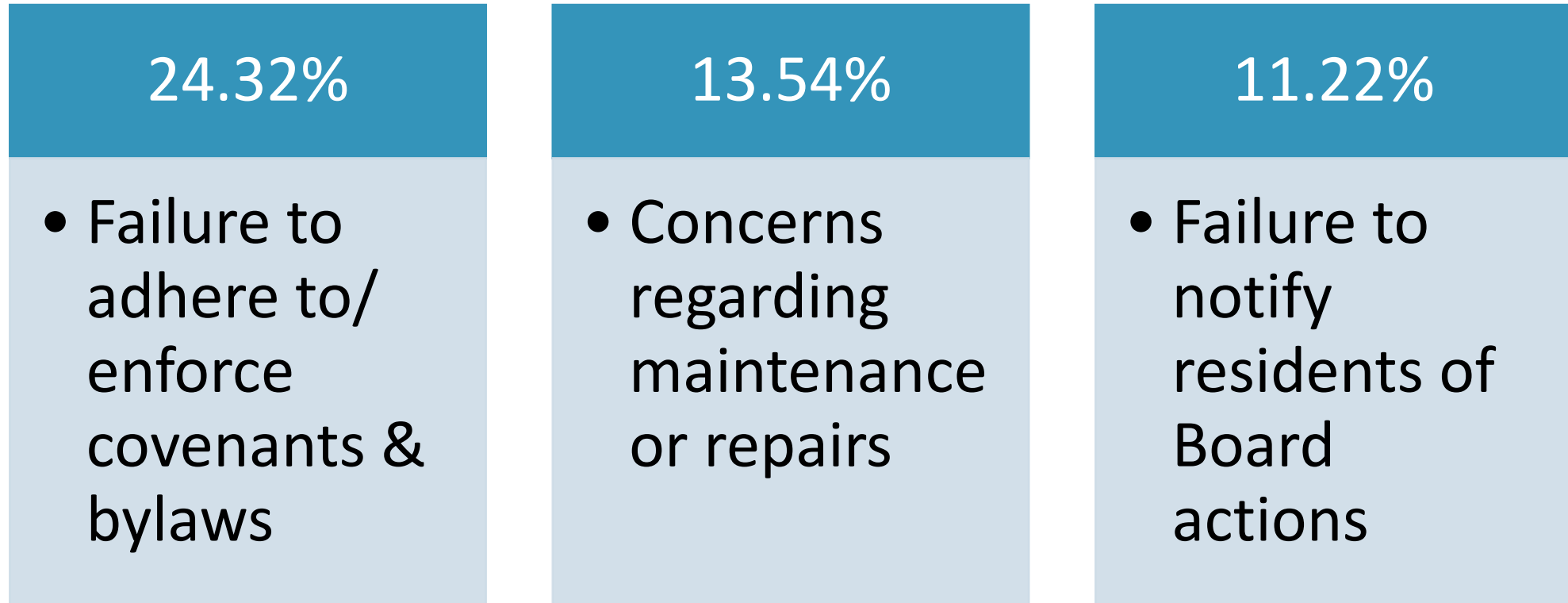


HOA 5-Year Report: Highlights

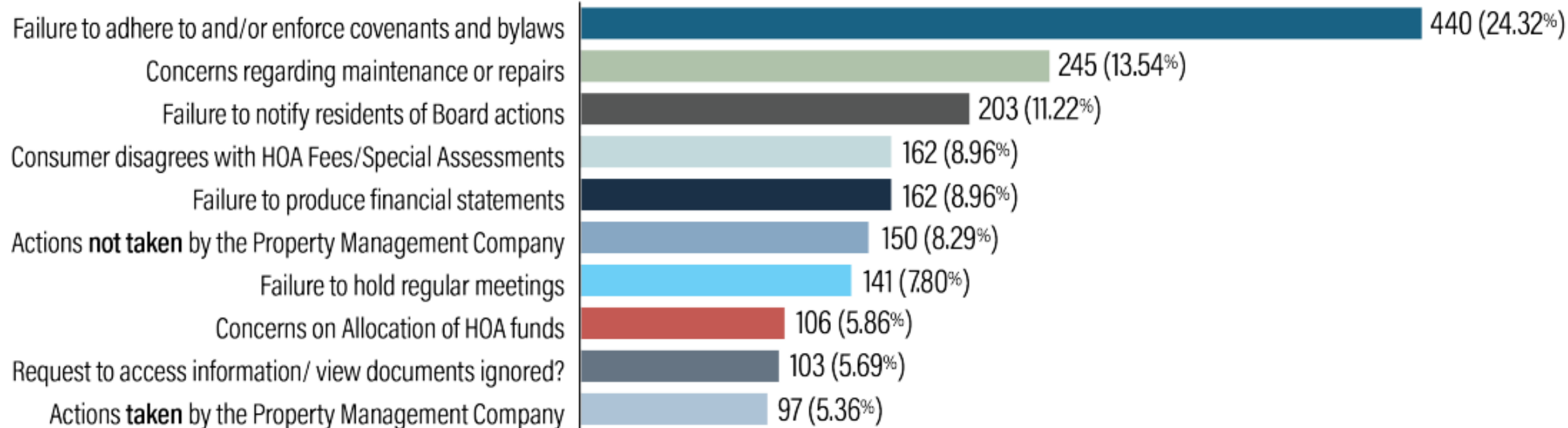
This map takes into account the county's population and is calculated per 1,000 people.



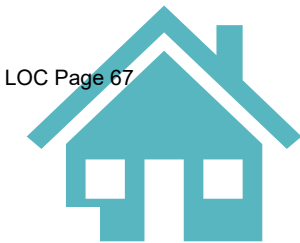
Top 3 Types of Issues Raised Overall



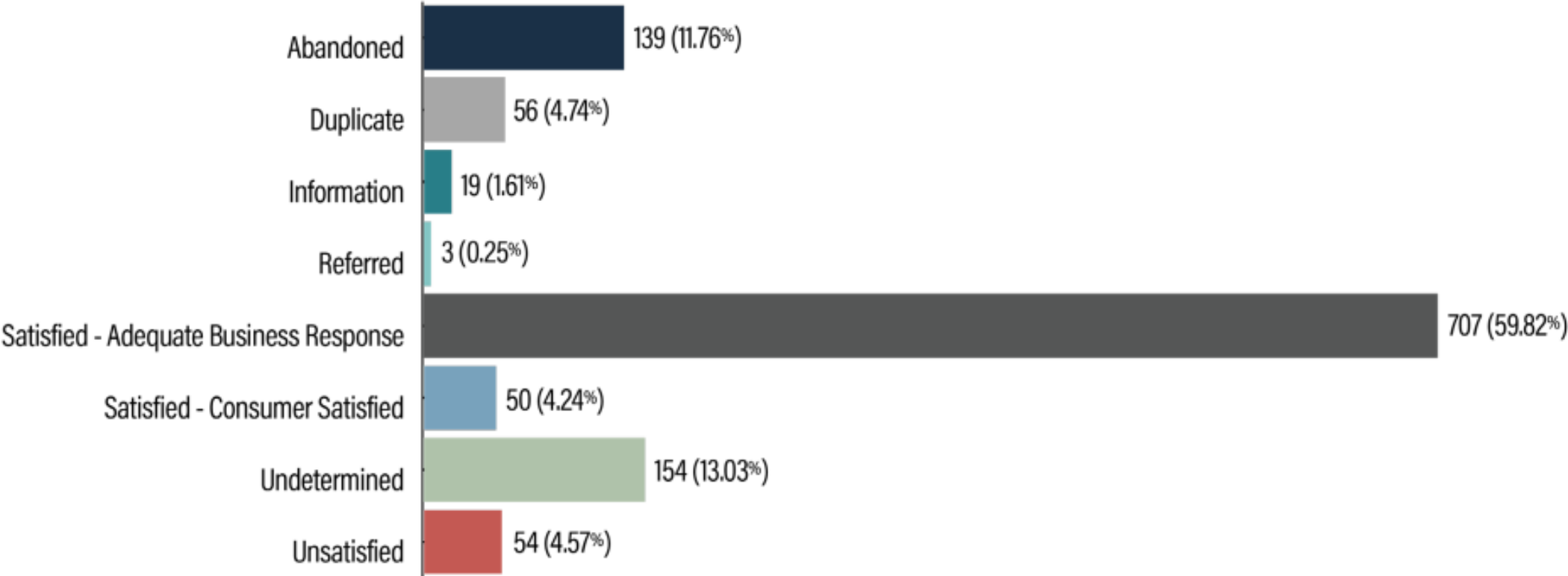
TOP 10 COMPLAINT CONCERNS 2018-2022



Complaint Closings- Highlights by the #s

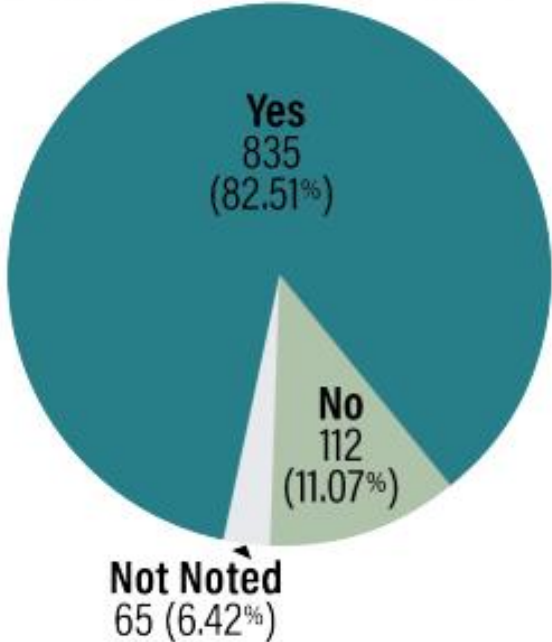


COMPLAINT CLOSING CATEGORIES

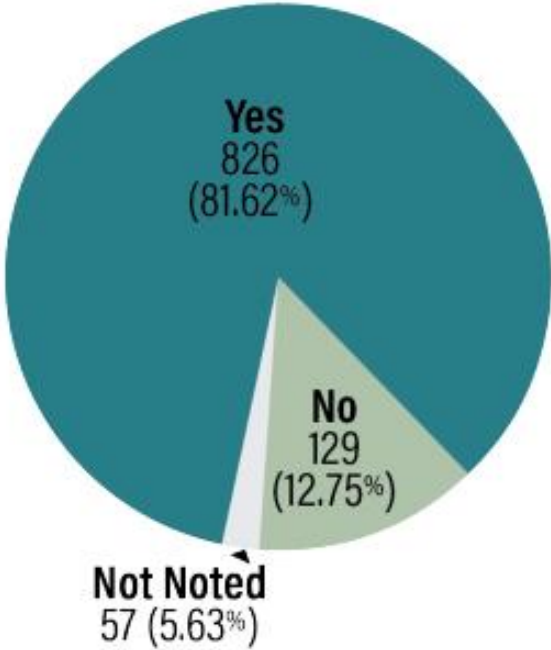


Supplemental Questionnaire Data

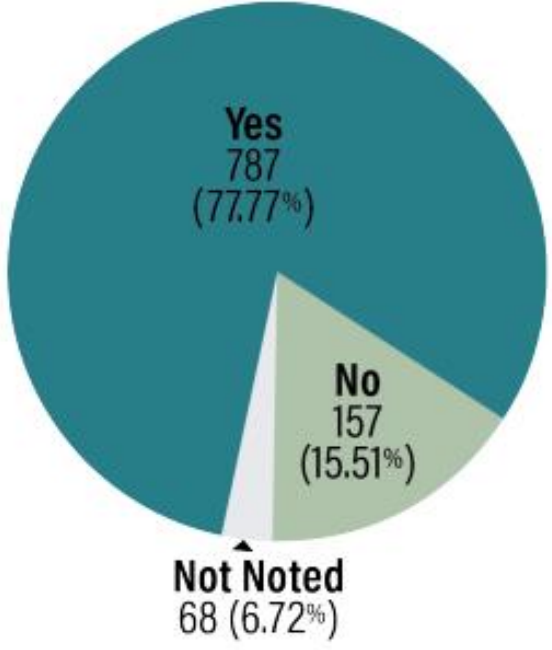
Were you informed of the requirement of membership in a HOA as a condition of home ownership?



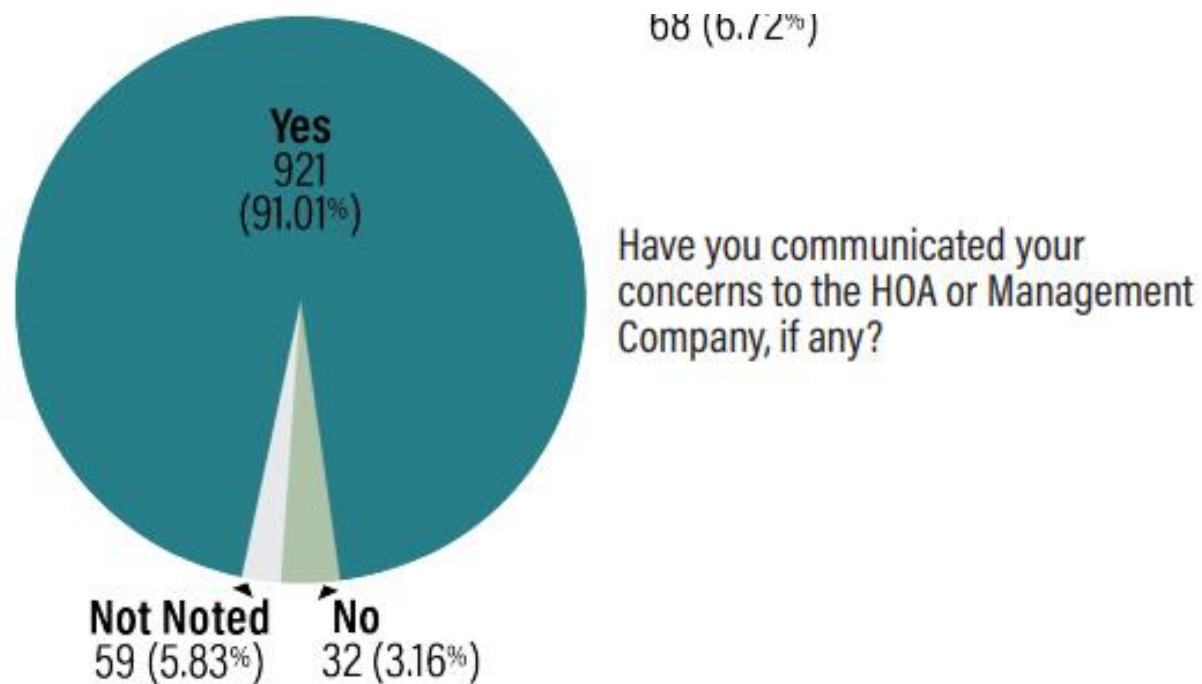
Have you received a copy of the governing documents of the HOA?



As a homeowner do you understand your rights and obligations under the governing documents?



Supplemental Questionnaire Data cont...



Supplemental Questionnaire Data cont...

Do you agree or disagree with the provisions of the governing documents?



Do you agree or disagree with how the provisions were enforced?

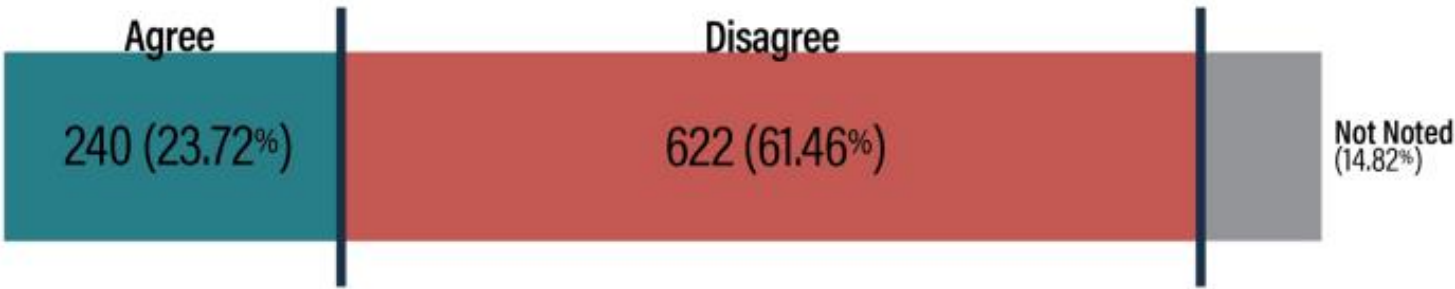


Supplemental Questionnaire Data cont...

Do you agree or disagree that more enforcement of provisions is needed?

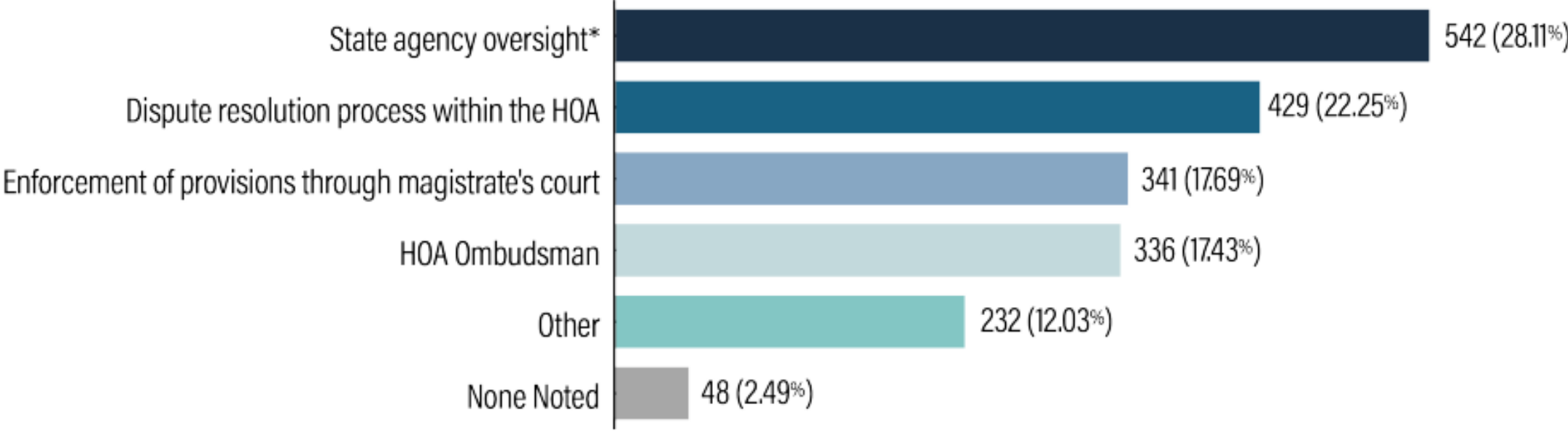


Do you agree or disagree that less enforcement of provisions is needed?



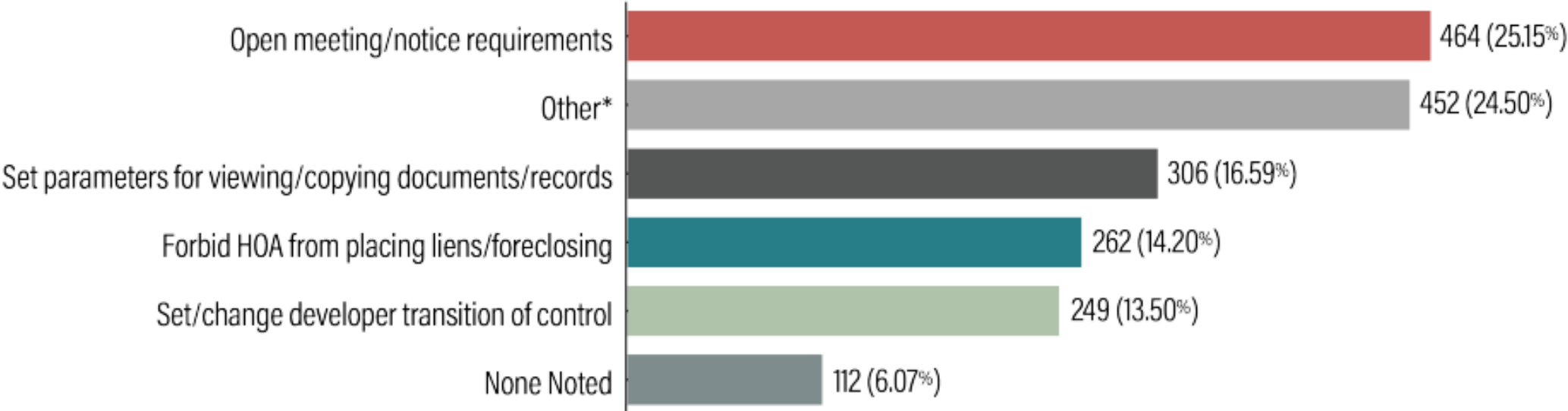
Supplemental Questionnaire Data cont...

RECOMMENDATIONS FOR ENFORCING THE GOVERNING DOCUMENTS, IF ANY. (2018-2022)



Supplemental Questionnaire Data cont...

RECOMMENDATIONS FOR CHANGING PROVISIONS OF THE GOVERNING DOCUMENTS. (2018-2022)



Services Division Successes

Existence

Response Times

Knowledgeable Resource

Services Division Challenges

Data Technology

Staffing

Expectations v. Limitations

Unresponsive Businesses



Advocacy Division

Roger Hall, Esq., CIPM
Deputy Consumer Advocate

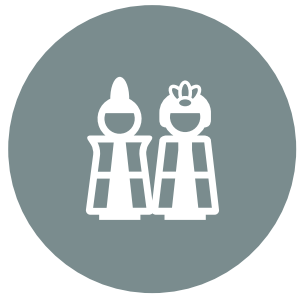
Consumer Advocacy Division - Staff



Roger Hall-
Division Director, Deputy
Consumer Advocate



Jake Edwards-
Assistant Consumer
Advocate



Joan Williams-
Paralegal



Vacant- Paralegal

Consumer Advocacy Division



Created by statute in 1978,
S.C. Code § 37-6-601



Also created the position of
“Consumer Advocate”

Advocacy Authority History

1978

The functions and duties of the Division of Consumer Advocacy are:

to provide legal representation of the consumer interest before the state regulatory agencies as hereinafter provided when such agencies undertake to fix rates or prices for consumer products or services or to enact regulations or establish policies related thereto

to monitor existing regulations, rate structures, and policies of that agency of special interest to consumers and report to the public through the news media proposed changes therein under consideration and the effect of those changes on the lives of the citizens of the State.

Advocacy Authority History

1989

Added state “and federal” regulatory agencies (to provide legal representation of the consumer interest before the state and federal regulatory agencies which undertake to fix rates or prices for consumer products or services....)

1992

Added CON and health care licensing and a proviso to allow carry forward of witness funds.

Advocacy Authority History

2004: Removed PSC Authority & Created ORS

After January 1, 2005, the division must not represent consumers in matters arising under Title 58. Matters or appeals under Title 58 that are pending on January 1, 2005, shall be transferred to the Office of Regulatory Staff.

Advocacy Authority History

2018: 37-6-604(C) Restored Part of PSC Role

The Consumer Advocate shall be provided notice of any matter filed at the Public Service Commission that could impact consumers' utility rates, and may intervene as a party to advocate for the interest of consumers before the Public Service Commission and appellate courts in such matters as the Consumer Advocate deems necessary and appropriate.

DCA - Advocacy Division

- One Division (Four Staff)
- Represent “Consumer Interest”
- PSC intervention if rates impacted within discretion
- Utility role is to intervene and report
- Complaints – cable, telephone, and scams

Office of Regulatory Staff

- Entire Agency (Internal Auditors, Investigators, Experts)
- Represent “Public Interest”
- Automatic PSC Participant
- Utility role is to investigate, mediate, and educate
- Complaints - electric, gas, water, and sewer

Consumer Advocacy Division – 3 Main Roles

Rulemaking - monitor state and federal agency rulemaking process when attempting to fix prices for consumer goods or services.

Insurance - provide legal representation for the consumer interest in ratemaking matters involving insurance.

Utilities - provide legal representation for the consumer interest in ratemaking matters involving utilities before the Public Service Commission

Consumer Advocacy Division – Other Duties



Certificates of Need for health facilities and services as required for activity under § 44-7-160



State Health Planning Committee



Member of the Advisory Board for the Associated Automobile Insurance Plan of South Carolina



Consumer Advocate serves on Solid Waste Advisory Committee



Report to the public through the news media proposed changes to regulations, rate structures, and agency policies regarding consumer issues

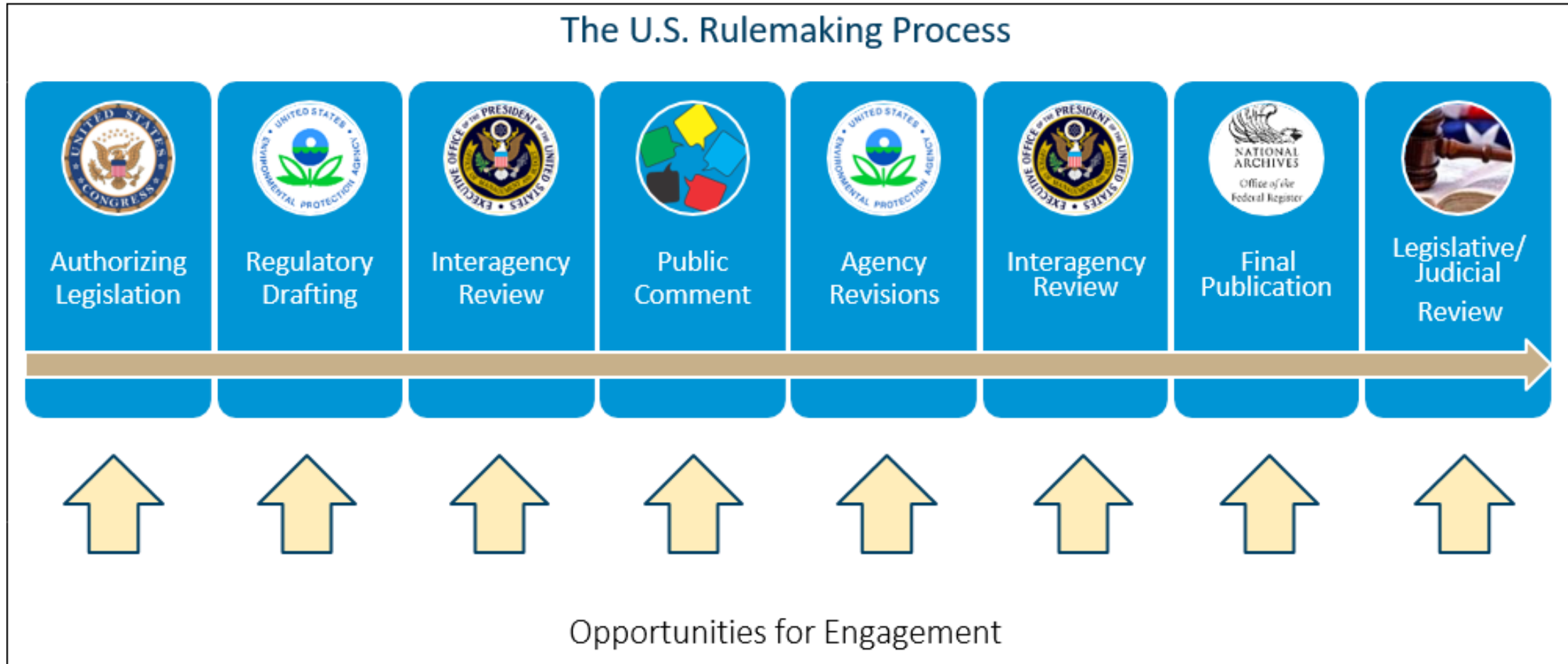
Advocacy- 3 Main Roles

Rulemaking: 37-6-604 (A) (1)-(2)

- (1) to provide legal representation of the consumer interest before the state and federal regulatory agencies which ...to enact regulations or establish policies related thereto...
- (2) to monitor existing regulations, rate structures, and policies of that agency of special interest to consumers and report to the public ...

Federal (and State) Rulemaking Process

LOC Page 87



Advocacy Rulemaking Comment Process



Federal and State Register Review

Agencies of interest

Outline to attorneys

Discuss internally and with other divisions

Confirm comment letter

Collect data from our divisions

Draft, review and revise, submit

Submitted Comments

- July 26, 2023 - [CFPB Residential Property Assessed Clean Energy Financing \(PDF\)](#)
- November 21, 2022 - [FTC Commercial Surveillance \(PDF\)](#)
- September 12, 2022 - [FTC Motor Vehicle Dealers Trade Regulation Rule \(PDF\)](#)
- April 11, 2022 - [CFPB Fees Imposed by Providers of Consumer Financial Products or Services \(PDF\)](#)
- March 25, 2022 - [CFPB Inquiry into Buy Now Pay Later Companies \(PDF\)](#)
- March 9, 2022 - [FCC Implementing Requirements for Effective Disclosure of Broadband Services Charges and Fees \(PDF\)](#)
- January 24, 2022 - [SSA Amending Rules to Alleviate Burdens on Medicare Beneficiaries That Fall Victim to Identity Theft \(PDF\)](#)
- November 15, 2021 - [FCC Strengthening Rules to Prevent Cell Phone SIM Swapping and Port-Out Fraud \(PDF\)](#)
- October 14, 2021 - [FCC Strengthening Numbering System Policies for VoIP to Prevent Use of Phone Numbers for Spam Calls \(PDF\)](#)
- July 9, 2021 - [FCC STIRSHAKEN Anti-Spam Call Regulatory Framework Implementation Deadlines \(PDF\)](#)
- May 5, 2021 - [FCC Privacy Act Rules on Requesting Access and Correction to Personal Records with Federal Govt \(PDF\)](#)
- February 21, 2021 - [CFPB Proposed Rulemaking on Consumer Information Sharing, Dodd Frank Section 1033 \(PDF\)](#)
- December 7, 2020 - [FTC Prescreened Credit Offer Opt-Out Notice Rule \(PDF\)](#)
- September 18, 2019 - [CFPB-Debt Collection Practices \(PDF\)](#)
- August 2, 2019 - [FTC-Standards for Safeguarding Customer Information](#)
- August 3, 2018 - [NCUA Payday Alternative Loans II \(PDF\)](#)
- July 6, 2018 - [CFPB-2018-0015 Bureau Financial Education Programs \(PDF\)](#)
- July 6, 2018 - [CFPB's Consumer Complaint & Consumer Inquiry Handling Processes \(PDF\)](#)
- July 2, 2018 - [CFPB Guidance and Implementation Support \(PDF\)](#)
- May 19 - 2017 - [Alternative Data Request for Information \(PDF\)](#) | [Press Release \(PDF\)](#)
- July 3, 2017 - [Advanced Methods to Target and Eliminate Unlawful Robocalls \(PDF\)](#)
- October 7, 2016 - [The Proposed Federal Small Loan Rule \(PDF\)](#) | [Press Release \(PDF\)](#)









Comment Letters 2019-2023

FY 2019- FY 2024	Federal	State	% Submitted by Deadline
Full Reviews	55	1	100%
Comments Submitted	19	1	100%



Comment Letter Example- Federal Trade Commission (FTC)

Page 91

PUBLISHED DOCUMENT	
       	<p>AGENCY:</p> <p>Federal Trade Commission.</p> <p>ACTION:</p> <p>Advance notice of proposed rulemaking; request for public comment; public forum.</p> <p>SUMMARY:</p> <p>The Federal Trade Commission (“FTC”) is publishing this advance notice of proposed rulemaking (“ANPR”) to request public comment on the prevalence of commercial surveillance and data security practices that harm consumers. Specifically, the Commission invites comment on whether it should implement new trade regulation rules or other regulatory alternatives concerning the ways in which companies collect, aggregate, protect, use, analyze, and retain consumer data, as well as transfer, share, sell, or otherwise monetize that data in ways that are unfair or deceptive.</p> <p>DATES:</p>
	<p>DOCUMENT DETAILS</p> <p>Printed version: PDF</p> <p>Publication Date: 08/22/2022</p> <p>Agency: Federal Trade Commission</p> <p>Dates: Comments due date: Comments must be received on or before October 21, 2022.</p> <p>Comments Close: 10/21/2022</p> <p>Document Type: Proposed Rule</p> <p>Document Citation: 87 FR 51273</p> <p>Page: 51273-51299 (27 pages)</p> <p>CFR: 16 CFR chapter undef</p> <p>Document Number: 2022-17752</p>

DCA Comment Letter

Question 10: What kinds of data should be subject to a potential trade regulation rule?

Background: Existing South Carolina Privacy Laws

In 13 years, Department has received over 550 breach notices affecting almost 13 million South Carolina residents.

Most breaches exposed the type of “consumer data” for which the Commission is considering implementing new rules,

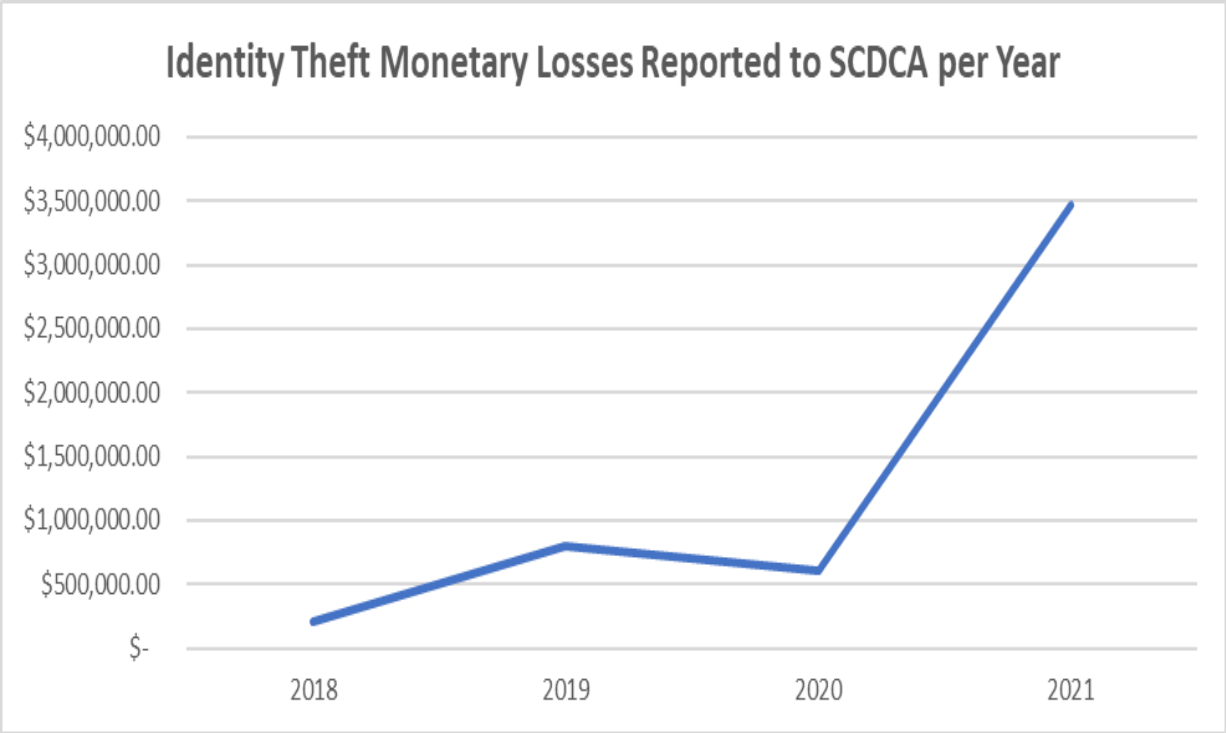
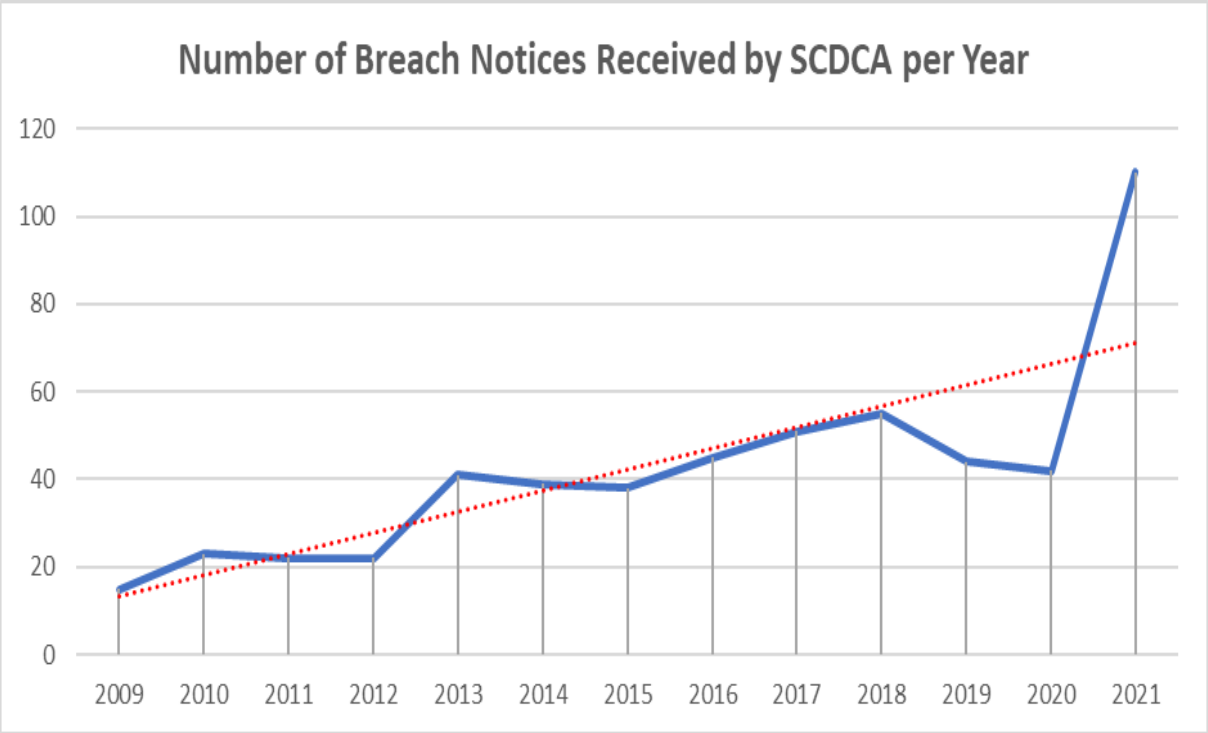
Nearly 50 percent involve the improper or unauthorized disclosure of personal data

Over 30 percent involve the disclosure of financial data

10 percent involved the disclosure of credential data

8 percent involve the disclosure of protected health data

DCA Comment Letter



DCA Comments re PSC Regulations

103-823.	Amendment/Revision	Amended to amend minimum filing requirements for applications and to include the phrase limited liability company
103-845.	Amendment/Revision	Amended to require all exhibits be readable and legible, to require prefiled testimony to conform to Commission prescription, and to require the filing of prefiled testimony within two weeks of the filing initiating a docket in certain circumstances

Advocacy- 3 Main Roles

Insurance : 37-6-604

(1)to provide legal representation of the consumer interest concerning insurance matters....

Insurance : 38-73-10 *et seq.*

Workers Comp: Loss Cost Multiplier changes
Homeowners: +/- 7% and \$10M in premiums

Consumer Advocacy Division – Insurance

LOC Page 96

Homeowners- +/- 7% and \$10M in premiums

Worker's Comp- NCCI and LCM changes

Ensure that the rates are not excessive, inadequate, or unfairly discriminatory

Filings are reasonable and actuarially sound

Ensure filings are in compliance with Chapter 73 of Title 38

Advisory Board Member, Associated Automobile Insurance Plan of SC

Consumer Advocacy Division – Insurance

Weekly Summaries from DOI

Request Full Filings

Send to Actuary?

Requests for Additional Information from Insurer

Reasonableness Determination

Insurance Review Example

State Specific

SC Major Line # (see attachment to General Instructions): 52

SC Detail Line # (see attachment to General Instructions): 10

SC Company Code Number: 142555

Loss Costs Utilized: N/A

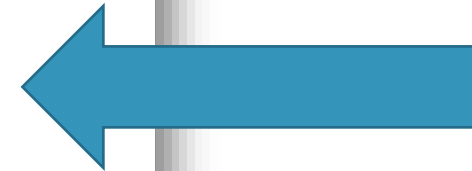
Rating Organization Company Code Number: N/A

% Premium Change: 18.0

Recent Earned Premium for Line of Business: \$38,343,183

Hearing Type: N/A

% Market Share in SC for Line of Business: 2.4%



Insurance Review Example

Expense Category (Add/Delete rows as needed)	Value from IEE	Selected Expense Ratio (% of Premium)		
	Part III	Fixed	Variable	Total
Commissions	14.2%	0.0%	11.5%	11.5%
Taxes, Licenses, & Fees	3.0%	0.0%	3.8%	3.8%
Other Acquisition Expenses	8.2%	6.2%	0.0%	6.2%
General Expenses	1.4%	3.8%	0.0%	3.8%
Reinsurance Expenses		7.5%	0.0%	7.5%
Other Expenses	6.7%	3.8%	0.0%	3.8%
Other Income	0.3%	0.0%	0.0%	0.0%
Profit and Contingencies		0.0%	7.5%	7.5%
Total Expense and Profit Ratio		21.3%	22.8%	44.1%
Permissible Loss and Fixed Expense Ratio				77.2%

Reinsurance Premium	\$ 3,163,463
Anticipated Recoverables	\$ 653,167
Projected Earned Premium	\$ 33,310,394
Net Cost of Reinsurance	7.5%

Territory	% of Total Written Premium
Wind Pool Zone 1 (with Wind)	0.9%
Wind Pool Zone 2 (with Wind)	5.2%
Coastal Counties (Outside Wind Pool)	31.8%
Remainder	62.1%
Total	100.0%

Insurer Comments:

1. The expenses from the IEE are company-wide, whereas the selected expense ratios are state and form-specific selected from 3-year historical averages
2. Other Expenses is ULAE
3. Profit and Contingencies Provision was provided by SC DOI based on our Wind Zone Pool exposure
4. The premium for the reinsurance calculation uses earned premium, the provision includes SC data for the entire underwriting company as of 6/30/2022

Insurance Review Example

Objection 1

Please provide support for the loss development factors shown in ‘RLI-Property’ exhibit. Please include the loss triangles and explain how many methods of determining ultimate losses are considered. If only one method is used, please provide the rationale for not using more methods as recommended in the Actuarial Standards of Practice (“ASOP”).

Response to Objection 1:

Please see the **SC Loss Development Factors Exhibit**. This exhibit includes paid loss triangles and the Paid LDFs that were used to determine ultimate losses for Program III. We did not use an incurred LDF method due to a change in claims practices in 2021 that impacted recent incurred loss development patterns. This aligns with ASOP guidance on the consideration and use of loss development methods.

Insurance Review Example

Year	Quarter	Paid Losses Excluding Wind/Hail and CAT							
		3	6	9	12	15	18	21	24
2020	Q4	-	-	-	-	-	-	-	-
2021	Q1	114,927	164,819	202,248	202,248	202,248	202,248	202,248	202,248
2021	Q2	209,655	546,514	628,788	702,837	809,598	823,795	835,884	-
2021	Q3	403,200	834,423	984,242	1,070,737	1,092,574	1,092,574	-	-
2021	Q4	444,485	1,694,378	1,819,373	1,882,915	1,932,324	-	-	-
2022	Q1	1,243,280	2,498,905	2,694,022	2,820,005	-	-	-	-
2022	Q2	767,157	1,992,468	2,324,974	-	-	-	-	-
2022	Q3	980,262	2,811,861	-	-	-	-	-	-
2022	Q4	1,030,771	-	-	-	-	-	-	-

Year	Quarter	Development Factors							
		3-6 Months	6-9 Months	9-12 Months	12-15 Months	15-18 Months	18-21 Months	21-24 Months	24 Months-Ult
2020	Q4								
2021	Q1	1.434	1.227	1.000	1.000	1.000	1.000	1.000	
2021	Q2	2.607	1.151	1.118	1.152	1.018	1.015		
2021	Q3	2.070	1.180	1.088	1.020	1.000			
2021	Q4	3.812	1.074	1.035	1.026				
2022	Q1	2.010	1.078	1.047					
2022	Q2	2.597	1.167						
2022	Q3	2.868							
Average	Age to Age	2.485	1.146	1.057	1.050	1.006	1.007	1.000	
Avg Last 3	Age to Age	2.492	1.106	1.057	1.066	1.006	1.007	1.000	
Avg Ex Hi/Low	Age to Age	2.430	1.144	1.057	1.023	1.000	1.007	1.000	
Average	Age to Ult	3.203	1.289	1.125	1.064	1.013	1.007	1.000	
Avg Last 3	Age to Ult	3.146	1.263	1.141	1.080	1.013	1.007	1.000	
Avg Ex Hi/Low	Age to Ult	3.027	1.246	1.089	1.031	1.007	1.007	1.000	
	Selected	3.203	1.289	1.125	1.064	1.013	1.007	1.000	1.000

Indication Period	20Q4	21Q1-21Q4	22Q1-22Q4
Indication Period Age to Ult (paid weighted average)	1.000	1.008	1.395

National Council on Compensation Insurance (NCCI)

NCCI is an insurance rating and data collection organization, specializing in workers' compensation.

NCCI performs rating and other functions on behalf of insurers in 36 states, including South Carolina.

Each insurance company offering workers compensation insurance in South Carolina must file a loss cost multiplier (LCM)

NCCI, cont'd

Voluntary Loss Cost Filing Components

Experience, Trend and Benefit Change	-9.4%
<u>Loss-Based Expense Change</u>	<u>-0.3%</u>
Proposed Overall Average Voluntary Loss Cost Level Change	-9.7%

Average Voluntary Loss Cost Level Changes by Industry Group

Manufacturing	-8.6%
Contracting	-13.4%
Office and Clerical	-9.2%
Goods and Services	-9.5%
Miscellaneous	-7.7%

**Workers' Compensation
Loss Cost Multiplier**

**Loss Cost Multiplier
X Loss Cost
Rate**

Advocacy- 3 Main Roles

Utilities: 37-6-604(C)

The Consumer Advocate shall be provided notice of any matter filed at the Public Service Commission that could impact consumers' utility rates, and may intervene as a party to advocate for the interest of consumers before the Public Service Commission and appellate courts in such matters as the Consumer Advocate deems necessary and appropriate.

Consumer Advocacy Division – Utilities



Public Service Commission Intervention

**Advocacy Division Created
(Primary Representative)**

1978–2004

2004

2018

**DCA's Role Restored
(Consumer Interest)**

ORS Created

(Investigations and Public Interest)

Budget and Staffing History – Prior to 2004

5 staff, \$88k for
contractual services
(\$170k total budget)

7.5 staff, \$348k for
contractual services
(\$572k total budget)

8 staff, \$100k for
other operating
expenses
(\$238k total budget)

1978

1980

1989

1992

2004

12 staff, \$218k for
contractual services
(\$393k total budget)

7.5 staff, \$235k for
contractual services
(\$515k total budget)

Review utility notices

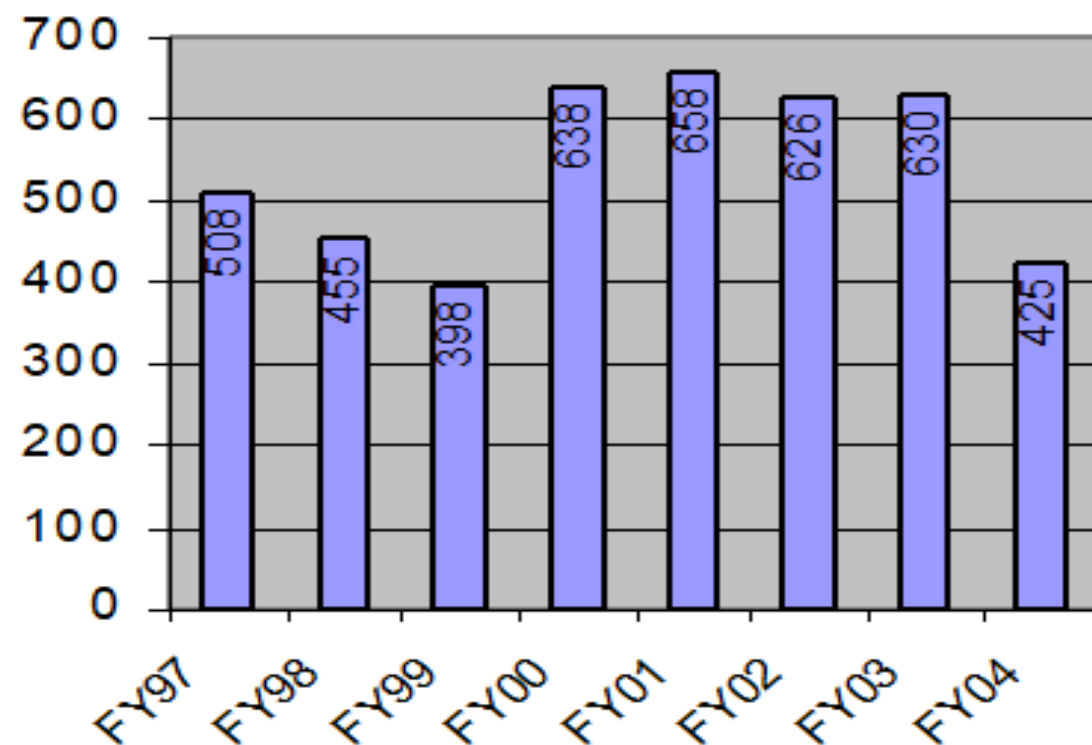


Chart 7.2-4

This chart represents the # of cases filed by utilities at the Public Service Commission (PSC). Consumer Advocate (CA) reviews all notices for the impact on consumers.

Involvement in new utility cases

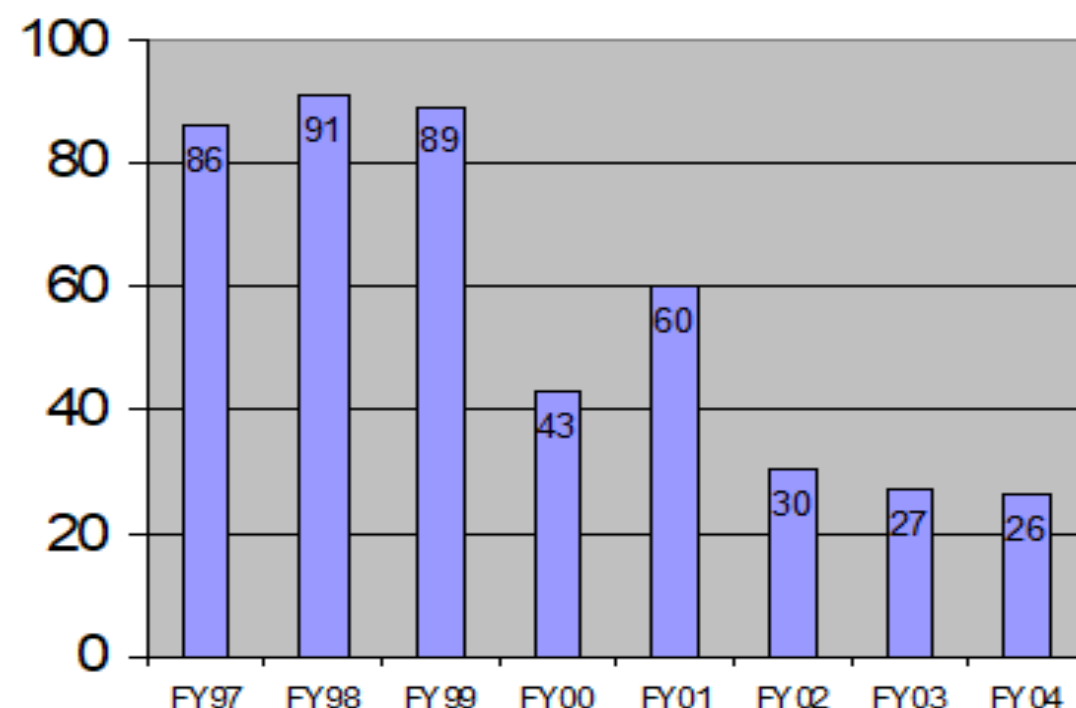
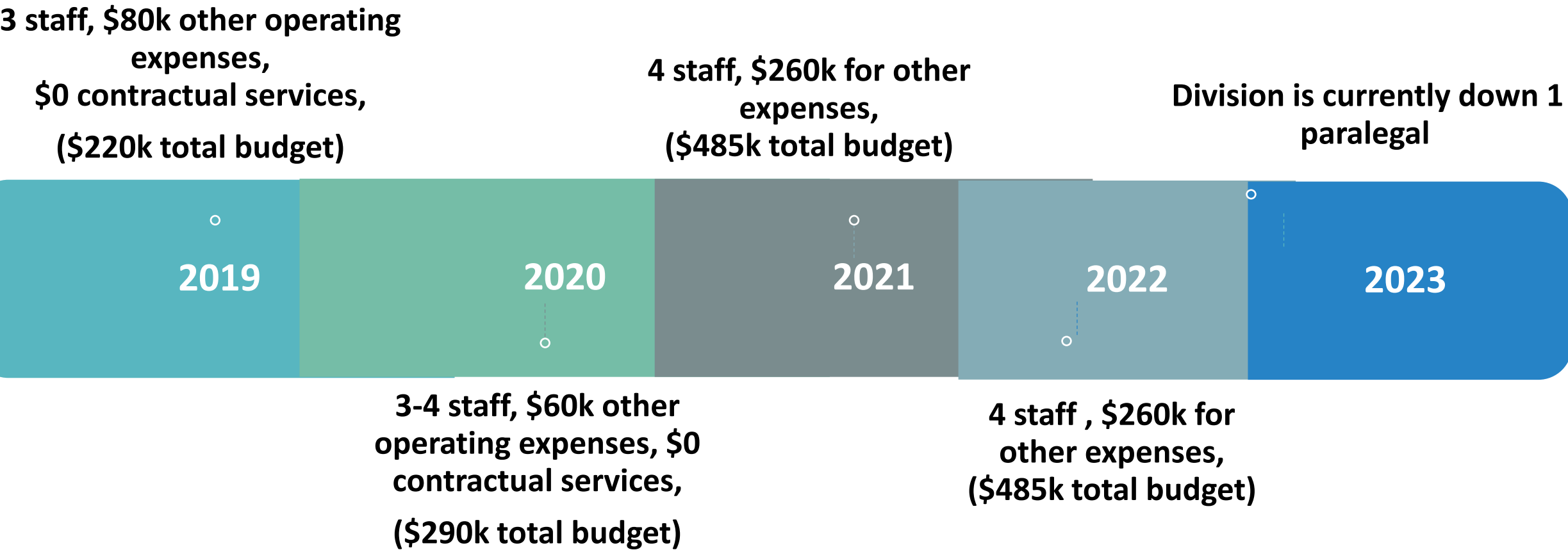


Chart 7.2-5

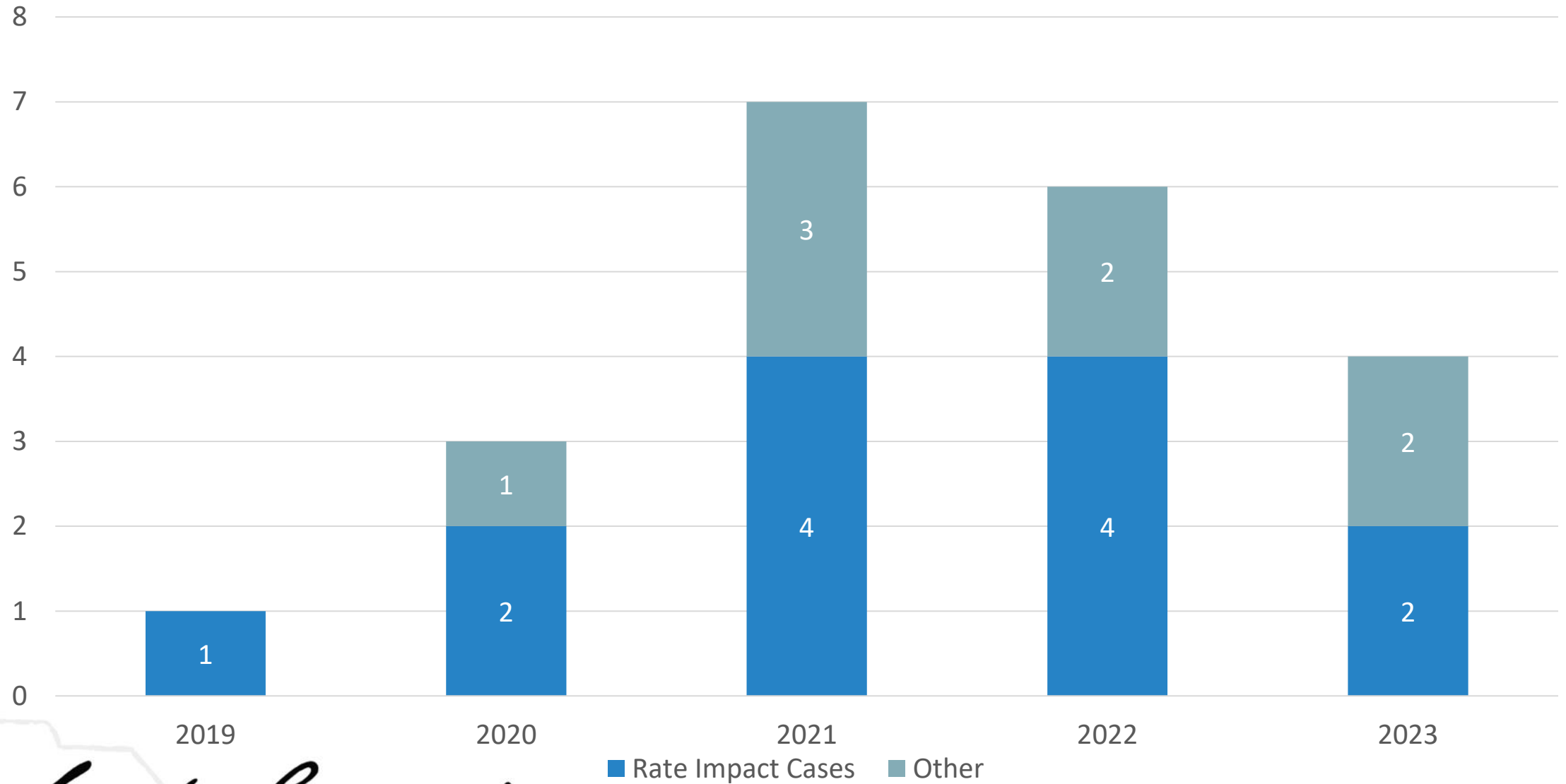
This chart shows the number of new formal interventions in PSC cases by the Consumer Advocate.

Budget and Staffing History – After Authority Restored



PSC Intervention 2019-2023

LOC Page 110



PSC Intervention 2019-2023 (rates)

Rate Case Interventions			
Company	Industry	Summary	Year
Blue Granite Water Company	WS	Rate Case	2019
Palmetto Utilities, Incorporated	Sewer	Rate Case	2020
Dominion Energy South Carolina, Incorporated	Electric	Rate Case	2020
Palmetto Wastewater Reclamation, Incorporated	Sewer	Rate Case	2021
Kiawah Island Utility, Incorporated	WS	Rate Case	2021
Dominion Energy South Carolina, Incorporated	Electric	Avoided Cost	2021
Duke Energy Carolinas, LLC and Duke Energy Progress, LLC	Electric	Avoided Cost	2021
Piedmont Natural Gas Company, Incorporated	Gas	Rate Case	2022
Daufuskie Island Utility Company, Inc.	WS	Rate Case	2022
Duke Energy Progress, LLC	Electric	Rate Case	2022
Duke Energy Progress, LLC	Electric	Storm Recovery Phase I	2022
Dominion Energy South Carolina, Incorporated	Gas	Rate Case	2023
Duke Energy Progress, LLC	Electric	Storm Recovery Phase II	2023

PSC Intervention 2019-2023 (other)

Other Matters			
Company	Industry	Summary	Year
Public Service Commission	Administrative	Regulation to Help Prevent the Potential for Misleading Advertisements by Prohibiting the Sale of Customer Data by Regulated Utilities	2020
Duke Energy Carolinas, LLC and Duke Energy Progress, LLC	Electric	Request to Hold a Joint Hearing with the North Carolina Utilities Commission to Develop Carbon Plan	2021
Public Service Commission	Administrative	PSC Review of South Carolina Code of Regulations Chapter 103	2021
Public Service Commission	Administrative	Generic Docket to Study and Review Prefiled Testimony	2021
Dominion Energy South Carolina, Incorporated	Gas	Application for the Approval of New EE Programs	2022
Duke Energy Carolinas, LLC and Duke Energy Progress, LLC	Electric	Joint Application for Approval of Electric Vehicle Supply Equipment Program	2023
Duke Energy Carolinas, LLC and Duke Energy Progress, LLC	Electric	Joint Application for Approval of Make Ready Credit Program	2023

Process/ Factors for Utility Reviews

Fair, Just and Reasonable

“Used and Useful”

“Reasonable and Prudent”

Hope and Bluefield –

a utility is entitled to an opportunity to earn a return on its investments commensurate with investments in other enterprises with similar risks

Process/Factors for Utility Reviews

LOC Page 114

The Revenue Requirements Formula

$$\text{Revenue Requirement, RR} = \underbrace{O + T + d}_{\text{Expenses}} + \underbrace{r \cdot \underbrace{RB}_{\text{“Rate Base”}}}_{\text{“Return Dollars on Rate Base”}}$$

O = Operating Expenses

T = Taxes (corporate income taxes + other taxes)

d = Annual Depreciation Expense

RB = Rate Base

r = Overall Rate of Return (weighted-average cost of capital)

Process/Factors for Utility Reviews

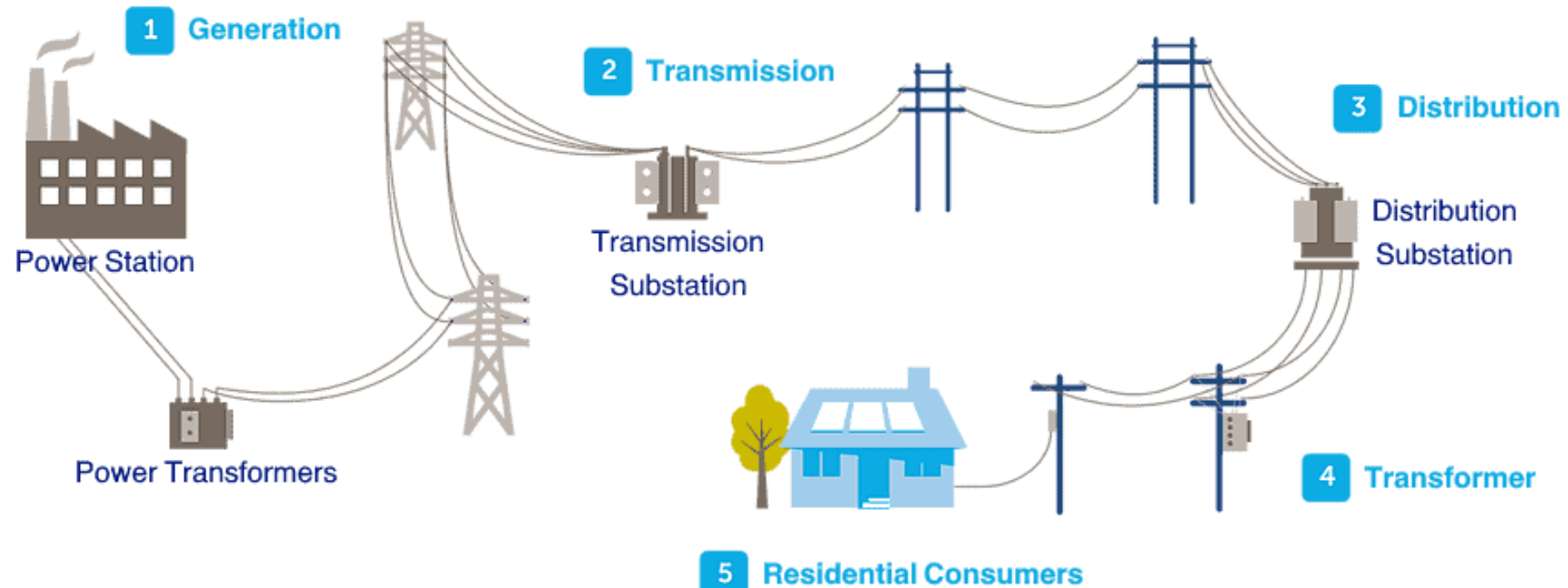
LOC Page 115

Weighted Average Cost of Capital

Class of Capital	Percent of Total	Cost Rate	Weighted Cost Rate
Debt	55%	6%	3.3%
Equity	45%	10%	4.5%

Weighted Average Cost of Capital 7.8%

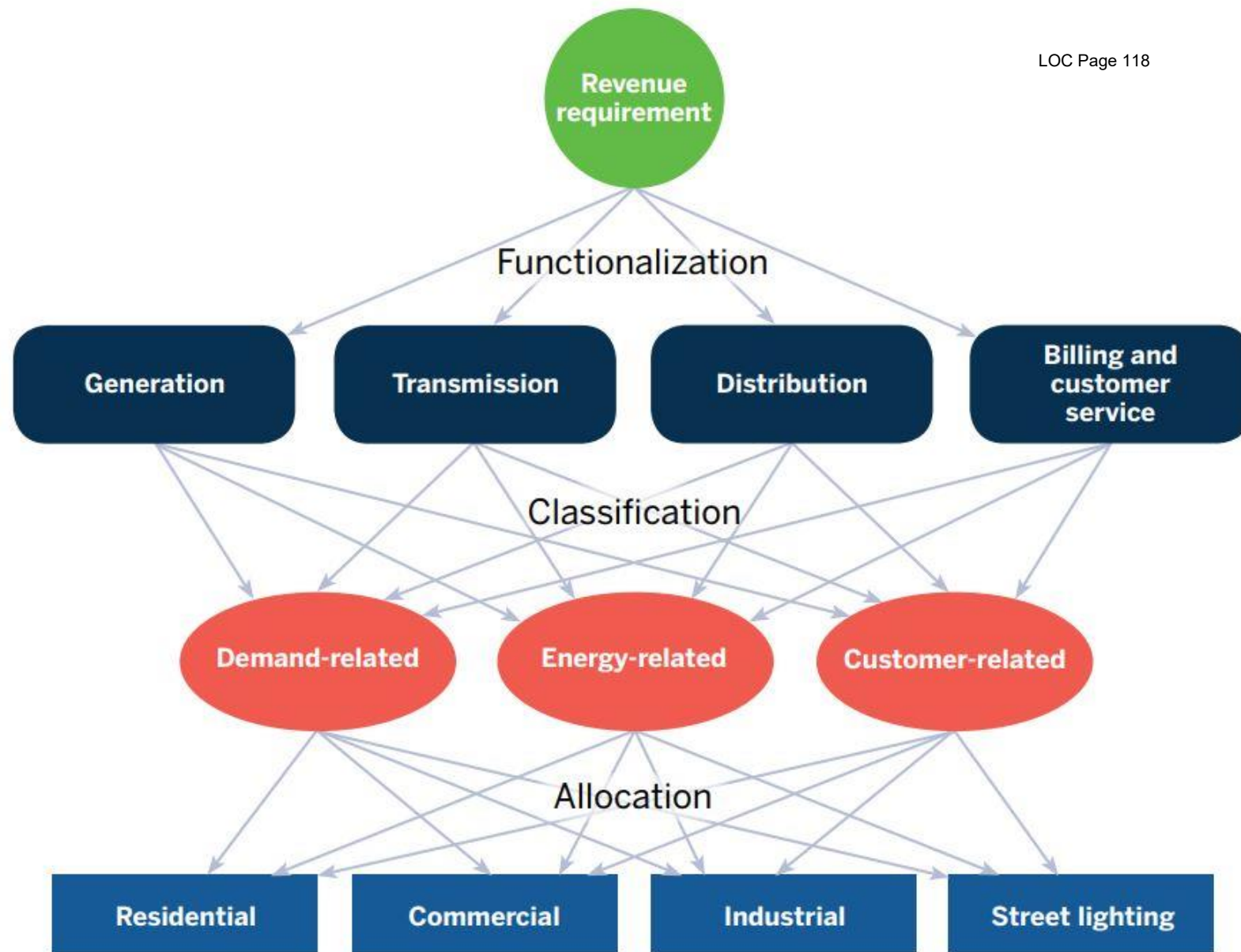
Classification of Electric Power Distribution Network





Expenses, Taxes, and Depreciation

Cost of Service and Rate Design



Rate Case Example and Success- Blue Granite Water Company

LOC Page 119

16 counties
28,300 customers

105 water systems
28 sewer systems
140 subdivisions

Filed 10/2/2019
DCA intervened 11/25/2019
(ORS, Forty Love HOA, Town of Irmo, York County, and 2 individual customers)

Increase in purchased water/sewer services, property taxes.
Change in depreciation rates.
Legal expenses.
Rehabilitation projects.
Relocation to Greenville.

Company sought:
Approx 50% rate increase
Min. 10.2% ROE (later revised to min 9.75%)
\$11.5 M in additional revenues

>150 customers testified during public night hearings

Blue Granite, cont'd

PSC Ordered- 7.46% ROE, \$4.9M revenue increase (total \$28.7M)

PSC disallowed certain legal and office relocation expenses, among others

Quarterly complaint resolution reports required (previously semiannual)

Blue Granite appealed and requested to implement rates under bond per 58-5-240(D)

PSC initially granted rates under bond in a Directive

Blue Granite, cont'd

DCA argued rates under bond not appropriate during pandemic

58-5-240 (D) : or there may be substituted for the bond other arrangements satisfactory to the Commission for the protection of parties interested. . . .

PSC ultimately stayed the implementation of rates under bond

Public Service Commission

- “the analysis used by Consumer Affairs witness Rothschild is the most compelling, applies cost of equity models using water utility companies without the influence of non-utility companies, is objectively just and reasonable, and supported by ample evidence in the record”

Supreme Court

- “the record supports the 7.46% ROE determination, as it is within the stated range calculated by Rothschild. Moreover, Rothschild testified selecting an ROE is not a precise exercise.”
- found bond issue moot and upheld the PSC decision finding the PSC granted the Company the “relief it requested”

Blue Granite, cont'd

Utility Outreach/Education

SC Department of Consumer Affairs
September 11, 2020 ·

Did you catch our most recent press release on the Blue Granite utility rate increase? Our oral arguments before the PSC helped save consumers additional financial strain during COVID-19. Read more: go.usa.gov/xGkyP

PRESS RELEASE



BLUE GRANITE RATE INCREASES STOPPED AFTER ORAL ARGUMENTS IN FRONT OF PSC

The increase under bond will be stayed through December 31, 2020

#TellDCA | consumer.sc.gov | 800.922.1594

SC Department of Consumer Affairs
Published by Hootsuite · December 2, 2022 ·

Public hearings are scheduled for proposed rate increases for Duke Energy Progress. If approved, a home using 1,225 kWh per month would see their bill go up \$17.54 the following year the bill would increase \$5.39 per month; on the third year it would increase \$6.62 per month. Information on the Public Service Commission hearings is available at <https://dms.psc.sc.gov/.../d54f29d8-ceed-4172-9845...>

DUKE ENERGY PROGRESS RATE

Proposed Increase

Typical customer: \$17.54 per month increase.
Additional \$5.39 per month in Year 2.
Additional \$6.62 per month in Year 3.

Public Hearings

December 8: Bishopville
December 12: Sumter
December 13: Florence

[CONSUMER.SC.GOV](https://consumer.sc.gov) | (800) 922-1594 | #TELLDCA

DAUFUSKIE ISLAND UTILITY COMPANY

LOC Page 123

Proposed Increases
Water Service: 47.8%
Sewer Service: 44.8%

Virtual Public Hearings
Monday, October 10
Monday, October 17 (if needed)

[CONSUMER.SC.GOV](https://consumer.sc.gov) | (800) 922-1594 | #TELLDCA



Piedmont Natural Gas Requested Rate Increase

Public Service Commission sets public hearing for Monday, July 25. Those interested in testifying must register before 4 p.m. on July 22.

NATIONAL CONSUMER PROTECTION WEEK



Engaging in the Utility Regulatory Process- 101 for Consumers

March 1, 2021

SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS



Blue Granite Rate Schedule Before & After

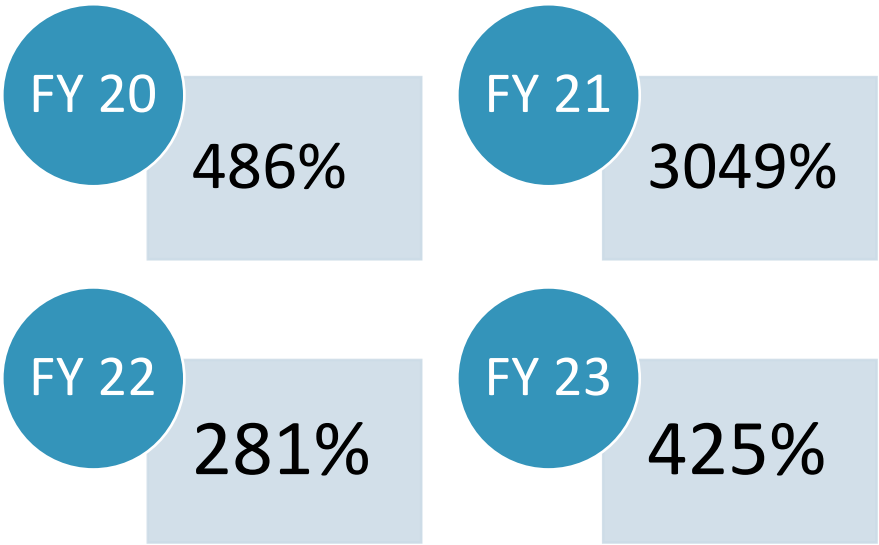
The information below explains the before and after of the Blue Granite Water Company's 2019 rate increase requests. The percentages indicate percentage increase from the current rates.

Territory 2 rates are on page 2 and Sewer rates are on page 3. Unsure of what territory you are located in? [Click here.](#)

If you'd like to read the whole order from the Public Service Commission, [click here.](#)

DCA Intervention 2019-2023: Notable Residential Customer Savings

Advocacy ROI



Blue Granite- \$1.7M per year plus \$3M during appeal

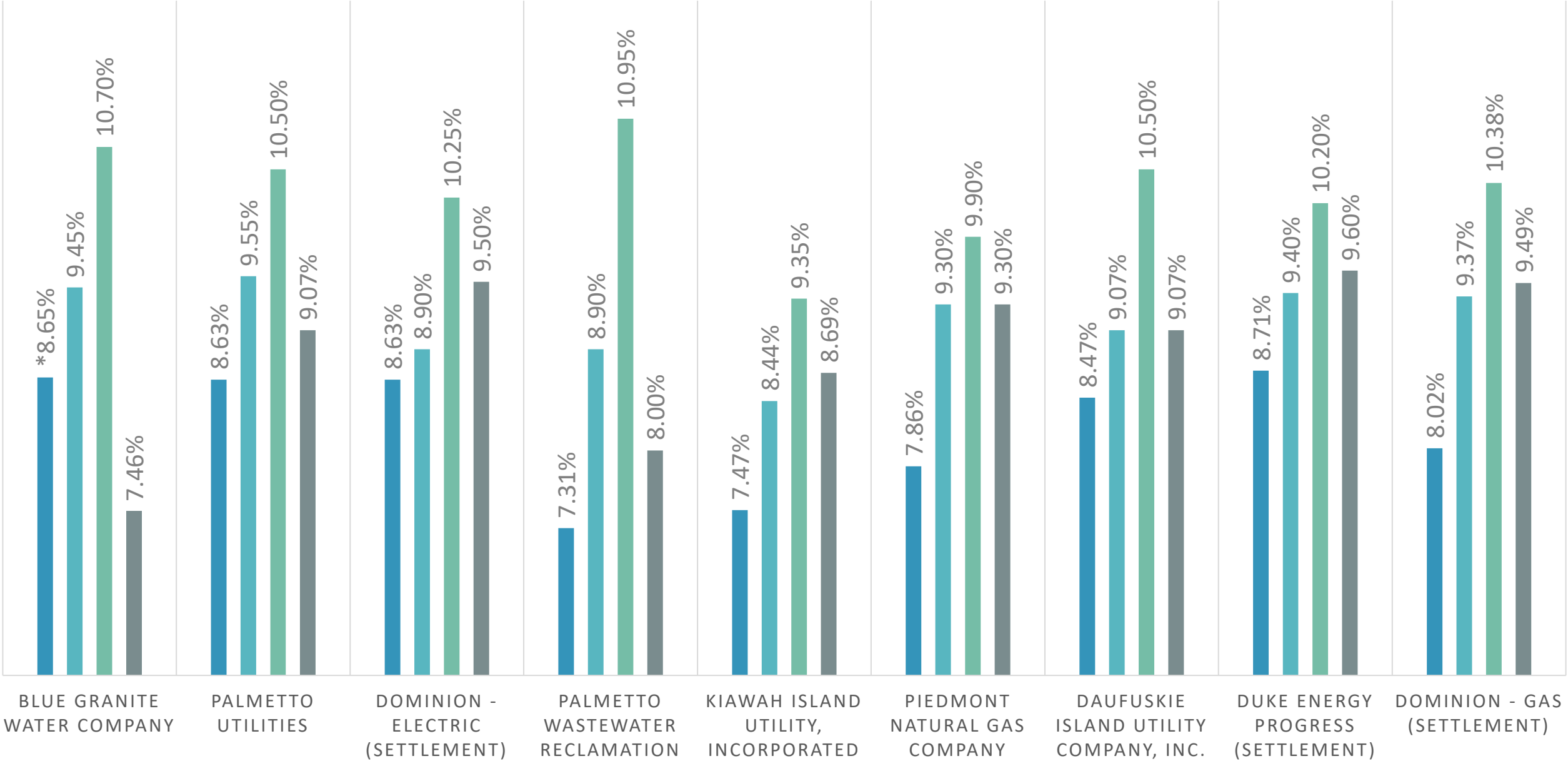
DESC- \$7M during rate case “pause” due to COVID pandemic

PWR- \$250,000 per year

Piedmont- \$1.2M per year plus \$1.385M in one-time expenses

RETURN ON EQUITY (ROE) DATA* IN CASES INTERVENED

DCA ROE ORS ROE Utility ROE PSC Final Ruling ** ROE values may include ranges*



Challenges



Volume of filings at PSC
that could impact
consumer rates



Complexity and # of
utility/insurance issues



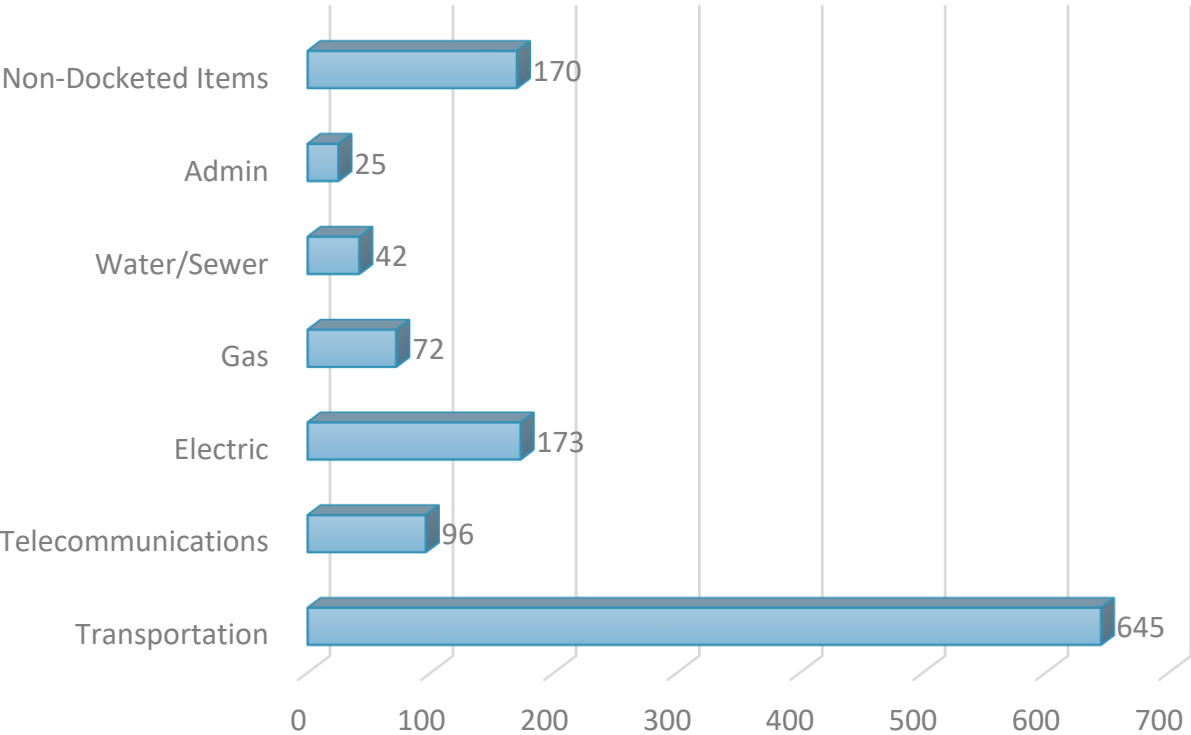
Availability and costs of
experts



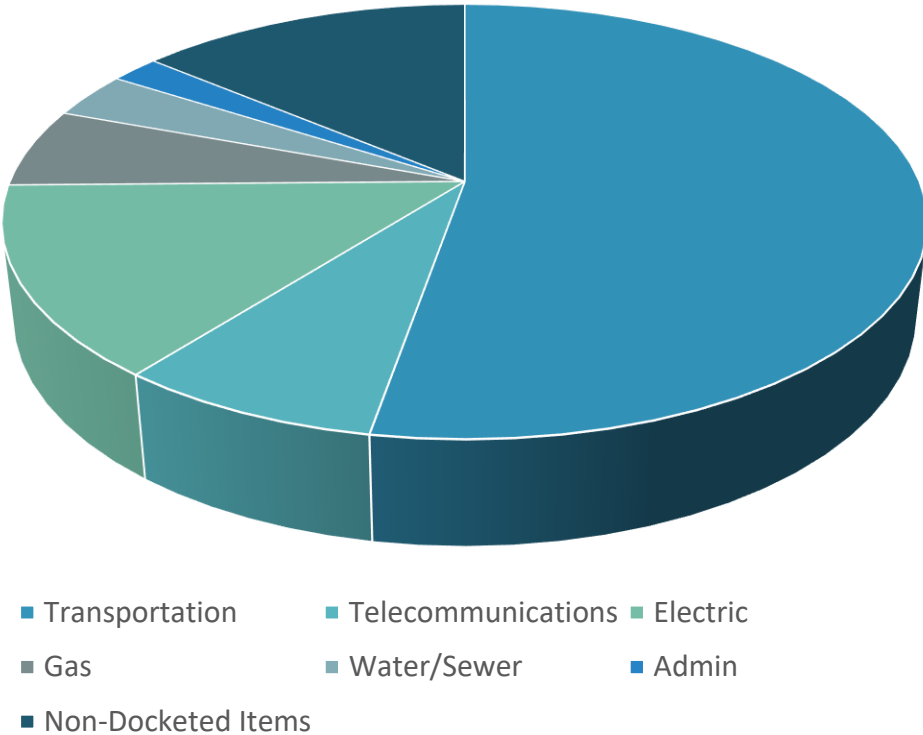
Staff retention

PSC DOCKET OVERVIEW BY INDUSTRY

PSC Docket Overview ('20-'22)



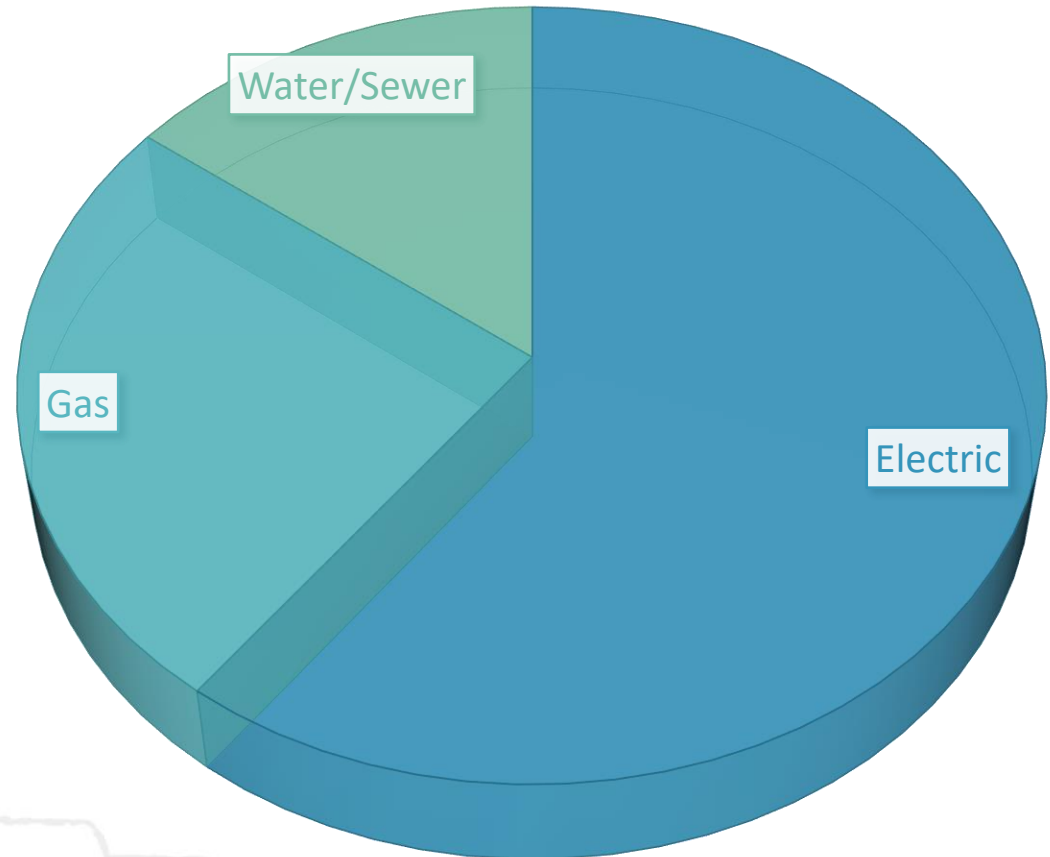
PSC Docket Overview ('20-'22)



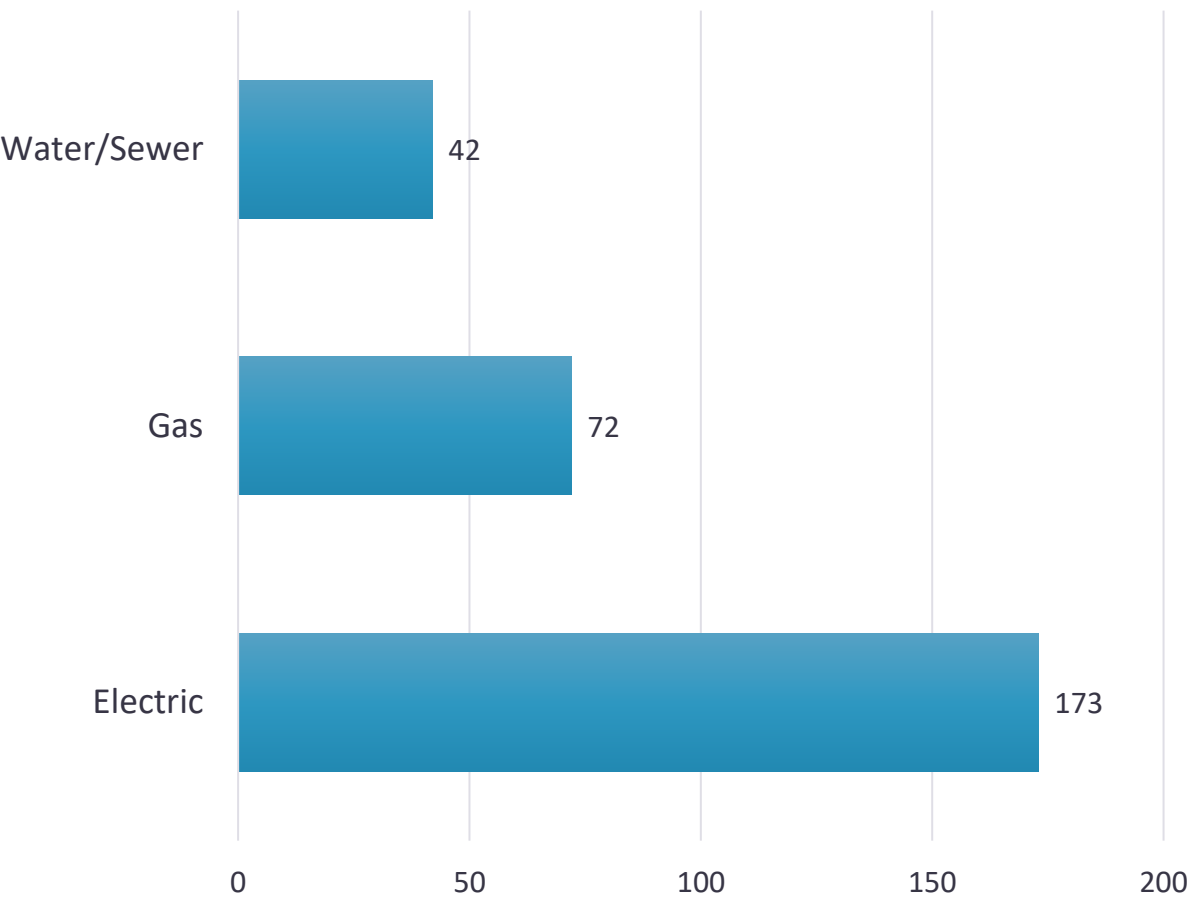
**Note – Data represents an approximation and not an exact amount*

PSC DOCKET OVERVIEW BY INDUSTRY

PSC DOCKET OVERVIEW ('20 -'22)



PSC DOCKET OVERVIEW ('20-'22)



Consumer Advocacy Division – Budget Requests



\$175,000 for expert witness/consultant funding



Would allow DCA to intervene in more cases or address more issues/case



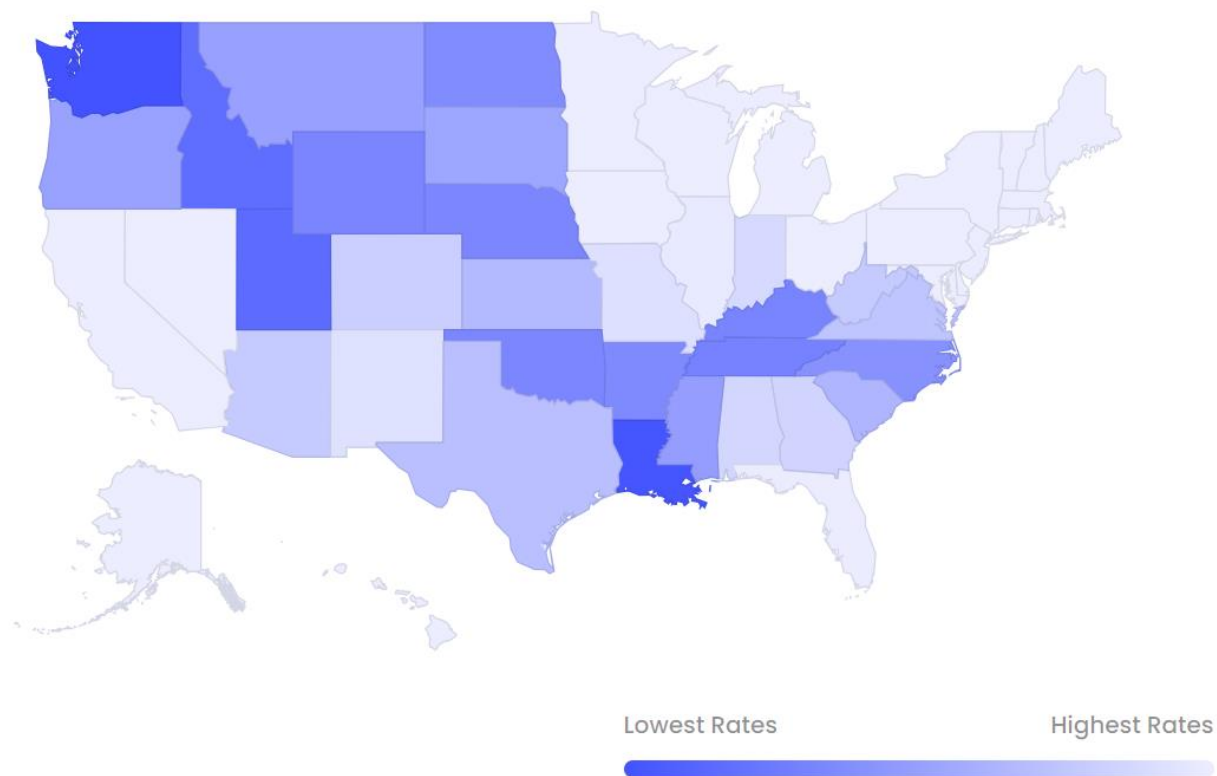
RSA gas proceedings, annual fuel and PGA cases, more DSM/EE, possibly IRPs



Greater Customer Savings

Residential Electricity Cost per kWh By State Map

<https://www.energybot.com/electricity-rates-by-state.html>



Residential electricity bills in South Carolina

- Residential electricity rates in South Carolina average **11.77¢/kWh**, which ranks the state **19th highest** in the nation
- The average monthly residential electricity bill in South Carolina is **\$132**, which **ranks 3rd highest** in the U.S.
- Residential electricity consumption in South Carolina averages **1,119 kWh/month**, which ranks **9th highest** in the U.S.

<https://www.electricitylocal.com/states/south-carolina/>

QUESTIONS?

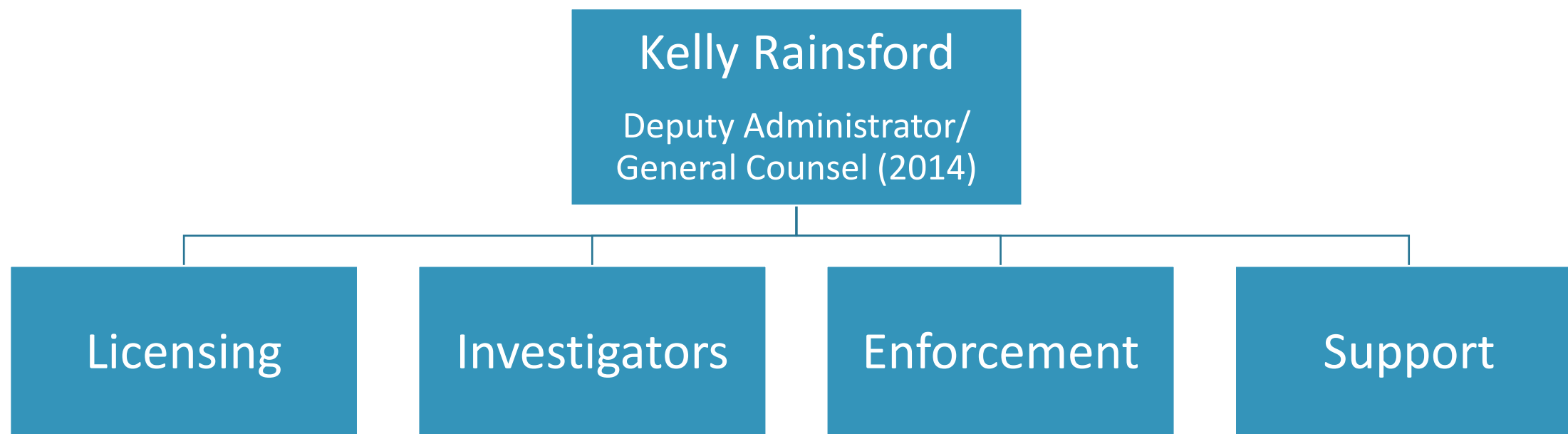


Legal Division

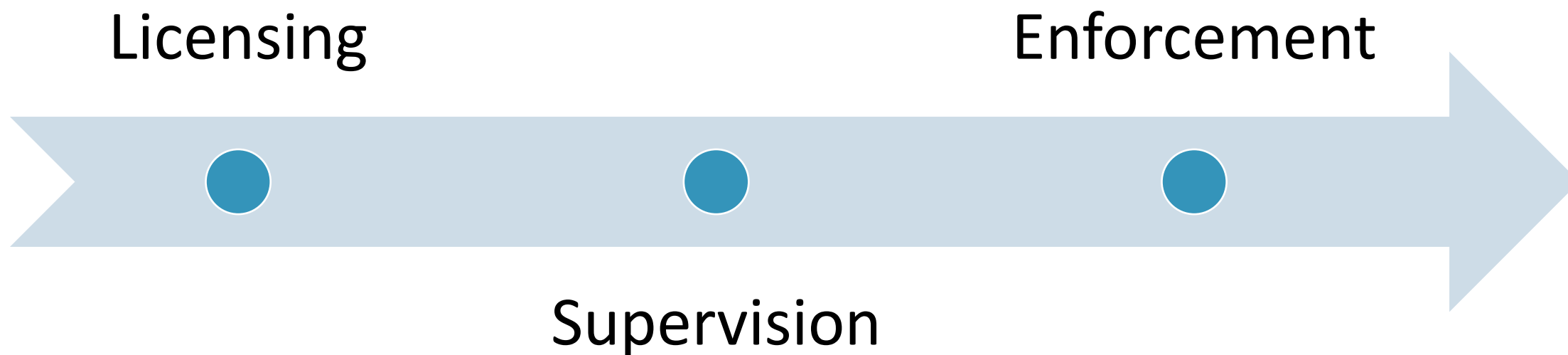
Kelly Rainsford, CIPP/US
Deputy Administrator/General Counsel



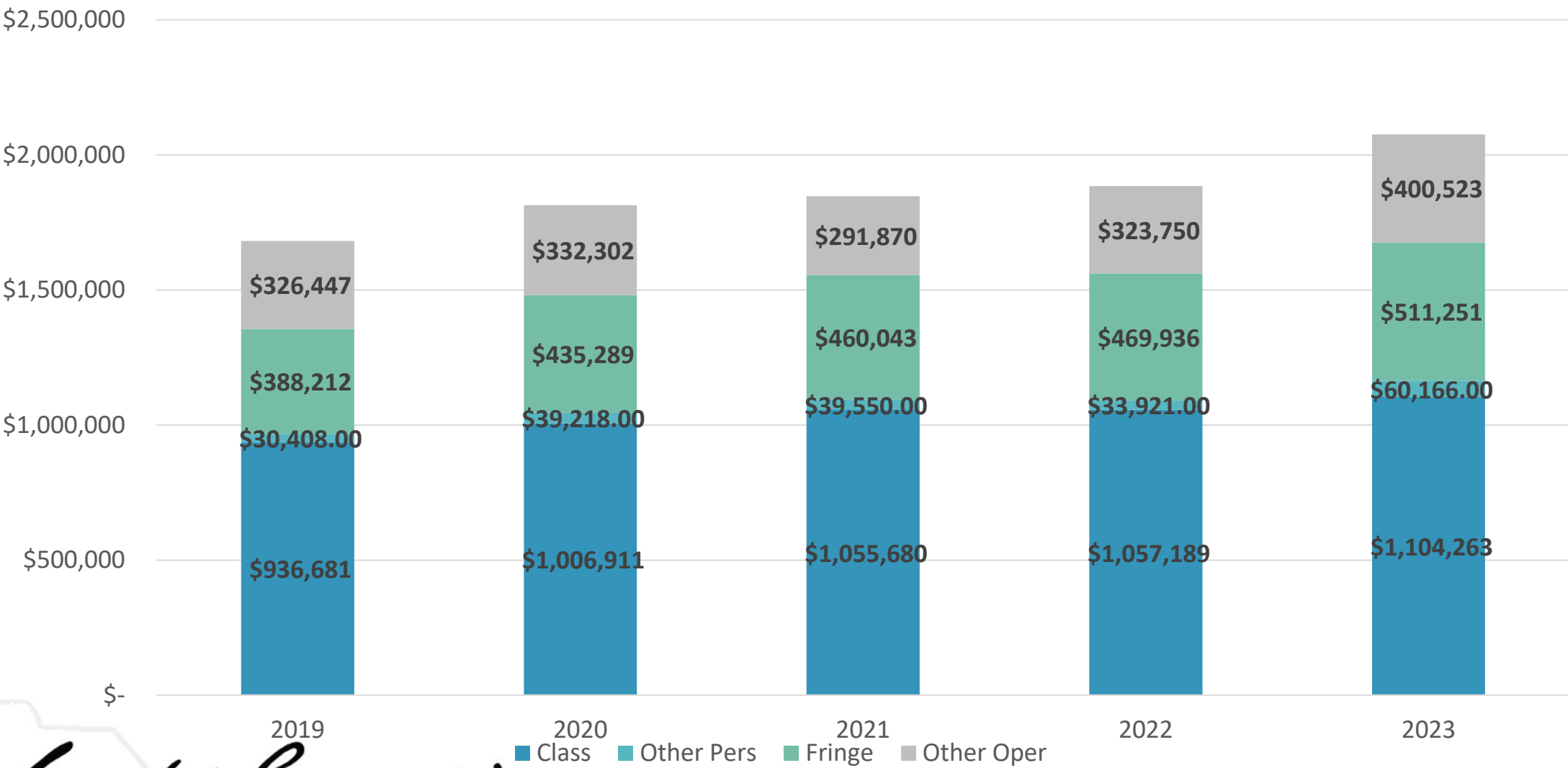
Legal Division Structure



Legal Division Functions



Legal's Actual Budget by FY



Licensing Team



Licensing Team Members

- Kerri Boyer Hawley, Licensing Attorney (2019)
- Deborah Friday, Licensing Supervisor (2002)

Stacy Staley

Licensing Examiner
(2015)

- Athlete Agents
- Credit Counseling
- Motor Clubs
- Preneed Providers

Tenitia Baskett

Licensing Examiner
(2011)

- Credit Grantor Notifications
- Maximum Rate Schedules
- Dealer Closing Fees

Tyesha Stover

Licensing Examiner
(2023)

- Mortgage Brokers
- Pawnbrokers
- Prepaid Legal

Vacant

Licensing Examiner

- Continuing Care Retirement Communities
- Physical Fitness
- Professional Employer Organizations

Licensing Purposes

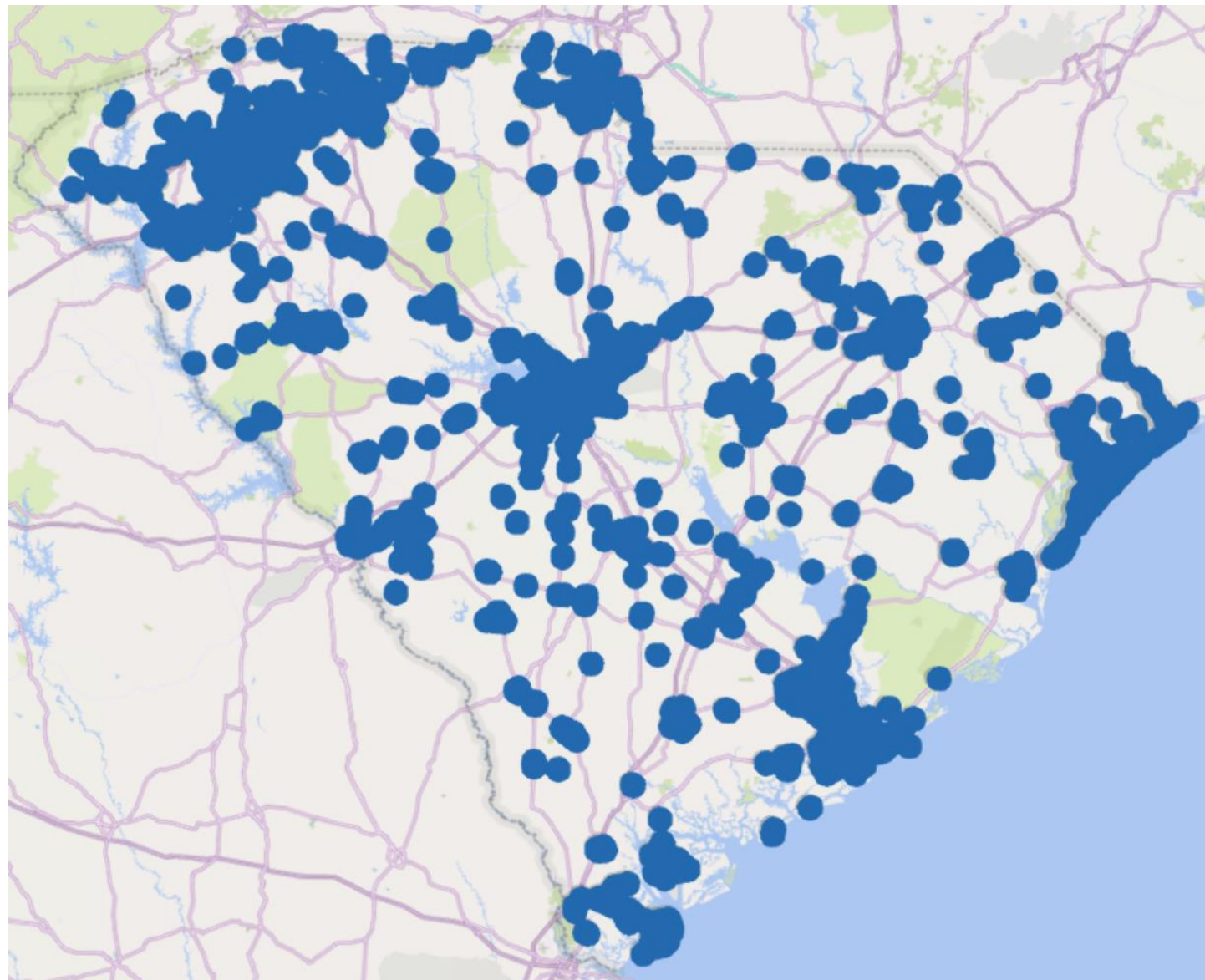
Educate businesses about licensing & filing requirements

Assist with filing initial and renewal applications

Review and process regulatory filings

Answer general questions & inquiries from licensees and potential applicants

Regulated Businesses Map



Categories of License/Filing Types

Level One

- Law simply requires notification of intent to operate
- Credit Grantor Notification, Maximum Rate Schedule

Level Two

- Law requires some background information and/or proof of financial responsibility
- Examples of required information: Education, Employment History, Surety Bond
- Motor Club, Athlete Agents

Level Three

- Law requires sensitive info to be provided
- Examples of required information: Credit reports, Criminal Background Checks
- Mortgage Brokers, Preneed Funeral Contract Providers, Credit Counseling

Licensing

Background

The South Carolina Department of Consumer Affairs (DCA) is the administrator and enforcer of the law governing consumer credit transactions and also has responsibility for approximately fifteen industries. Review the descriptions below for basic information about the industries required to be licensed or registered. Click on the industry name to learn more.

Need to file with DCA? Click to [access the new online licensing system](#).

Businesses/Regulated Industries required to be licensed or registered

Industry Type	Description
Athlete Agents	Contracts with a student-athlete or recruits or solicits a student-athlete to enter into an agency contract.
Continuing Care Retirement Communities	Provides lodging along with nursing, medical, or other health-related services to people 65 years of age or older. Includes independent living, assisted living, and skilled nursing care.
Credit Counselors	Offers to improve credit rating, reduce debt, or eliminate debt. Includes credit repair, debt consolidation, debt management, debt negotiation, debt settlement, foreclosure assistance, and loan modification.
Discount Medical Plan Organizations	Offers discount programs for health care services with participating providers (doctors, pharmacies, etc.). Does not include insurance.

Helpful Links



Industry Type	Description
<u>Athlete Agents</u>	Contracts with a student-athlete or recruits or solicits a student-athlete to enter into an agency contract.
<u>Continuing Care Retirement Communities</u>	Provides lodging along with nursing, medical, or other health-related services to people 65 years of age or older. Includes independent living, assisted living, and skilled nursing care.
<u>Credit Counselors</u>	Offers to improve credit rating, reduce debt, or eliminate debt. Includes credit repair, debt consolidation, debt management, debt negotiation, debt settlement, foreclosure assistance, and loan modification.
<u>Discount Medical Plan Organizations</u>	Offers discount programs for health care services with participating providers (doctors, pharmacies, etc.). Does not include insurance.
<u>Mortgage Brokers</u>	Brings a borrower and mortgage lender together. Includes loan correspondents and third-party loan processors and underwriters.
<u>Motor Clubs</u>	Offers memberships for motor club services or reimbursement for motor club services including towing, emergency roadside, emergency travel expense, travel, guaranteed hotel/motel rates, new car pricing, etc.
<u>Pawnbrokers</u>	Lends money for goods or personal property that may be redeemed or repurchased at a later date.

<u>Physical Fitness Service Providers</u>	Includes personal trainers, gyms, health or exercise centers, clubs, studios, or classes; health spas; weight control centers, tanning centers; and athletic or sport clubs.
<u>Preneed Funeral Contract Providers</u>	Sells contracts for purpose of: (1) performing funeral services for, or (2) providing merchandise or services in connection with the final disposition of, a person who is alive at the time of the contract.
<u>Prepaid Legal</u>	Offers contracts for legal services or reimbursement for legal services for a predetermined, specific, periodic (ie: monthly) fee.
<u>Professional Employer Organizations</u>	Shares employment responsibilities with a client company that outsources certain tasks to the PEO (ie: payroll, benefits, recruiting, training and insurance services).
<u>Registered Creditors</u>	<p><u>Credit Grantor Notification</u> Makes consumer credit sales, leases, loans, or rental-purchase agreements (rent-to-own); or takes assignment of rights against debtors arising from these transactions.</p> <p><u>Maximum Rate Schedules</u> Charges an Annual Percentage Rate (APR) in excess of 18% on consumer credit sales or consumer loans.</p> <p><u>Motor Vehicle Dealers</u> Charges a closing fee (administrative fee, doc prep fee).</p>

[Home](#) » [Business Resources/Laws](#) » [Licensing](#) » Registered Creditors

Registered Creditors

The Registered Creditors Program includes filings for Consumer Credit Grantor Notification (including rent-to-own), Maximum Rate Schedules (including credit card disclosures), and Motor Vehicle Dealer Closing Fees. Please see the Filing Instructions and Flowchart below, along with each program's individual page, for additional information on filing requirements.

Please note the Department's new physical address is 293 Greystone Blvd., Ste. 400 | Columbia, SC | 29210

****Mailings may still be sent to PO Box 5757 | Columbia, SC | 29250-5757****

Renewals and Expiration

Annual renewal begins November 1 and ends January 31, but initial filings and updates may be made anytime during the year.

Filings expire January 31 of each year.

To avoid a late penalty, all renewal filing forms and fees must be submitted online or postmarked by January 31.

General Information

The [Registered Creditors Filing & Renewal Webinar](#) is now available for viewing on the Department's YouTube page! The webinar provides an overview of the filing process and explains terminology specific to registered creditors.

[Registered Creditors Webinar FAQs \(PDF\)](#)

[Registered Creditors Filing Instructions \(PDF\)](#)

[Registered Creditors Filing Flowchart \(PDF\)](#)

[Terminology and Filing Assistance \(PDF\)](#)

Online Licensing System

Registered Creditor filings may be made using DCA's new [Online Licensing System](#).

- [Instructions on "How to Print Registered Creditors Certificates" \(PDF\)](#)

Helpful Links



Questions?

[Tenitia M. Baskett](#)
Licensing Examiner
(803) 734-4238

[Celeste Brown](#)
Fiscal Technician
(803) 734-4264

Registered Creditors

Maximum Rate Schedules

- Creditor can charge up to 18% APR
 - For consumer loans, require Supervised Lender license to charge more than 12% APR
- To charge above 18% APR, must file and post MRS

Credit Grantor Notification

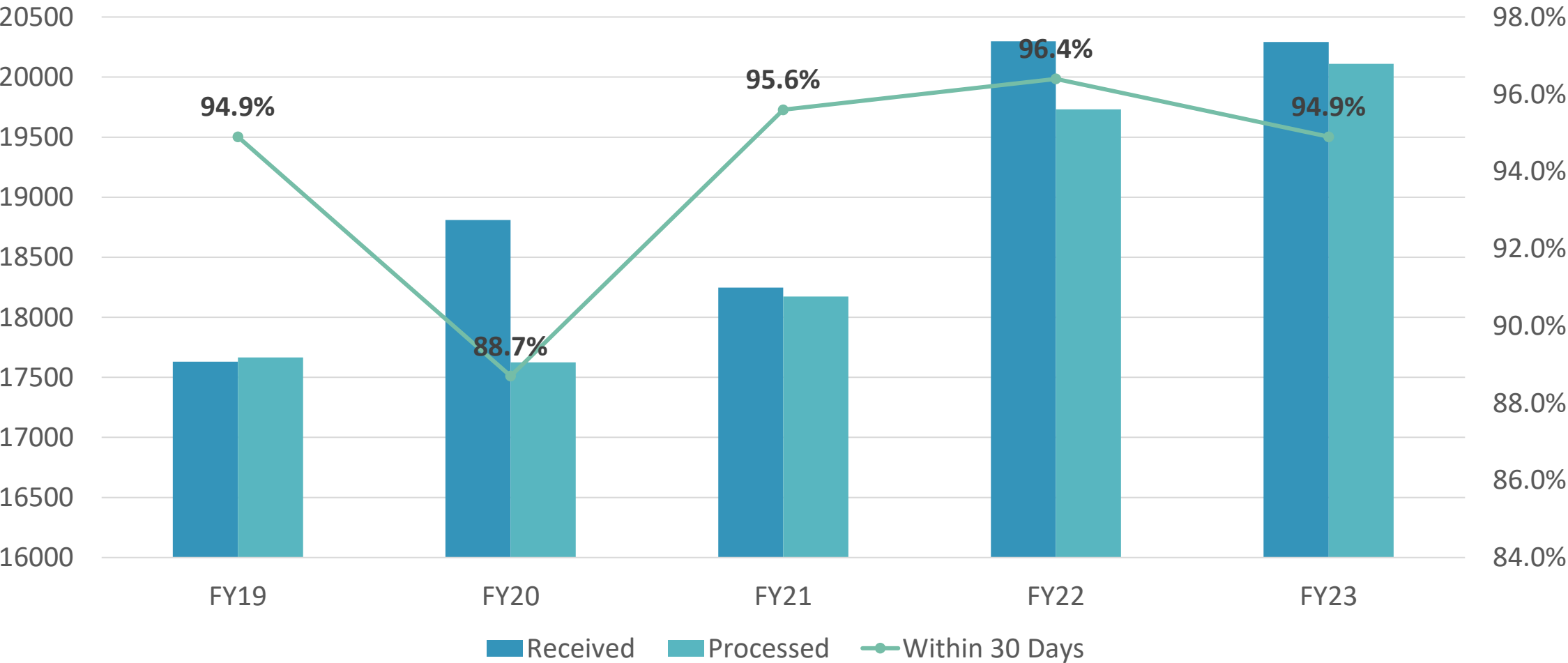
Must file CGN if person does:

- Engage in consumer credit transaction *OR* takes assignment and undertakes direct collection
- Annual gross volume > \$150K
- Use written agreements to extend consumer credit

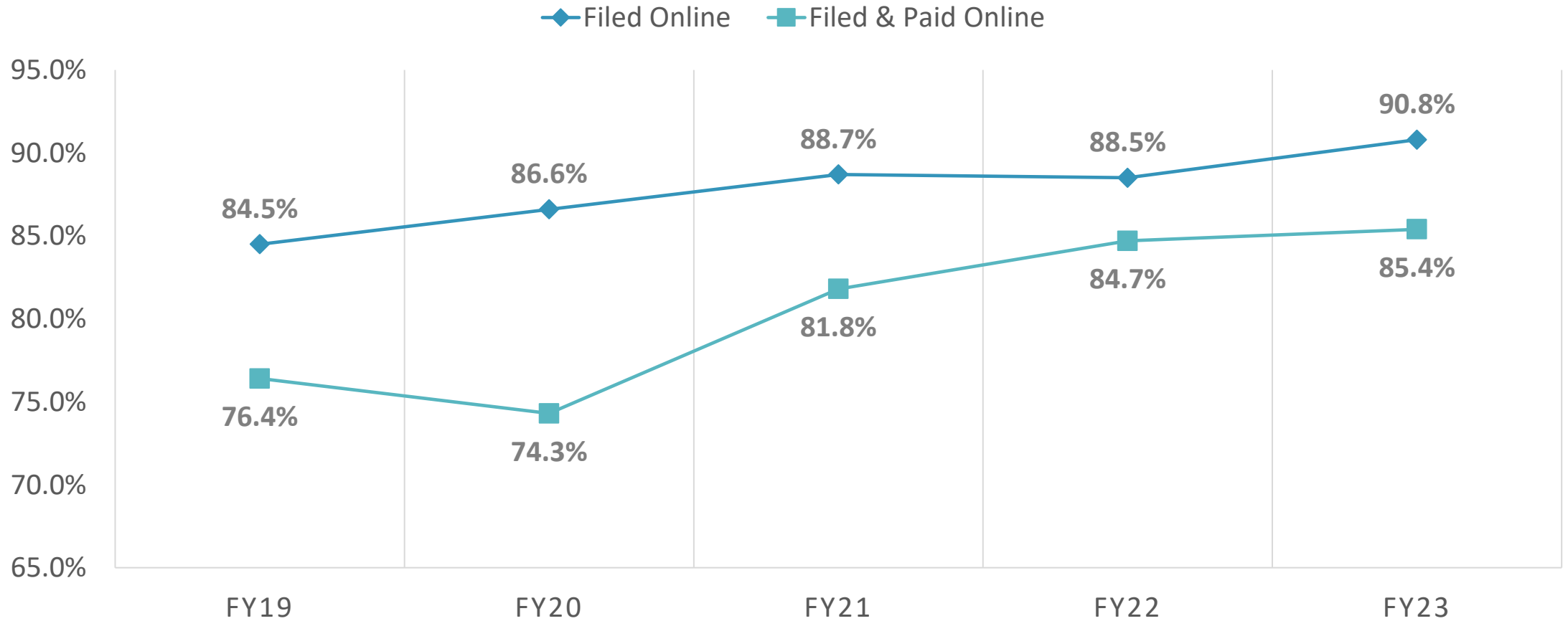
Maximum Rates Report

Company	Type	Descriptions	Addl. Desc	Category	Fixed Apr	Var
LORIS DRUG STORE INC	Max Rate (Credit Sales)	Other	PRESCRIPTIONS	Unsecured	24	
LUGOFF TIRE CO., INC	Max Rate (Credit Sales)	Other	TIRE SALES & AUTO	Unsecured	24	
M&M BEDDING, LLC	Max Rate (Credit Sales)	Household goods		Unsecured	21.99	
MAE'S	Max Rate (Credit Sales)	Apparel	Women's Clothing	OpenEnd	22	
MARKET COMMON DENTISTRY	Max Rate (Credit Sales)	Credit cards		Secured	24	
MARSHALL'S FURN. & APPL., LLC	Max Rate (Credit Sales)	Appliances, Furniture		Secured	24	
MARTY RAE'S OF LEXINGTON INC	Max Rate (Credit Sales)	Furniture		Unsecured	29.99	
MATTRESS FACTORY INC THE	Max Rate (Credit Sales)	Furniture		Secured	24	
MAYNARD FURNITURE COMPANY, INC.	Max Rate (Credit Sales)	Furniture		Secured	29.99	
MCGEE HEATING AND AIR INC	Max Rate (Credit Sales)	HVAC (heating, ventilation, and air conditioning)		Unsecured	28.99	
MID-CAROLINA MARINE INC	Max Rate (Credit Sales)	Boats	NEW & USED BOAT	Secured	18	
MIDNIGHT VELVET	Max Rate (Credit Sales)	Apparel, Household goods		Unsecured	25.99	
MONROE AND MAIN, INC.	Max Rate (Credit Sales)	Apparel, Jewelry		Unsecured	25.99	
MONTGOMERY WARD, INC.	Max Rate (Credit Sales)	Appliances, Computers, Electronics, Furniture, Household		Unsecured	25.99	
MORRIS FURNITURE & APPLIANCE CO	Max Rate (Credit Sales)	Appliances, Furniture		Secured	36	
MOSELEY JEWELERS OF COLUMBIA, INC	Max Rate (Credit Sales)	Jewelry		Secured	36	
MOSELEY JEWELERS OF LEXINGTON, INC	Max Rate (Credit Sales)	Jewelry		Secured	36	
NALLEY'S BEDDING & FURNITURE	Max Rate (Credit Sales)	Furniture		Secured	24	
NALLEY'S MATTRESS CENTER	Max Rate (Credit Sales)	Furniture		Secured	24	
NATIONAL AUTO LENDERS, INC.	Max Rate (Credit Sales)	Other	RETAIL INSTALLME	Secured	30	
NAZ DOULAT LLC	Max Rate (Credit Sales)	Jewelry		Unsecured	180	
Nelson Products & Services Inc.	Max Rate (Credit Sales)	Vacuum cleaners		Unsecured	1	
NICHOLS FARM SUPPLY INC	Max Rate (Credit Sales)	Other	SEED CLEANING & S	Unsecured	24	

Licensing Applications & Filings



Online Applications



[Home](#) » [Business Resources/Laws](#) » Online Filing

Online Filing

Licensure Gateway

The South Carolina Department of Consumer Affairs (DCA) is implementing a new licensing database. Filing online through the Licensure Gateway reduces the time needed by applicants to submit required documents and decreases processing time by DCA staff. Programs are being added in phases. Please check the listing below to see what is currently available.

How to use our new [online licensing system](#):

Guides:

- [User Guide for Individuals \(PDF\)](#)
- [User Guide for Organization Administrators \(PDF\)](#)

Videos:

- [Logging in to the DCA Licensure Gateway for the First Time \(YouTube Video\)](#)
- [DCA Licensure Gateway: Printing a Certificate \(YouTube Video\)](#)
- [DCA Licensure Gateway: Edit Your Contact Information \(YouTube Video\)](#)
- [DCA Licensure Gateway: Applying for a License \(YouTube Video\)](#)

Please add **NOREPLY@SCCONSUMER.GOV** to your safe senders list or address book. All emails generated within the licensing system come from this address. Adding it will help ensure that you receive communications regarding your application status.

Helpful Links

**FILE ONLINE**

Resource Center



consumer access

**EMAIL DCA****BUSINESS
RESOURCES****RESPOND TO
A COMPLAINT**



SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS

Licensure Gateway

Welcome to the Licensure Gateway!

This system is used to provide a single portal to manage licenses and listings. It grants access to printable documents, change of address, online applications and many more features. The Gateway is used to submit all license applications and renewals.

Email/Username

Password


Login



Register Now!



Reset Password




SOUTH CAROLINA
DEPARTMENT OF CONSUMER AFFAIRS

Licensure Gateway

[Home](#) [User Options](#)

[Account Profile](#) [Contact SCDCA](#) [Logout](#)


Jacob E Smith

 **Background Check**
Not on file

Contact Info / Licenses

Contact Info

Licenses

 **Active**


Jake's Pawn Shop

Pawn Broker

Registration #: PBC-9876543

Expiration: 06/30/2024

[CLICK HERE for Reinstatement Application](#)


 **Inactive**

Jake's Old Pawn Shop

Pawn Broker

Registration #: PBC-1234567

Expiration: 06/30/2021



South Carolina

DEPARTMENT OF CONSUMER AFFAIRS

consumer.sc.gov • (800) 922-1594

Jake's Pawn Shop » Pawn Broker

License #: PBC-9876543

Date Issued: 06/05/2023

Status: Active


Current Applications

No application history is available at this time.

Options


No options are available at this time.

Files




Date:
06/05/2023

Jake's Pawn Shop
Pawn Ticket.pdf



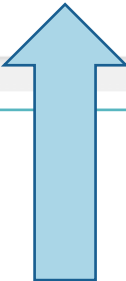
Date:
06/05/2023

Renewal
Deficiency



Date:
06/02/2023

Signed
Attestations.pdf



South Carolina
DEPARTMENT OF CONSUMER AFFAIRS

293 Greystone Boulevard, Suite 400 | PO Box 5757 | Columbia, SC 29250
(803) 734-4200 | www.consumer.sc.gov

June 05, 2023

Jake's Pawn Shop
123 Main St.
Columbia, SC 29205

Attention: Jake's Pawn Shop

The South Carolina Department of Consumer Affairs ("Department") received your filing fee(s) and renewal application for your Pawnbroker Certificate of Authority. However, all supporting information needed to complete the process of your renewal application has not been received. The following item(s) or information must be **uploaded** to the "Licensure Gateway" at <https://dcagateway.sc.gov/>.

- Copy of Pawn Ticket



[Home](#) [Organizations](#) [Reports](#) [Admin](#) [Wiki](#)

Logged in as
Kelly Rainsford
Last Login
10/04/2023 04:04 PM

Other Options
[Return to Last](#)
[LogOff](#)

Organization Information

Jake's Pawn Shop

Corporation [View All Active Certificates of Approval](#)

[Physical Address](#) [Mailing Address](#)

Jake's Pawn Shop
123 Main St.
Columbia, SC 29205
Jake@jakespawn.com

[Click to View Business Information](#)
[Click to View Contact Information](#)
[Click to View Most Recent Surety](#)
[Click to View Most Recent Insurance](#)
[Click to View External System IDs](#)

Tags: [+](#)

System Time
10/04/2023 04:34 PM
[✉](#) [💬](#) [📱](#) [🔍](#) [🔗](#)

Organization Options
[Edit Organization](#)
[Edit External Systems](#)
[Add Location](#)
[Add Representative](#)
[Edit Entities](#)

Note Maintenance
[Add Note](#)
[Note Summary](#)

Administrators [Licenses](#) [Locations](#) [People](#) [Administrators](#)

Name	User Login	Last Login	Status	Create Date
		7/12/2023 10:18:23 AM	Active	09/17/2019 10:29
		5/25/2021 12:53:53 PM	Active	05/25/2021 12:49

[« FIRST](#) [< BACK](#) **Records 1 - 2 of 2** **Page 1 of 1** [NEXT >](#) [LAST »](#)

Organization Invoices [Invoices](#) [Organization Notes](#) [Most Recent Filing Questions](#) [Most Recent Entities](#)

ID	License #	Description	Status	Amount	Balance	Invoice Date
139306	PBL-	Pawn Broker Location - Renewal Application	Paid	\$275.00	\$0.00	05/12/2023
122365	PBL-	Pawn Broker Location - Renewal Application	Paid	\$275.00	\$0.00	05/27/2022
103762	PBL-	Pawn Broker Location - Renewal Application	Paid	\$275.00	\$0.00	06/09/2021
85707	PBL-	Pawn Broker Location - Renewal Application	Paid	\$275.00	\$0.00	06/03/2020
66829	PBL-	Pawn Broker Location - Renewal Application	Paid	\$275.00	\$0.00	06/11/2019

Security Features of Online Licensing System



Limit roles for each employee to those necessary to do his/her particular job



System masks sensitive data



Audit logs & History of Changes



Electronic payments made through 3rd party vendor

Communications



NOTICE: RENEWALS FOR PRENEED FUNERAL CONTRACTS

The renewal period for Preneed Funeral Contracts begins on August 1, 2023. All renewal documents and fees **must be submitted/postmarked by September 30, 2023.**

The **fastest and easiest** way to renew is by filing **ONLINE** today using the Department's Licensure Gateway. Go to consumer.sc.gov, click on "How do I..." then, "Get a license?" Please use the email address and password you first registered with to login. When filing online, you can pay your renewal fee using a credit card without paying a convenience fee!

A free webinar on the renewal online process will be held on August 16, 2023, at 2 p.m. If you would like to register, please visit consumer.sc.gov/upcoming-presentationswebinar.

NOTE: *This is the only renewal notice you will receive by mail. Update your email address in the Licensure Gateway to ensure receipt of future notices.*

Questions? Stacy Staley
(803) 734-4251
ssstaley@scconsumer.gov



Materials for Athlete Agent

What is the difference between the Agency contract and the NIL contract?

Agency contract= contract between athlete and agent; provides for athlete to compensate agent to negotiate NIL contract(s) on behalf of the athlete

NIL contract= contract between athlete and third party; provides for third party to compensate athlete for use of athlete's name, image, or likeness to endorse third party's product or service

What contracts must be submitted to SCDCA for review right now and where do they need to be sent?

A sample Agency contract to negotiate NIL activities for an athlete must be submitted to

Athlete Agents Act & Interplay with NIL Act

Kelly H. Rainsford
Deputy Administrator/General Counsel

Kerri L. Boyer
Licensing Attorney



www.consumer.sc.gov • 800-922-1594



Business Webinar Announcement

Topic: Preneed Funeral Contract Renewals

The Department will discuss the renewal process including how to file online. The renewal period for Preneed Funeral Contracts began on August 1, 2023. All renewal documents and fees must be submitted/postmarked by September 30, 2023.

When: Wednesday, August 16, 2023, 2-3 p.m.

Presenters:
Deborah Friday Lockard,
SCDCA Licensing Supervisor

Kerri Boyer
SCDCA Licensing Attorney

[Register Now!](#)

After registering, you will receive a confirmation email containing information about joining the webinar. There will be time allotted at the end for questions.



consumer.sc.gov • (800) 922-1594

Reporting- Mortgage Log

- Mortgage Log Data required to be tracked starting January 1, 2010
- Applies to mortgage brokers and mortgage lenders

Mortgage Log 2022

****NOTE:** Completed Mortgage Logs are due by **March 31, 2023.****

- [Mortgage Log Data Entry Form \(XLSX\)*](#)
- [Mortgage Log Instructions & FAQs \(PDF\)](#)
- [How to Export from HMDA Software \(PDF\)](#)
- [HMDA Loan Application Register Code Sheet \(PDF\)](#)

*When opening the Excel file, you must choose "Save As" and save it to your computer.

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1	INTRODUCTION	PAGE 2
2	APPLICANT DATA <ul style="list-style-type: none">- Applicant Gender, <i>Table 1</i>- Applications with a Co-applicant, <i>Table 2</i>- Co-applicant Gender, <i>Table 3</i>- Applicant Race, <i>Table 4</i>- Applicant Ethnicity, <i>Table 5</i>	PAGE 3
3	APPLICATION DATA <ul style="list-style-type: none">- Application Action, <i>Table 6</i>- Reason for Denial, <i>Table 7</i>	PAGE 6
4	PROPERTY DATA <ul style="list-style-type: none">- Property Type, <i>Table 8</i>- Owner-Occupancy, <i>Table 9</i>- Average Appraised Value of Property, <i>Table 10</i>	PAGE 8
5	MORTGAGE LOAN DATA <ul style="list-style-type: none">- Loan Purpose, <i>Table 11</i>- Loan Type, <i>Table 12</i>- Reverse vs. Non-Reverse Mortgage, <i>Table 13</i>- Loan Term, <i>Table 14</i>	PAGE 10
6	GENERAL DATA OF APPROVED LOANS <ul style="list-style-type: none">- Average Loan Amount, <i>Table 15</i>- Average APR, <i>Table 16</i>- Borrower's Average Income, <i>Table 17</i>- Borrower's Average Credit Score, <i>Table 18</i>	PAGE 13

SOUTH CAROLINA MORTGAGE

To assist licensees with filing the annual mortgage log, this detailed set of instructions that contain the definitions of the data element correctly, and an example that shows the correct format and not necessarily the correct answer or value (code) is based on the

South Carolina law requires all mortgage brokers and mortgage lenders to file their annual mortgage log directly with the State of South Carolina. **This log is filed with the Nationwide Multistate Licensing System & Registry (NMLS).** The mortgage log submitted must be filed with the Department of Consumer Affairs ("DCA") and the South Carolina Board of Financial Institutions (SCBOFI) instructs its licensees to file directly with DCA. After completing and submitting the mortgage log to DCA.

Who has to file?

- All licensed **mortgage brokers** must file pursuant to the number of loan originations made in 2022. The Code Ann. § 40-58-65 and identified in 12 CFR mortgage applications and loans, including loans and withdrawals. If no credit decision was made during the year, the broker must file "No Activity." Third Party Processors and Underwriters – Third Party Processor/Underwriter."
- All licensed **mortgage lenders/servicers** must file pursuant to the number of loan originations made in 2022 by S.C. Code Ann. § 37-22-210 and identified in residential mortgage applications and loans. If no credit decision was made during the year, the lender or the lender on any South Carolina residential mortgage must file written attestation of "No Activity." Mortgage Servicer – Mortgage Servicer."

When is the mortgage log due?

A complete mortgage log must be submitted no later than June 30 for mortgage brokers and § 37-22-210 for mortgage lenders or incomplete data submissions.

How do I submit the mortgage log?

Email the completed form to mortgagelog@scconsumer.com
Company NMLS # – Company Name

What if information changes after I submit the report?

All licensees are required to correct and submit a corrected original filing becomes inaccurate or incomplete in any way.

Who is available to answer questions about the mortgage log?

After searching these instructions, state laws, and supplier information, contact DCA by calling (803) 734-4256 or emailing mortgagelog@scconsumer.com

1. Export Data on Data Entry Software.

HMDA Data Entry Software

Transmittal

- Add
- Update
- Delete

LAR
(Loan / Application Register)

- Add
- Update
- Delete

Report

- Error
- Data
- Institution
- Submit

Data Upload

- Batch
- Import
- Submit

Select "Continue."

Submission Checklist

Submission Checklist

- You must run a Batch Edit and correct all errors before you can submit a validity-free submission. Failure to run a Batch Edit before submission may result in the rejection of your submission.
- Select 'Submission via Web' to use the mortgage log when submitting HMDA data. See the Help document for more details.

Run Batch Edit... **Continue**

LOAN/APPLICATION REGISTER CODE SHEET

Use the following codes to complete the Loan/Application Register. All columns (except Reasons for Denial) must be completed for each entry. See the HMDA LAR for guidance regarding the proper use of each code listed below.

Application or Loan Information Loan Type: (C) 1 – Conventional (any loan other than FHA, VA, FSA, or RHS loans) 2 – FHA-insured (Federal Housing Administration) 3 – VA-guaranteed (Veterans Administration) 4 – FSA/RHS-guaranteed (Farm Service Agency or Rural Housing Service)	Action Taken: (I) 1 – Loan originated 2 – Application approved but not accepted 3 – Application denied by financial institution 4 – Application withdrawn by applicant 5 – File closed for incompleteness 6 – Loan purchased by your institution 7 – Preapproval request denied by financial institution 8 – Preapproval request approved but not accepted (optional reporting)	Type of Purchaser: (V) 0 – Loan was not originated 1 – Fannie Mae 2 – Ginnie Mae 3 – Freddie Mac 4 – Farmer Mac 5 – Private securitization 6 – Commercial bank, savings and loan, or credit union 7 – Life insurance company 8 – Affiliate institution 9 – Other type of purchaser
Property Type: (D) 1 – One to four-family (other than manufactured housing) 2 – Manufactured housing 3 – Multifamily	Applicant Information Ethnicity: (O) (P) 1 – Hispanic or Latino 2 – Not Hispanic or Latino 3 – Information not provided by applicant in mail, Internet, or telephone application (see App. A, I.D.2.) 4 – Not applicable 5 – No co-applicant	Reasons for Denial (optional) 1 – Debt-to-income ratio 2 – Employment history 3 – Credit history 4 – Collateral 5 – Insufficient cash (down payment) 6 – Unverifiable information 7 – Credit application incomplete 8 – Mortgage insurance 9 – Other
Purpose of Loan: (E) 1 – Home purchase 2 – Home improvement 3 – Refinancing	Race: (Q) (R) 1 – American Indian or Alaska Native 2 – Asian 3 – Black or African American 4 – Native Hawaiian or Other Pacific Islander 5 – White 6 – Information not provided by applicant in mail, Internet, or telephone application (see App. A, I.D.2.) 7 – Not applicable 8 – No co-applicant	Other Data HOEPA Status: (only for loans originated on or after January 1, 2013) 1 – HOEPA loan 2 – Not a HOEPA loan
Owner-Occupancy: (F) 1 – Owner-occupied as a principal dwelling 2 – Not owner-occupied 3 – Not applicable	Sex: (S) (T) 1 – Male 2 – Female 3 – Information not provided by applicant in mail, Internet, or telephone application (see App. A, I.D.2.) 4 – Not applicable 5 – No co-applicant	Lien Status (only for applications for new loans) 1 – Secured by a first lien 2 – Secured by a subordinate lien 3 – Not secured by a lien 4 – Not applicable (purpose of loan)
Preapproval (home purchase loans only): (H) 1 – Preapproval was requested 2 – Preapproval was not requested 3 – Not applicable		

2022 MORTGAGE LOG DATA REPORT

JUNE 30, 2023

South Carolina
DEPARTMENT OF CONSUMER AFFAIRS

ADMINISTRATOR/ CONSUMER ADVOCATE: CARRI GRUBE LYBARKER

293 GREYSTONE BLVD., SUITE 400 / P.O. BOX 5757

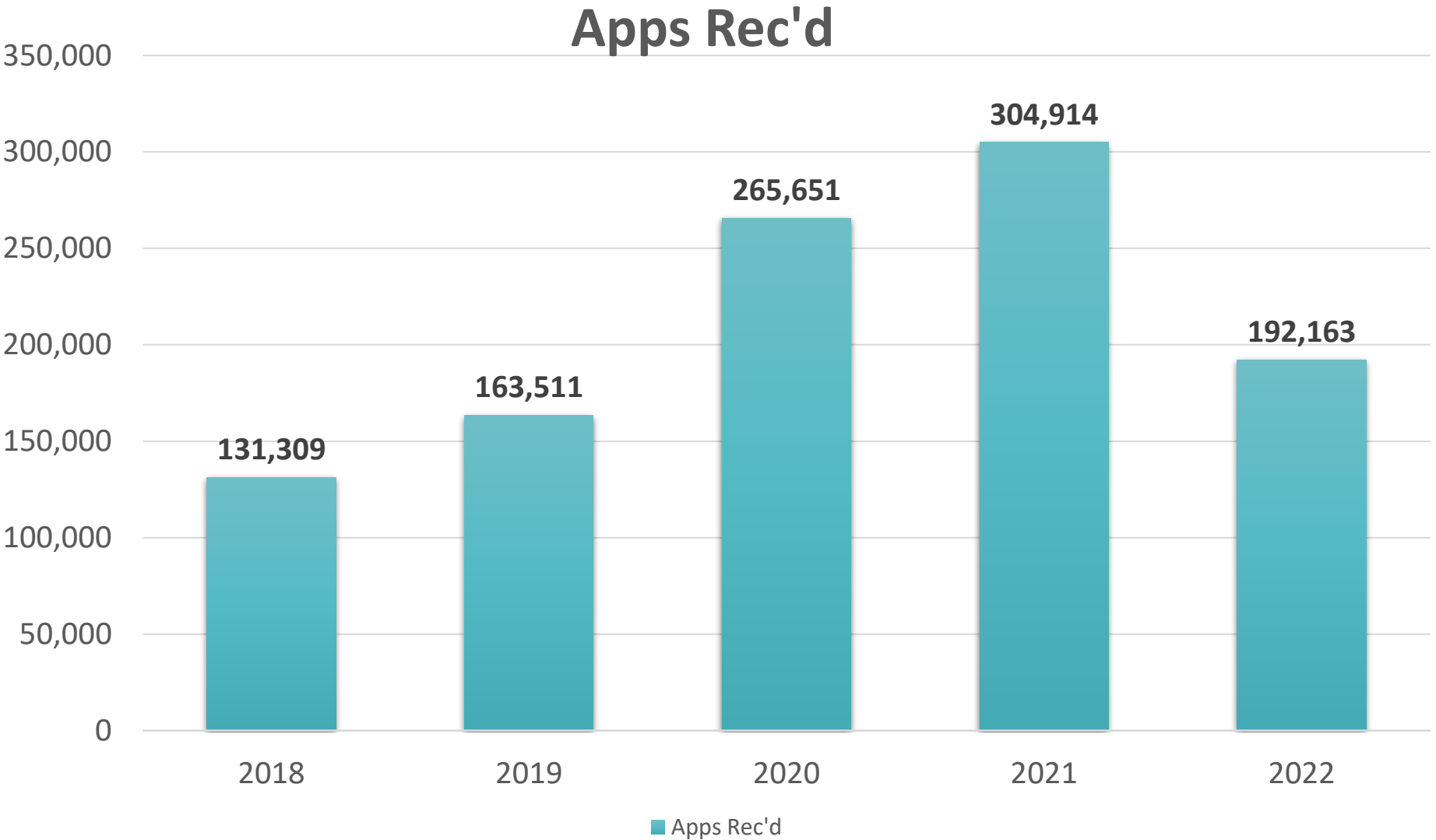
COLUMBIA, SOUTH CAROLINA 29250

803-734-4200 | FAX: 803-734-4229

CONSUMER.SC.GOV

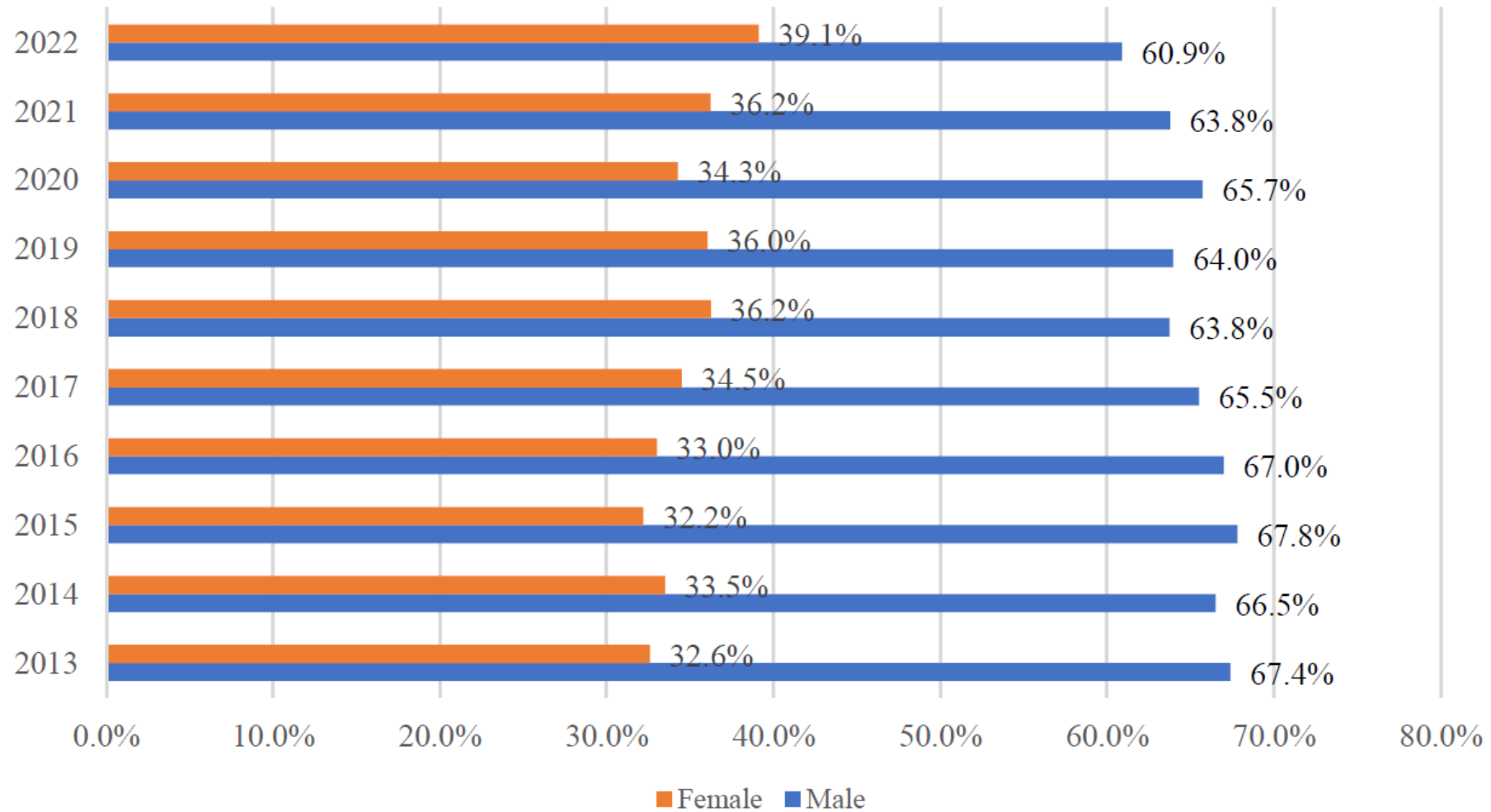
South Carolina
DEPARTMENT OF CONSUMER AFFAIRS

consumer.sc.gov • (800) 922-1594



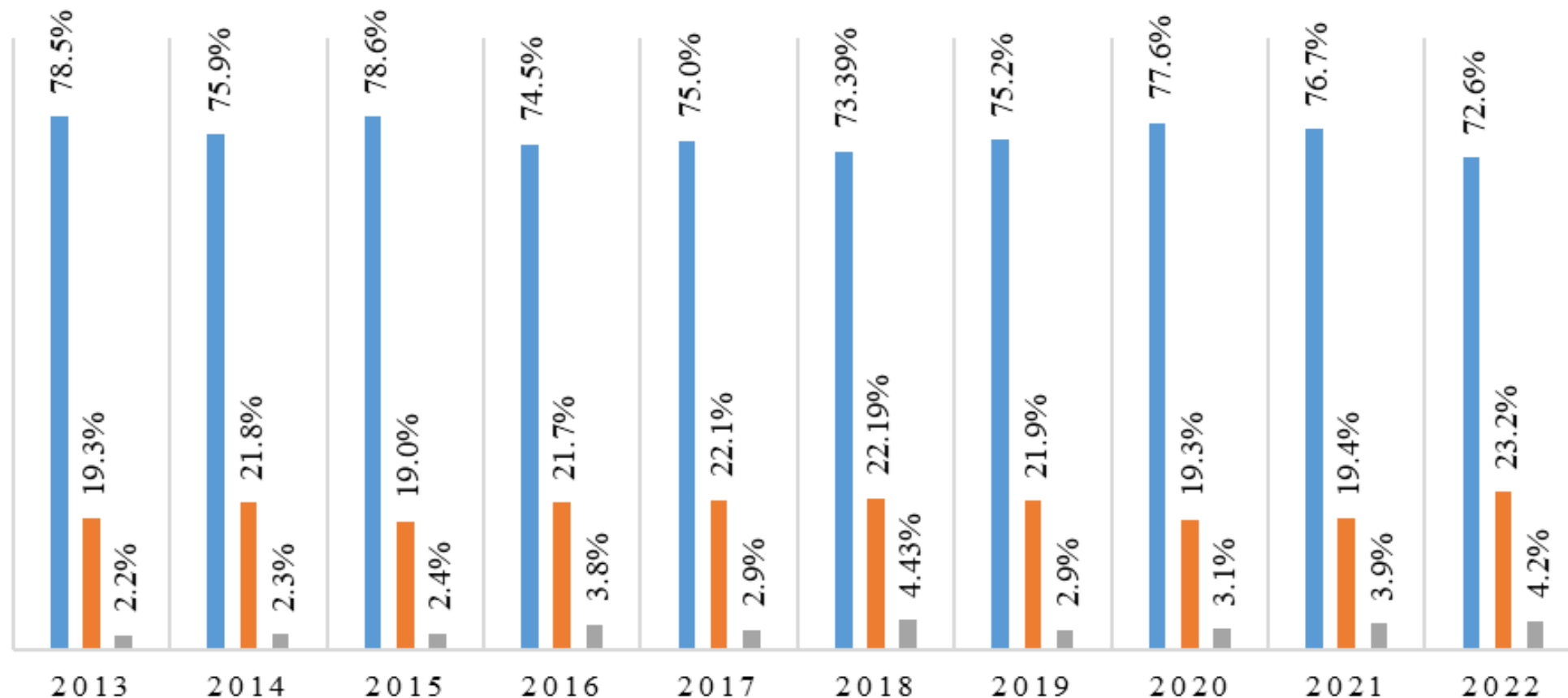
APPLICANT GENDER

LOC Page 161



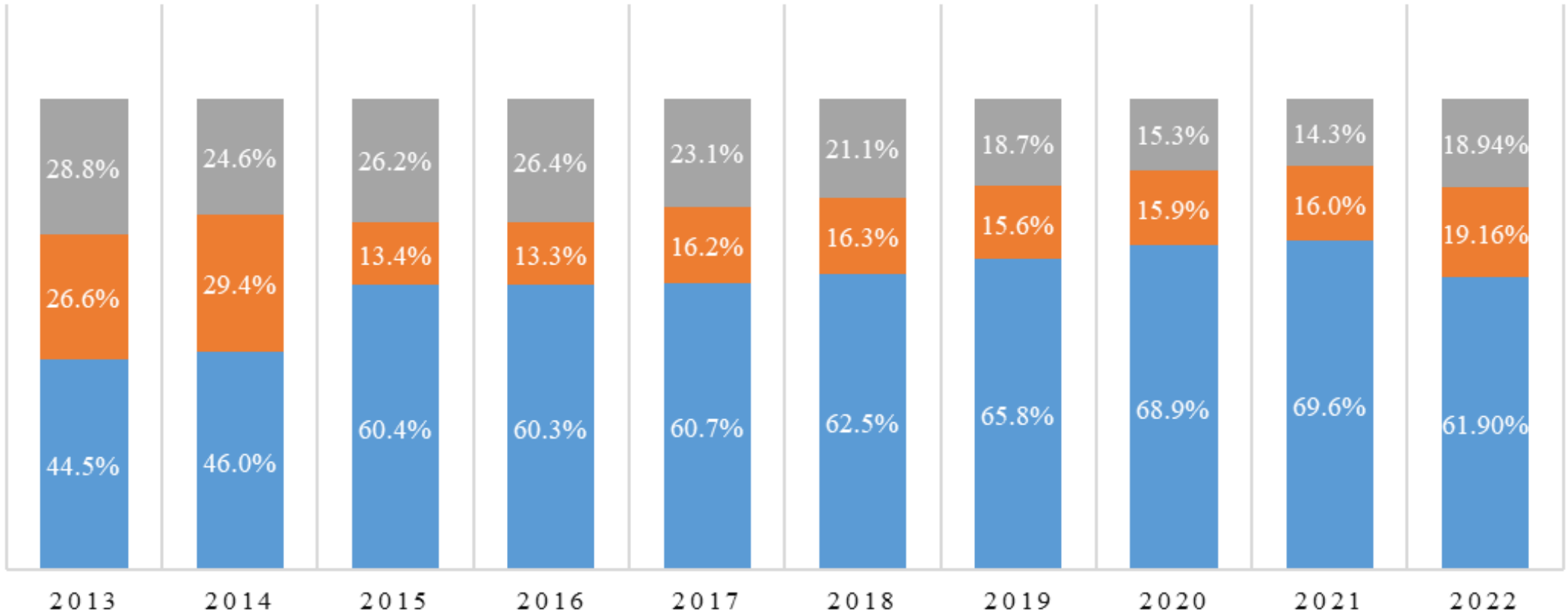
APPLICANT RACE

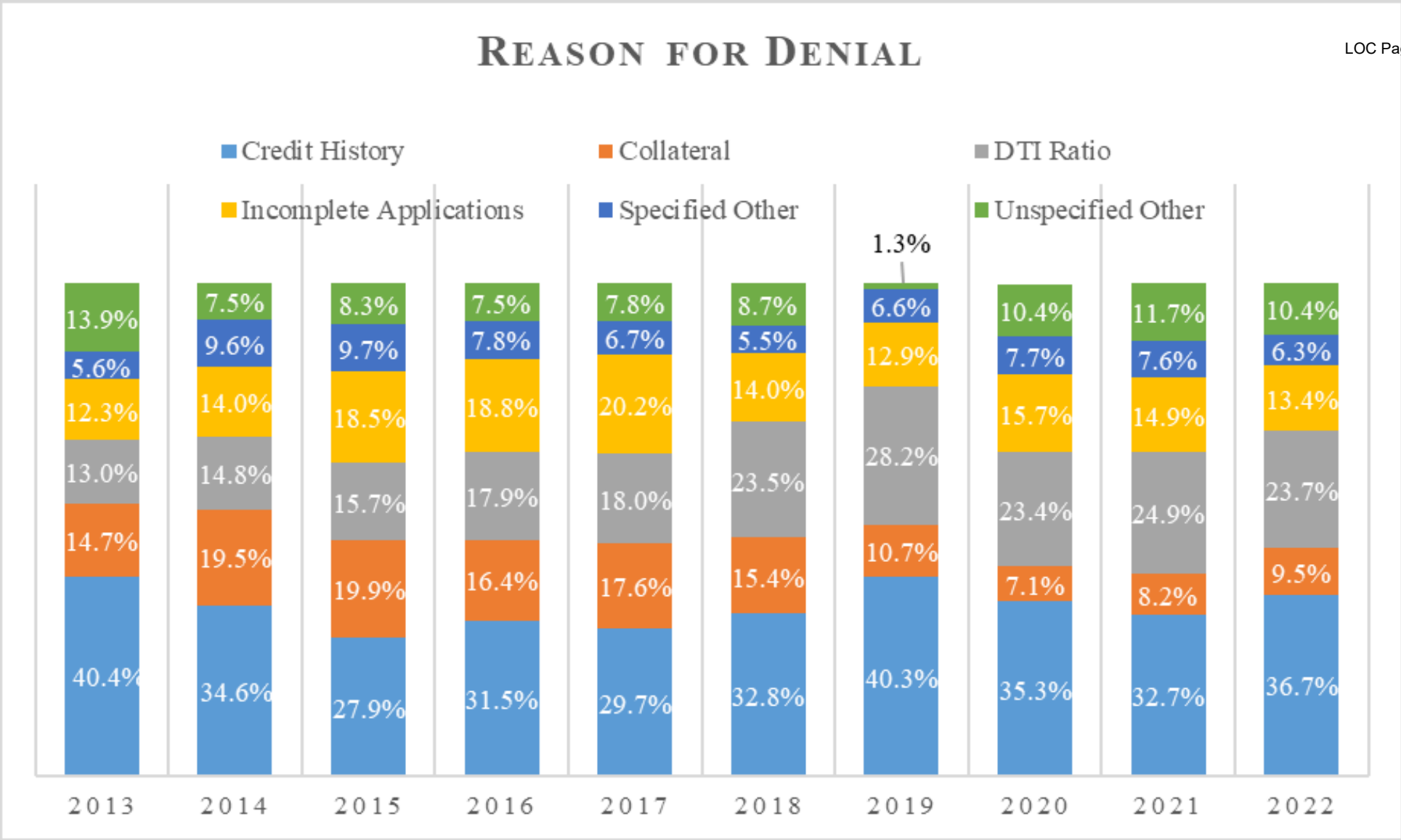
■ White ■ African American ■ Other



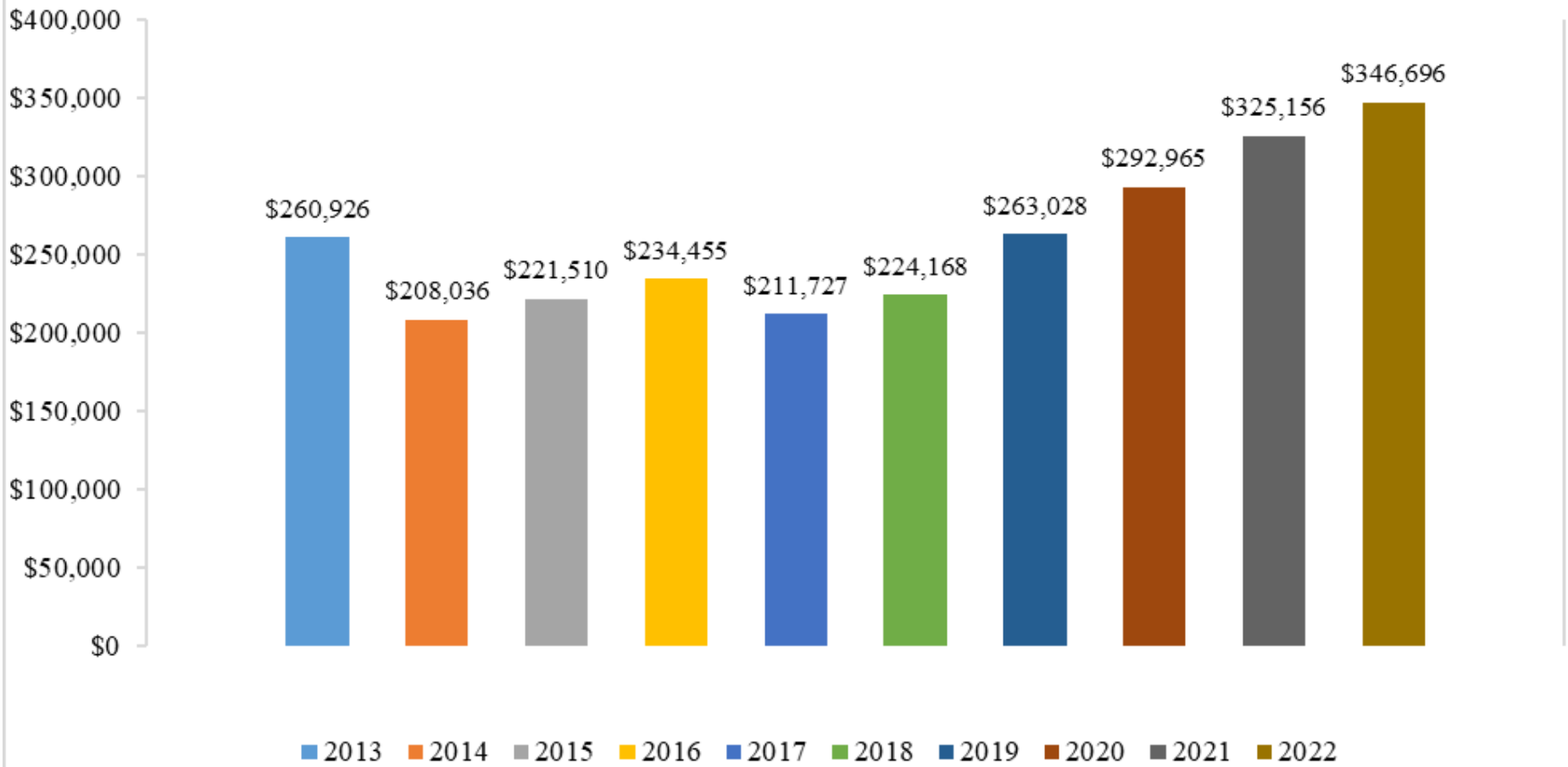
APPLICATION ACTION

Approved Withdrawn Denied

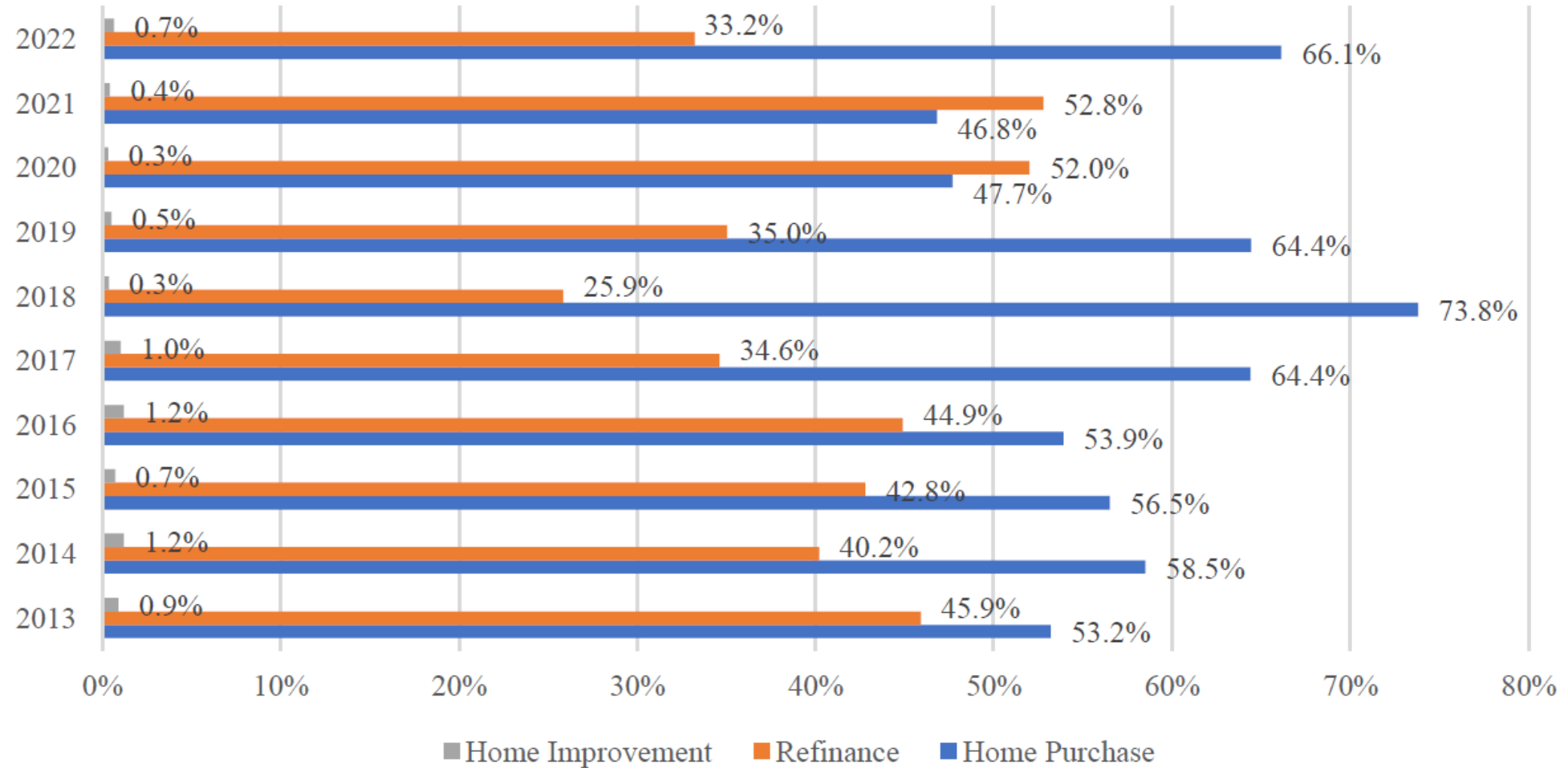




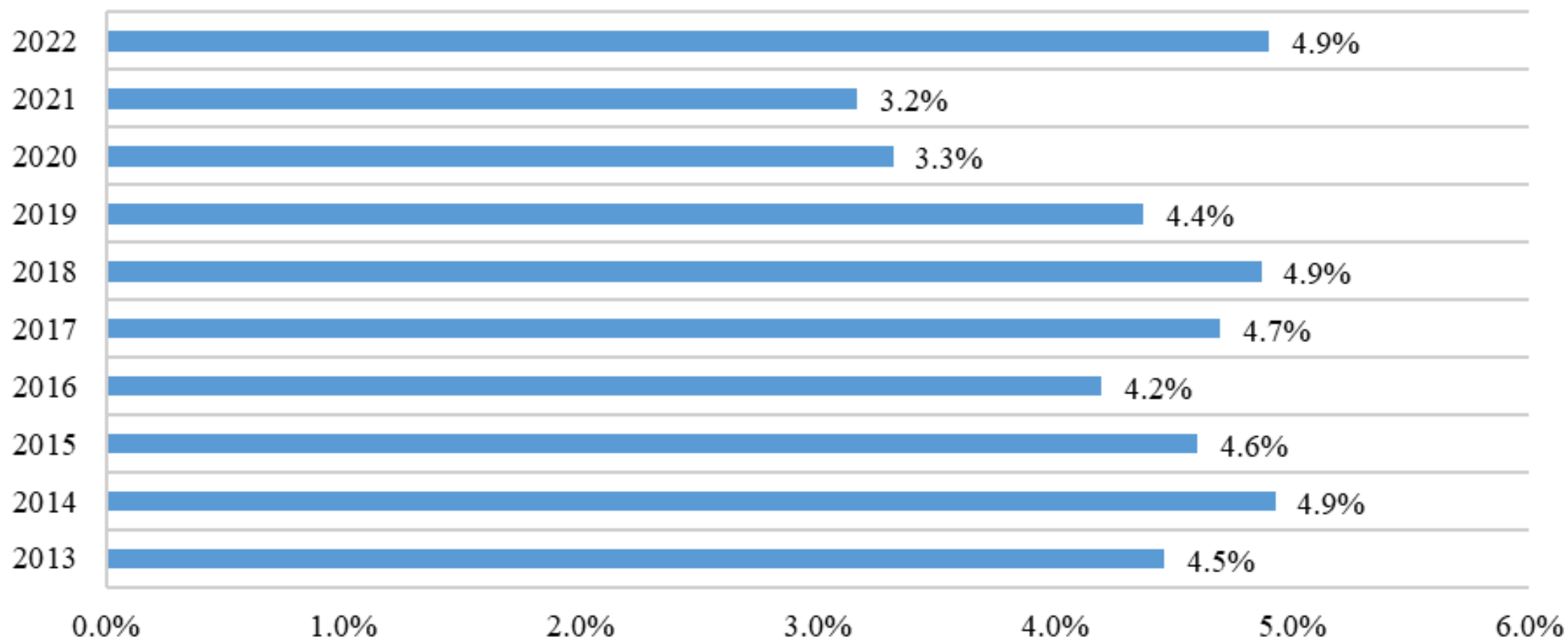
AVERAGE APPRAISED VALUE OF COLLATERAL



LOAN PURPOSE



AVERAGE APR



Other Reporting Requirements



Physical Fitness



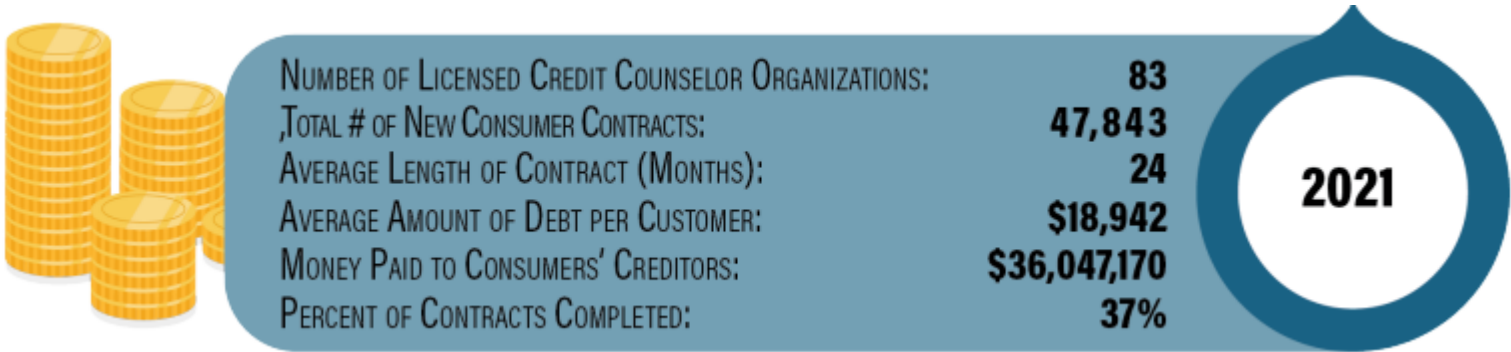
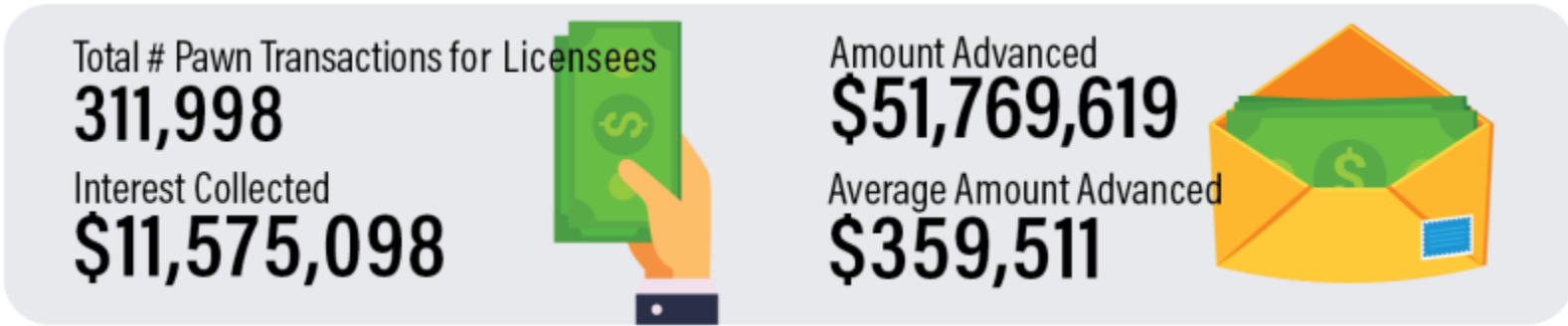
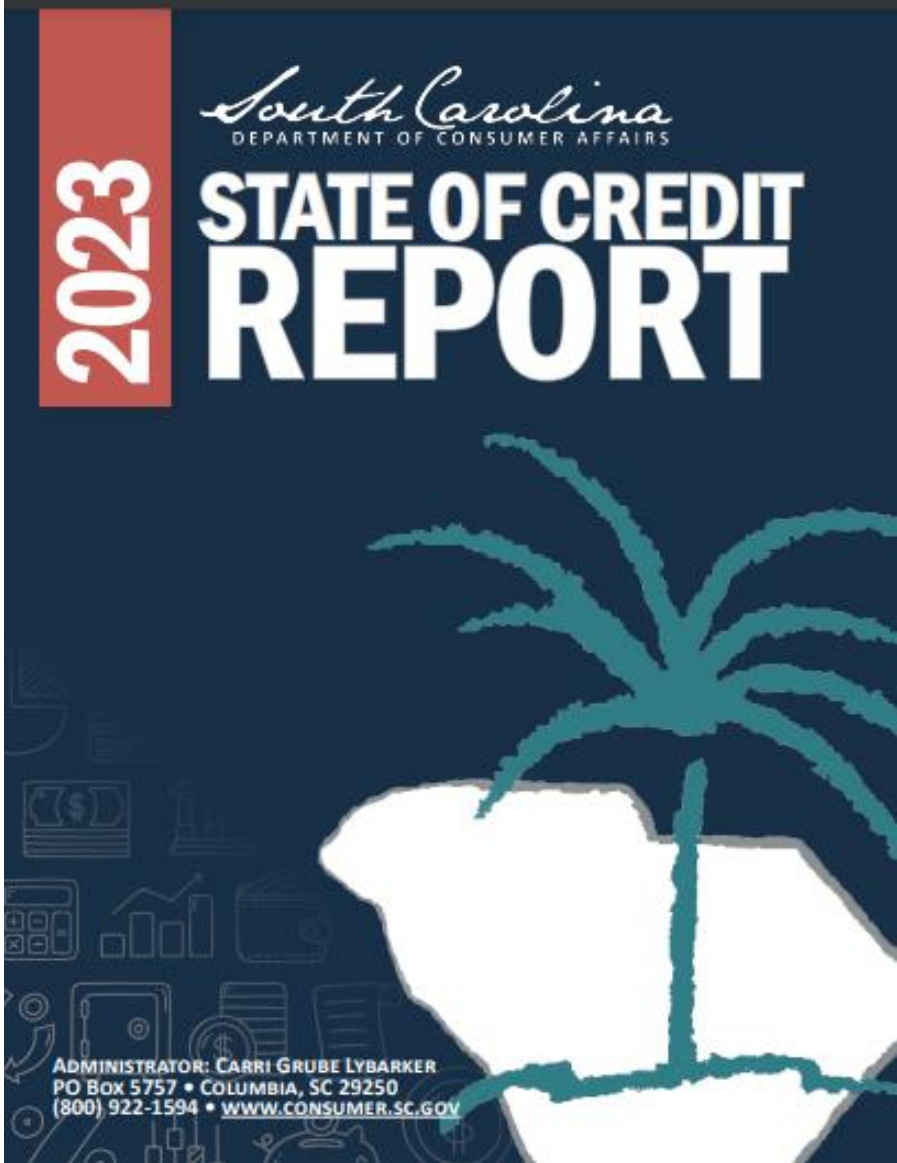
Credit Counseling



Professional Employer Organizations



Pawnbrokers



Support Team



Support Team Members

- Vacant, Paralegal
- Teresa DiVittorio-Burns, Legal Assistant (2021)
- Stacey Neals, Administrative Assistant (2019)

Support Team Functions



General Support for Legal

- Mail
- Backup (phones, licensing)

LOC Page 172



Preneed Contracts



Dealer Closing Fees (>\$225)

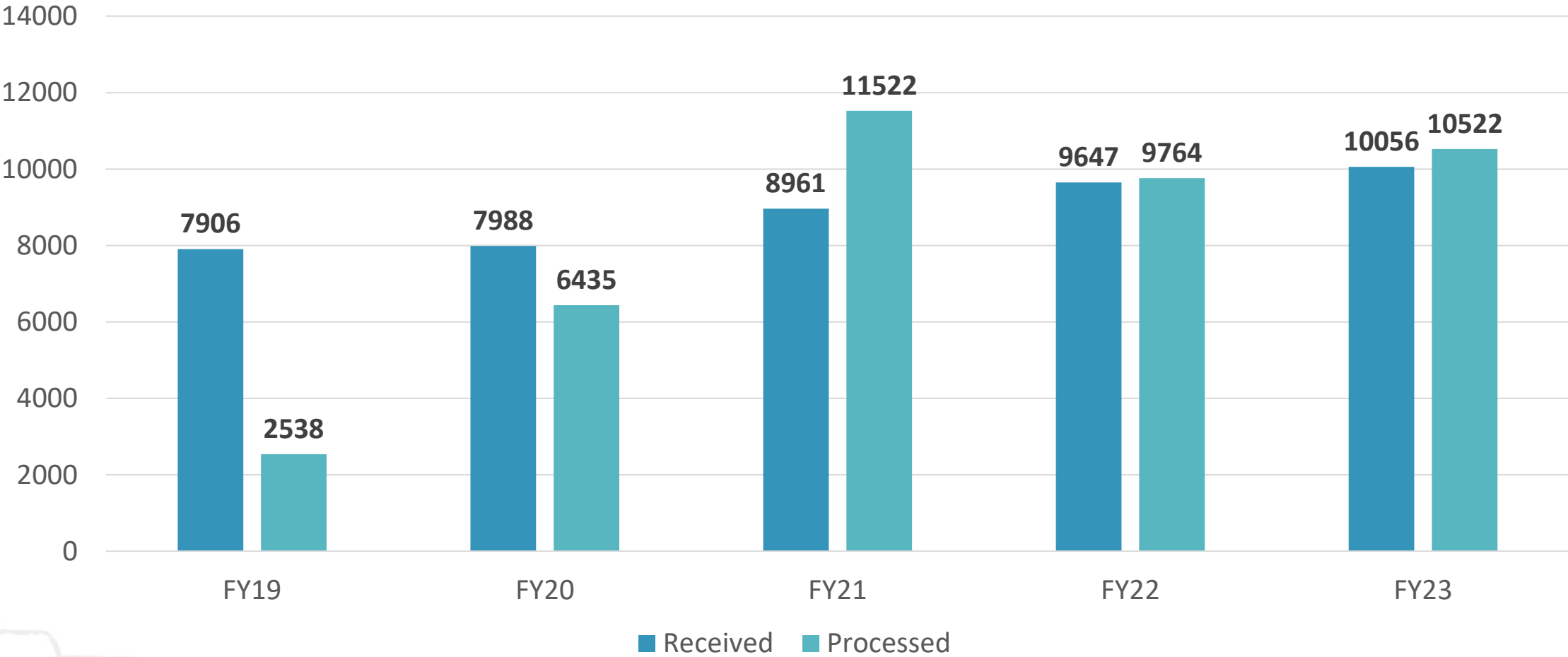


Security Breach Notices

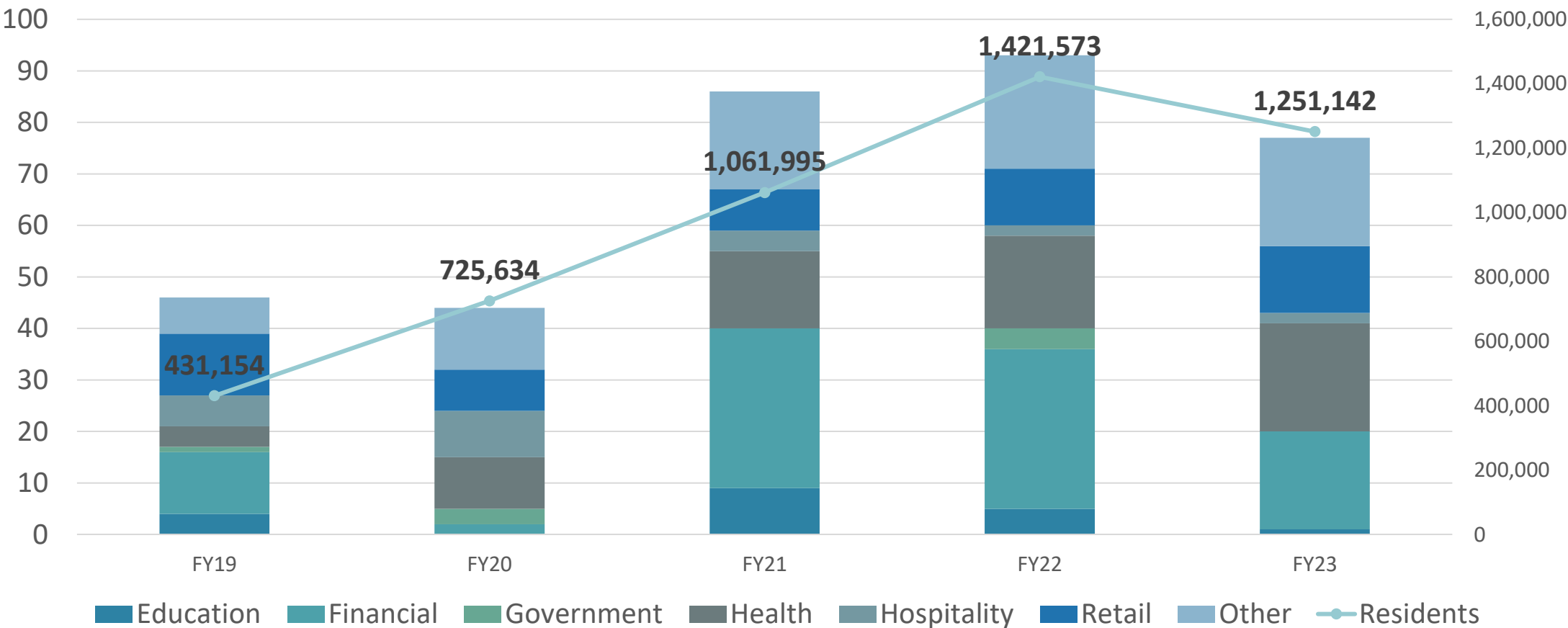


Lemon Law

Preneed Contracts



Security Breach Notices



consumer.sc.gov/index.php/business
-resourceslaws/reporting-security-
breach-businesses

Reporting a Security Breach - Businesses

****If you are a consumer who has been affected by a security breach and would like more information on how to keep your personal information safe, please see our [ID Theft](#) page for additional resources. To view breach notices received by the Department, see our [Security Breach Notices](#) page.****

Notifications

To aid in combating identity theft, South Carolina passed the Financial Identity Fraud and Identity Theft Protection Act ("FIFITPA") in 2008. Among other things, FIFITPA imposes security breach notification requirements on private business and public bodies. If a business sends notice of a data security breach to 1,000 or more South Carolina residents at one time, the business must also notify the Department and the national credit reporting agencies. When sending notice to consumers, breached entities should include contact information for the Department so consumers may seek additional help from the Identity Theft Unit. When a business is required to notify the Department of a breach, the notice should include all of the following:

1. Date of the breach;
2. Date business became aware of the breach;
3. Date notice was/will be sent to affected consumers;
4. Method of consumer notification (i.e., direct mail, electronic mail, etc.)
5. Number of affected South Carolina consumers;
6. Content of the consumer notice (i.e., copy of the letter sent to consumers); and
7. Action taken to avoid future breaches.

Breach notifications should be sent to the Department's Legal Division, P.O. Box 5757, Columbia, SC 29250 or emailed to scdca@scconsumer.gov.

For more information on the applicable laws in South Carolina, refer to the [Identity Theft & The Law: A Guide for Business and Government \(PDF\)](#)

Security Breach Webpage

Security Breach Notices

Breach notices updated through 10/2/2023.

Organization Name	Date Reported	Affected SC Residents
Builders Mutual Insurance Company	10/2/2023	1,992
Financial Institution Service Corporation	9/29/2023	9,870
Francesca's Acquisition LLC	9/26/2023	1,161
U.S. Waffle, Inc.	9/26/2023	2,558
National Student Clearinghouse ←	9/22/2023	2,363
Unum Group	9/19/2023	10,527
Radius Global Solutions	9/18/2023	1,781
Upstream RollCo. LLC.	9/18/2023	21,295



National Student
Clearinghouse®

<<first_name>> <<middle_name>> <<last_name>> <<suffix>>
 <<address_1>>
 <<address_2>>
 <<city>>, <<state_province>> <<postal_code>>
 <<country>>

NOTICE OF DATA BREACH

Dear <<First_Name>> <<Last_Name>>,

We are writing on behalf of <<data owner name>> to notify you of an issue that involves your personal information. As you may be aware, National Student Clearinghouse (the "Clearinghouse") provides educational reporting and verification services to educational institutions, students and alumni, employers, and other organizations.

RECEIVED

SEP 22 2023

DEPT. OF CONSUMER
AFFAIRS

<<Date>> (Format: Month Day, Year)

consumer.sc.gov/identity-theft-unit/security-breach-notices

Additional Duties

Lemon Law

- §§ 56-28-20, -90 & -100
- Only applies to new vehicles

Advertising

- Credit sales, leases, loans (§ 37-2-304, -3-304)
- Motor Vehicles sales & leases (§37-2-308)

FOIA

- Compile records and redact pursuant to DCA policy

Litigation Support

- Redaction
- Copies
- Legal Research
- Drafting

Investigator Team

Investigator Team Members

- Ken Middlebrooks, Chief Investigator (2000)
- Joni Green, Deputy Chief Investigator (2006)

Bryon Gibbs
Field Investigator
(2014)

Robert Johnson
Field Investigator
(2020)

James Breeden
Investigator
(2018)

Investigator Purposes

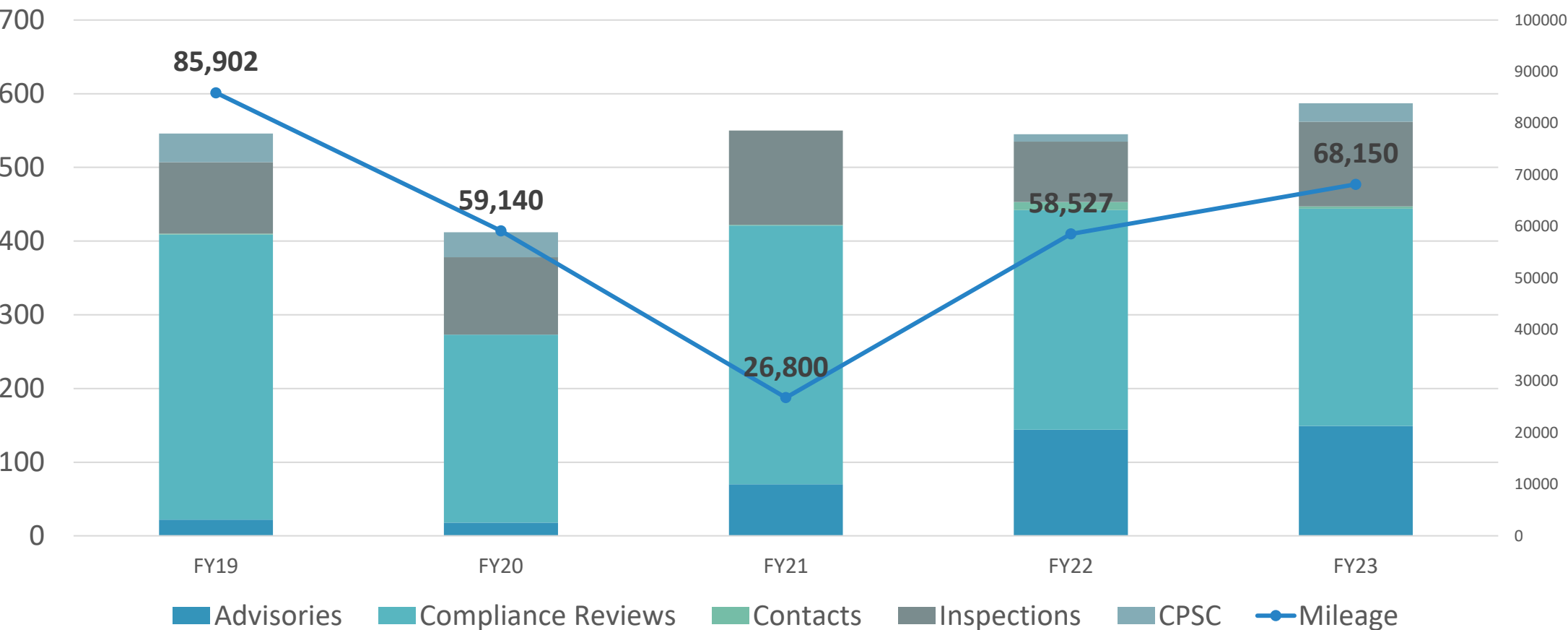
Educate businesses

Get businesses in compliance

Assist with consumer complaints

Investigate matters under DCA's jurisdiction

Investigator Activities FY19–FY23



Investigator Activities (DCA)



Compliance Review

In-depth review (varies for each type of business)
More documents than an inspection



Inspection

High-level review
Limited number of documents



Advisory

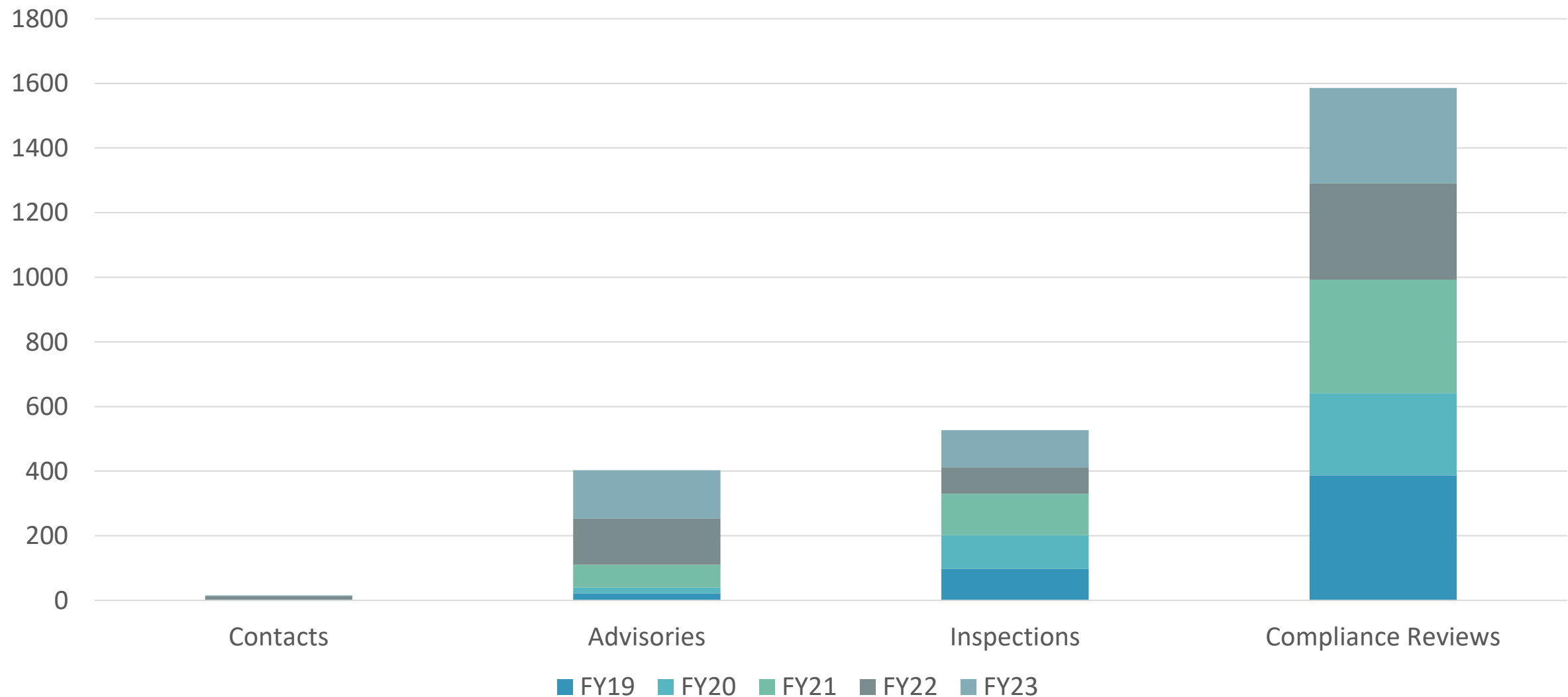
Usually within 6 months of opening/licensing, visit business and advise how to comply with the law



Contact

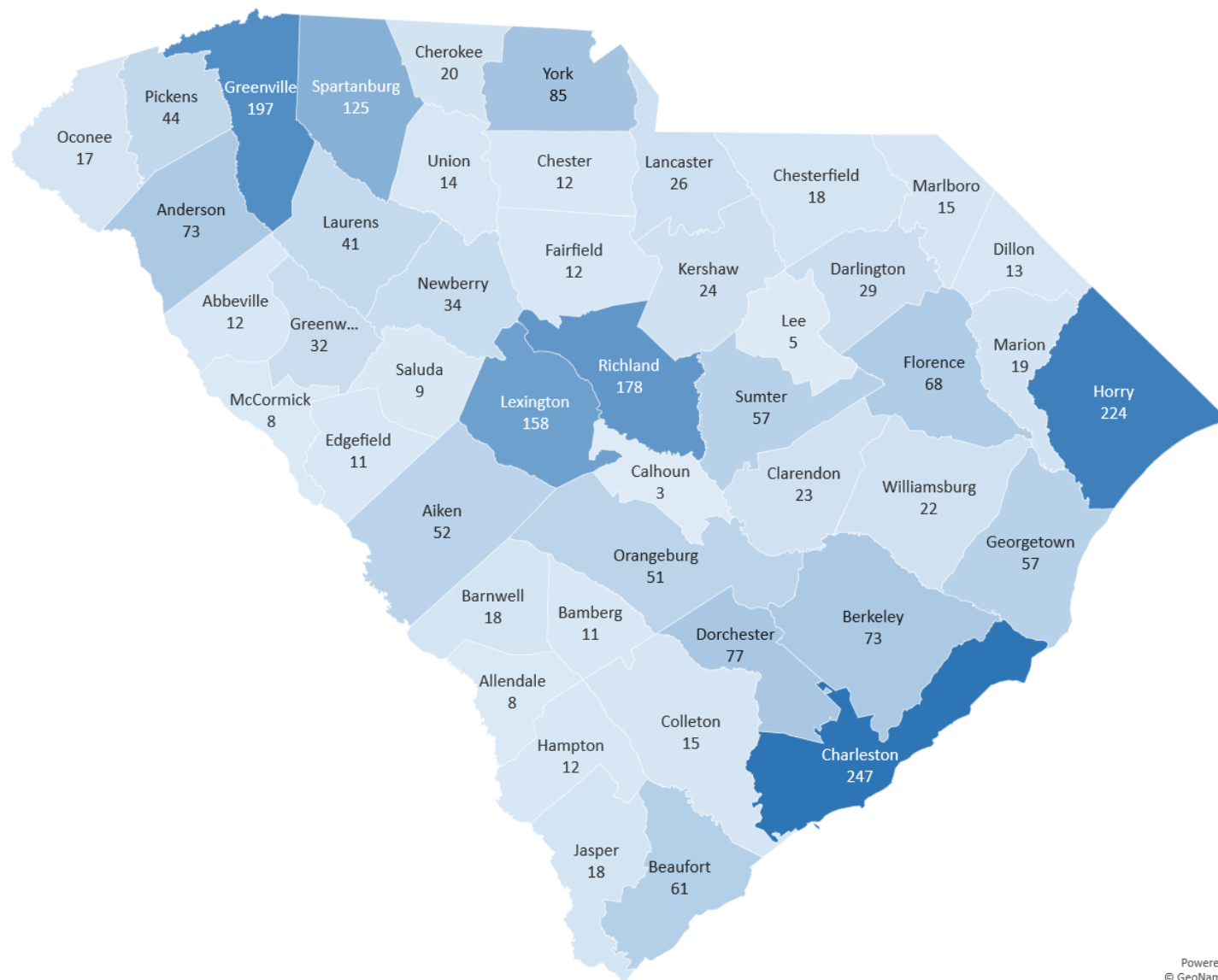
Visit businesses that don't yet have a license or a bond and advise what activities would trigger the requirements to get a license or bond

Investigator Activities (DCA) FY19–FY23



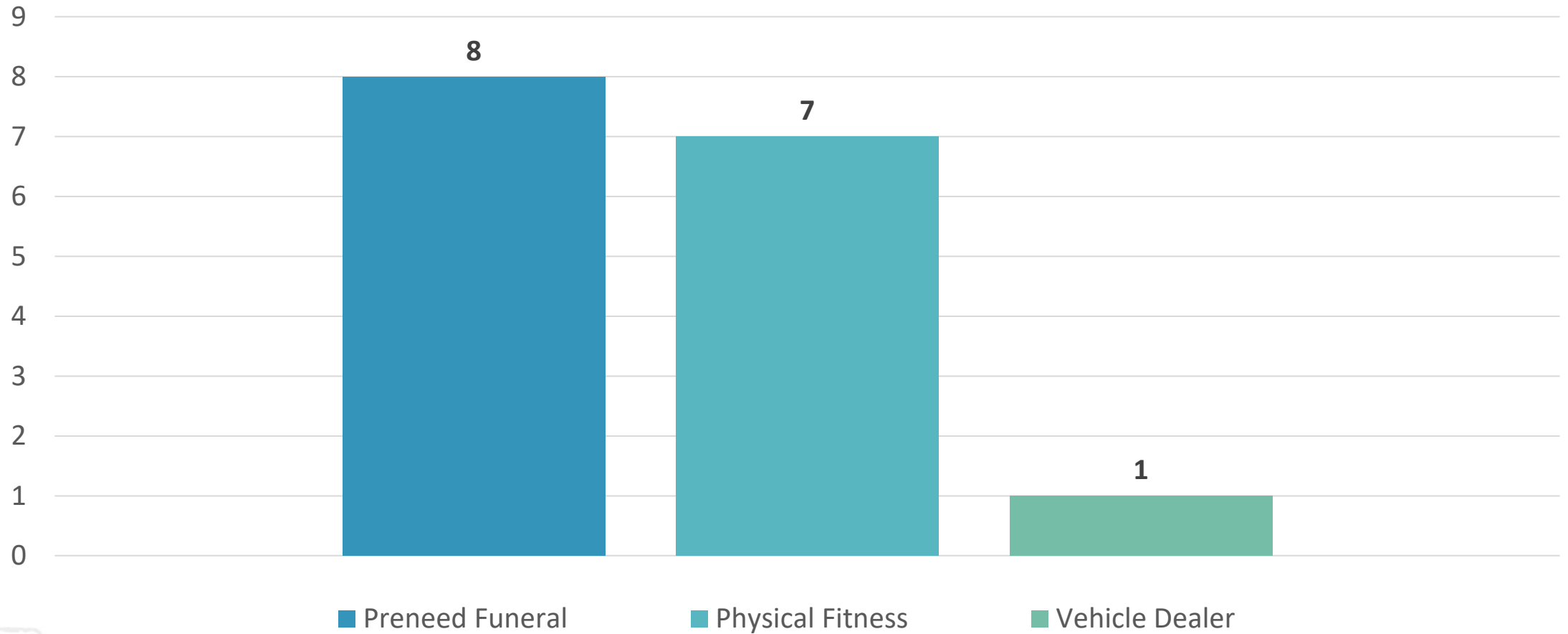
Investigator Activities (DCA) FY19–FY23

- Low Country: 594
- Midlands: 689
- Pee Dee: 550
- Upstate: 495
- *Out-of-State: 204*



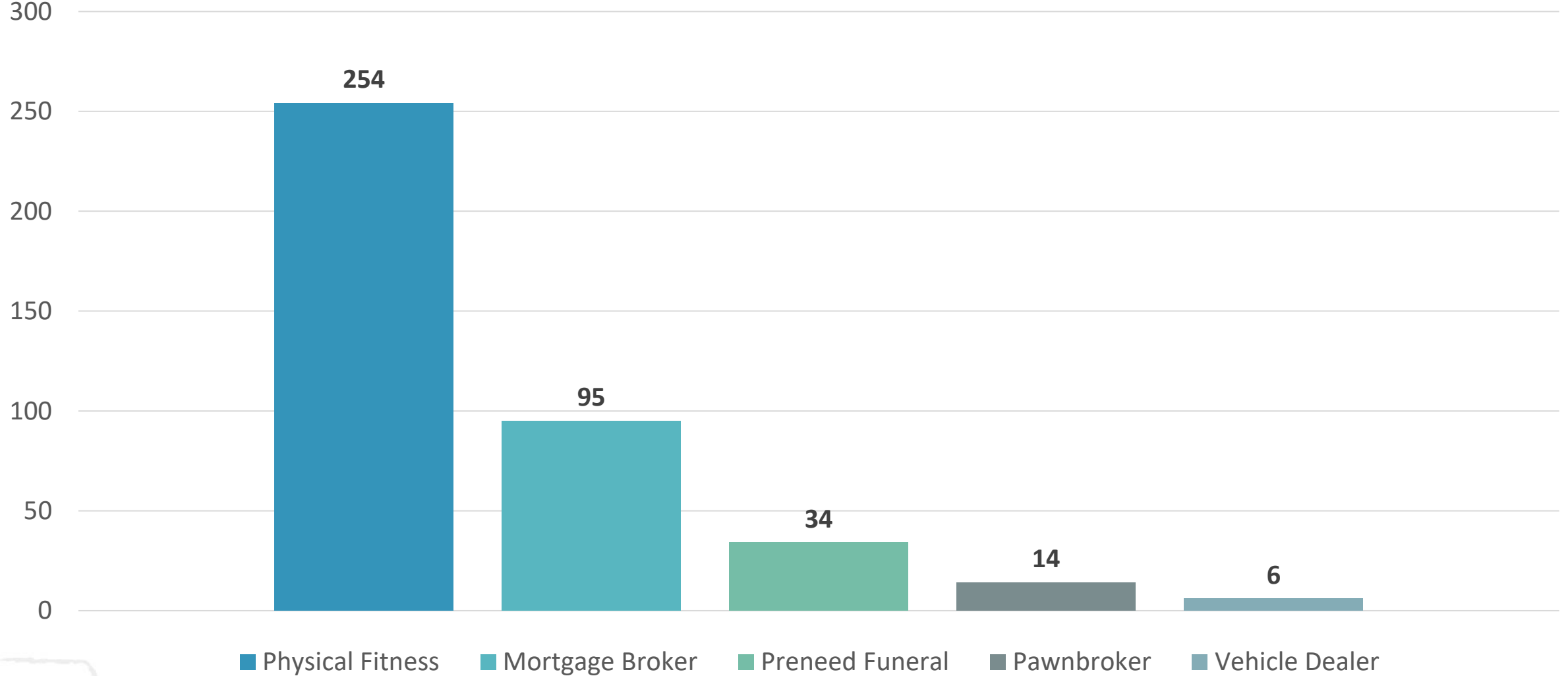
Contacts (FY19–FY23)

LOC Page 185



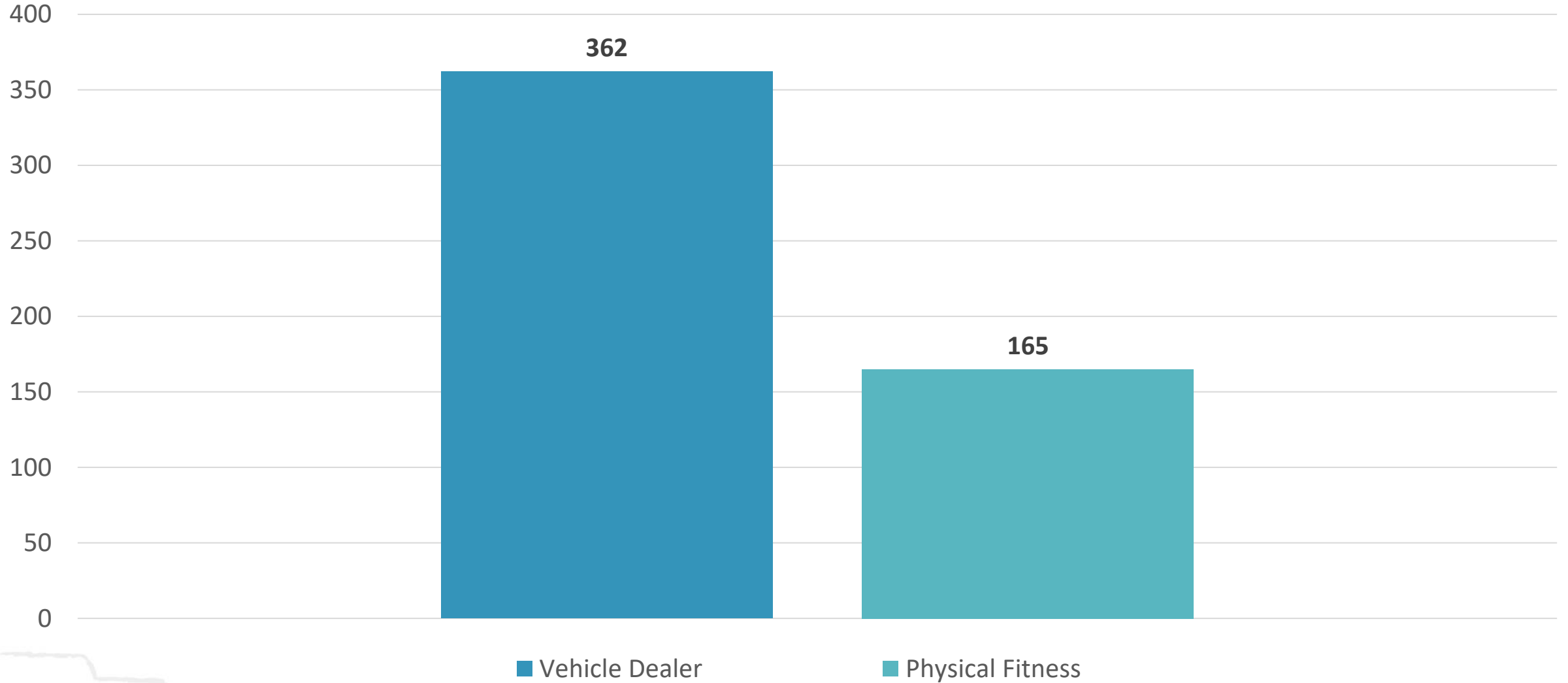
Advisories (FY19–FY23)

LOC Page 186

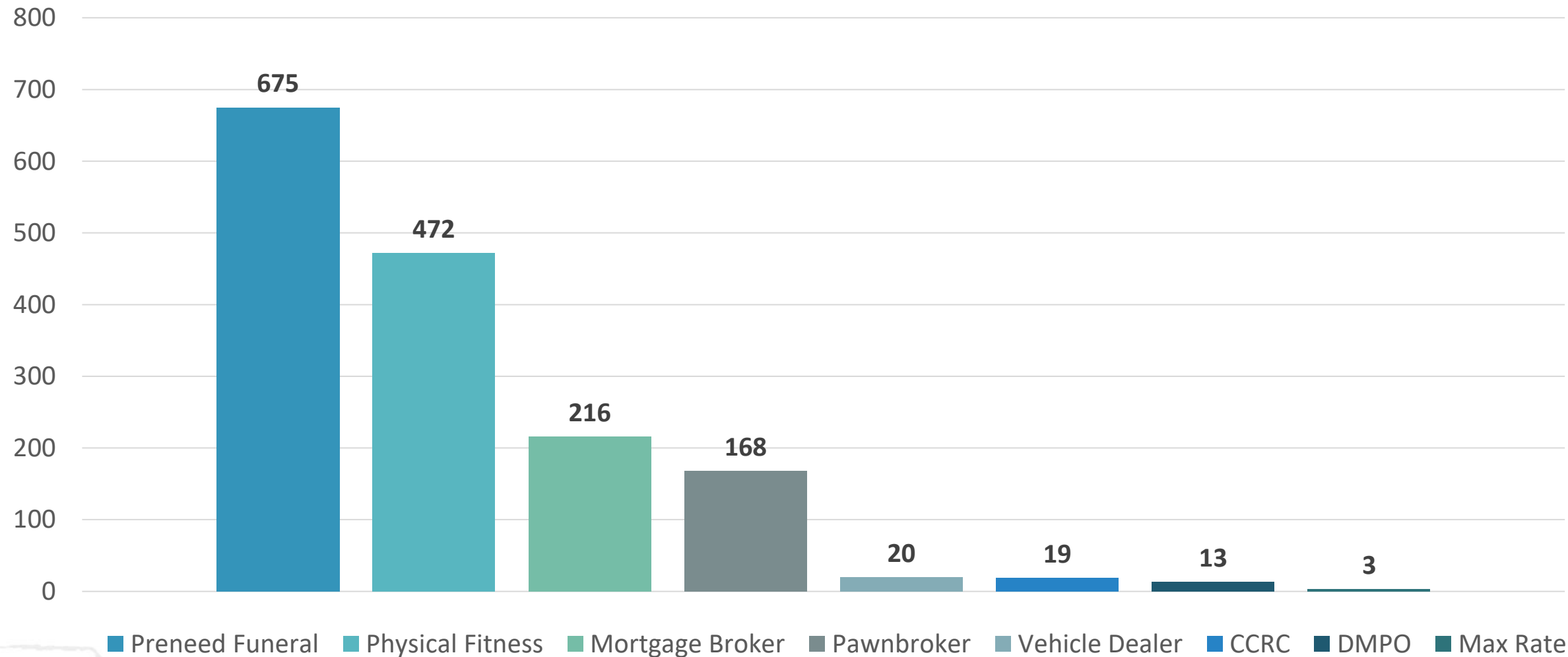


Inspections (FY19–FY23)

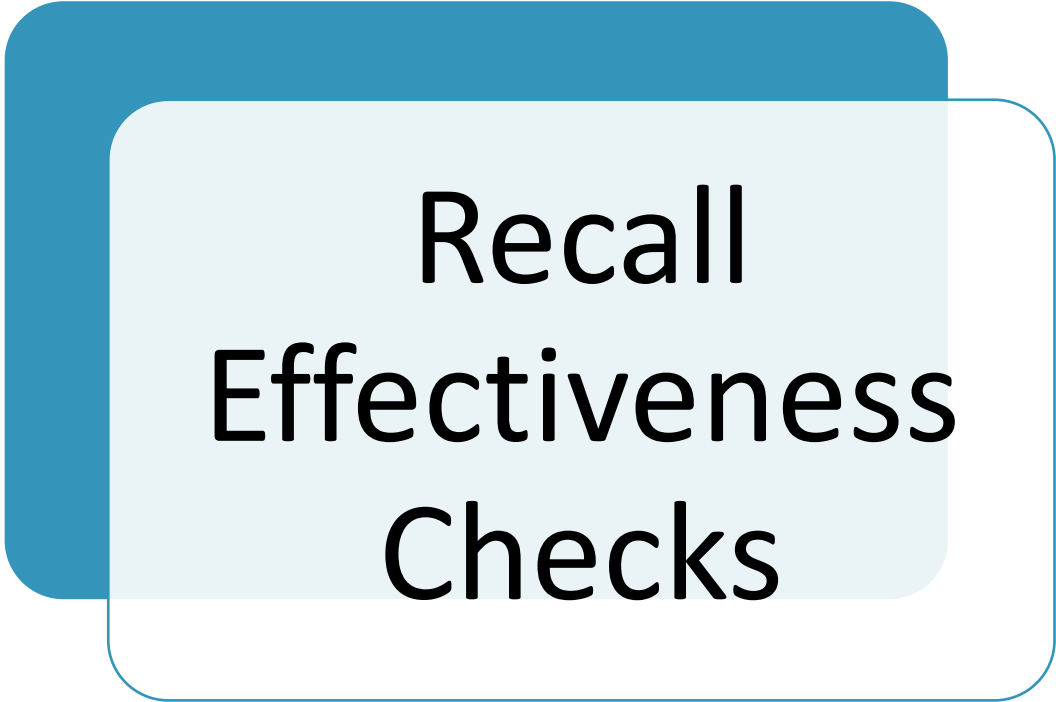
LOC Page 187



Compliance Reviews (FY19–FY23)



Investigator Activities (Consumer Product Safety Commission)



Recall
Effectiveness
Checks

A blue rounded rectangle with a light blue inner box containing the text "Recall Effectiveness Checks".

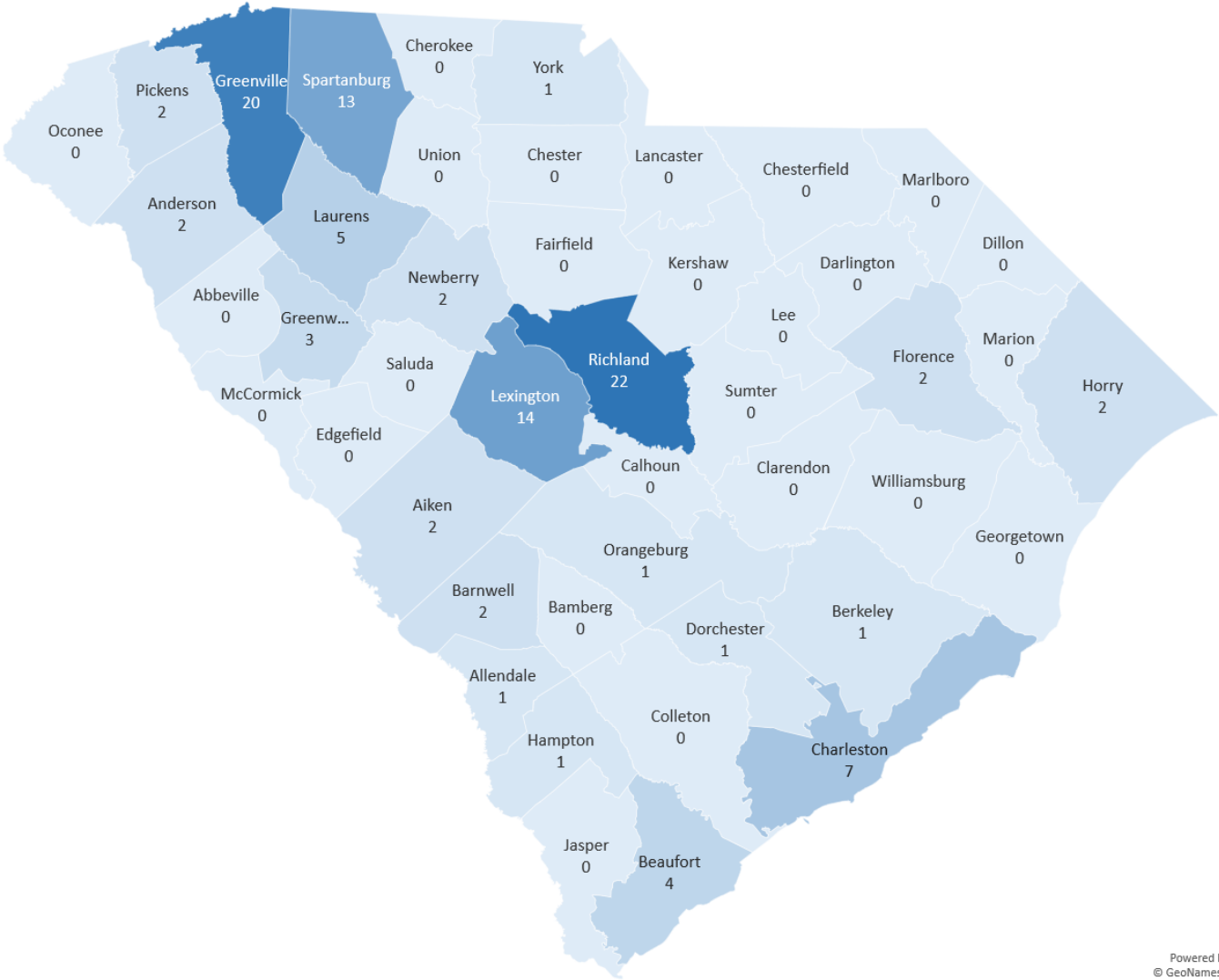
Thrift Store
Inspections

A blue rounded rectangle with a light blue inner box containing the text "Thrift Store Inspections".

Investigator Activities (CPSC) FY19–FY23

Recall Effectiveness Checks
79

Thrift Store
29



Powered by
© GeoNames,

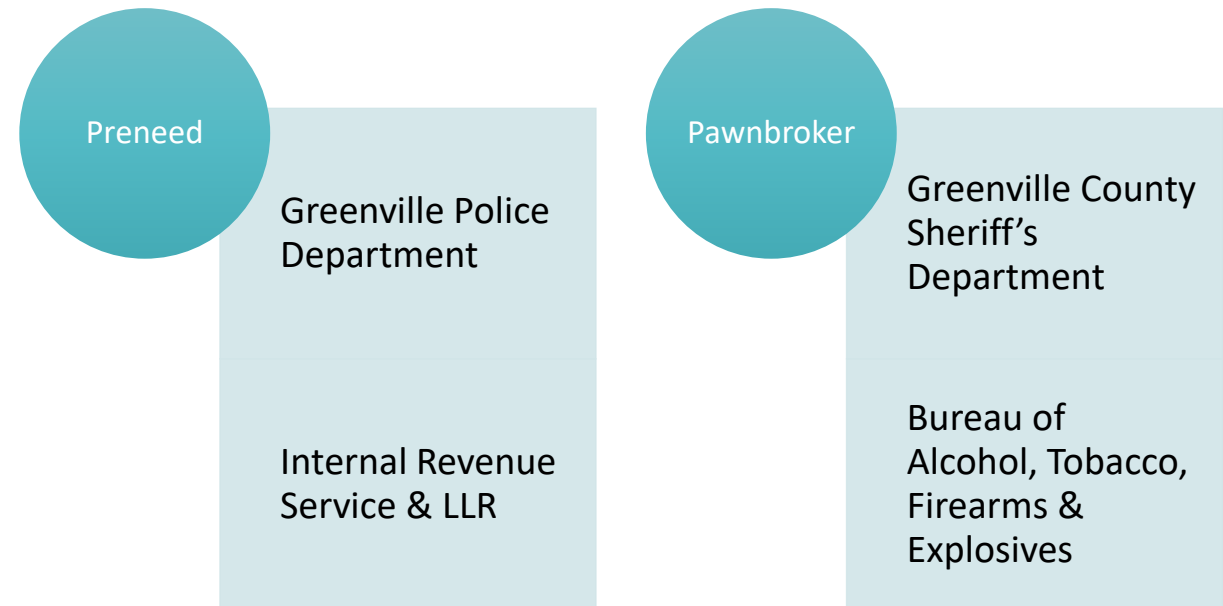
Assisting Other Areas of DCA



- Complaints
 - Business not responding
 - Multiple complaints against one business
- Licensing
 - Business doesn't renew after multiple communications
- IDTU
 - Reports of abandoned records
 - Determine whether a business actually exists

Investigations

- Reports of unlicensed businesses operating
 - Example: Funeral home selling preneed without license
- Complaints showing violations of the law beyond unlicensed activity
 - Example: Pawnshop buying items when there's evidence of 3rd party ownership
- Joint activity with another federal, state, or local agency





Enforcement Team



Enforcement Team Members

- Phil Porter, Attorney (2022)
- Jim Copeland, Chief Enforcement Attorney (2014)

Adam Birr
Enforcement
Attorney (2019)

Zach Passmore
Enforcement
Attorney (2019)

Vacant
Enforcement
Attorney

Chris Coller
Legal Complaints
Supervisor (2019)

Nadia Elkazzaz
Legal Complaints
Analyst (2023)

Eric McMillan
Legal Complaints
Analyst (2023)

Enforcement Authority

Advertising

Door-to-Door
Solicitations

Guaranteed
Asset
Protection

Lemon Law

Dispensing
Contact Lenses

Prizes & Gifts

Repossessions

Unconscionable
Debt Collection

Wage
Garnishment

Many more...

Complaints Processed in Legal

Examples of Types:

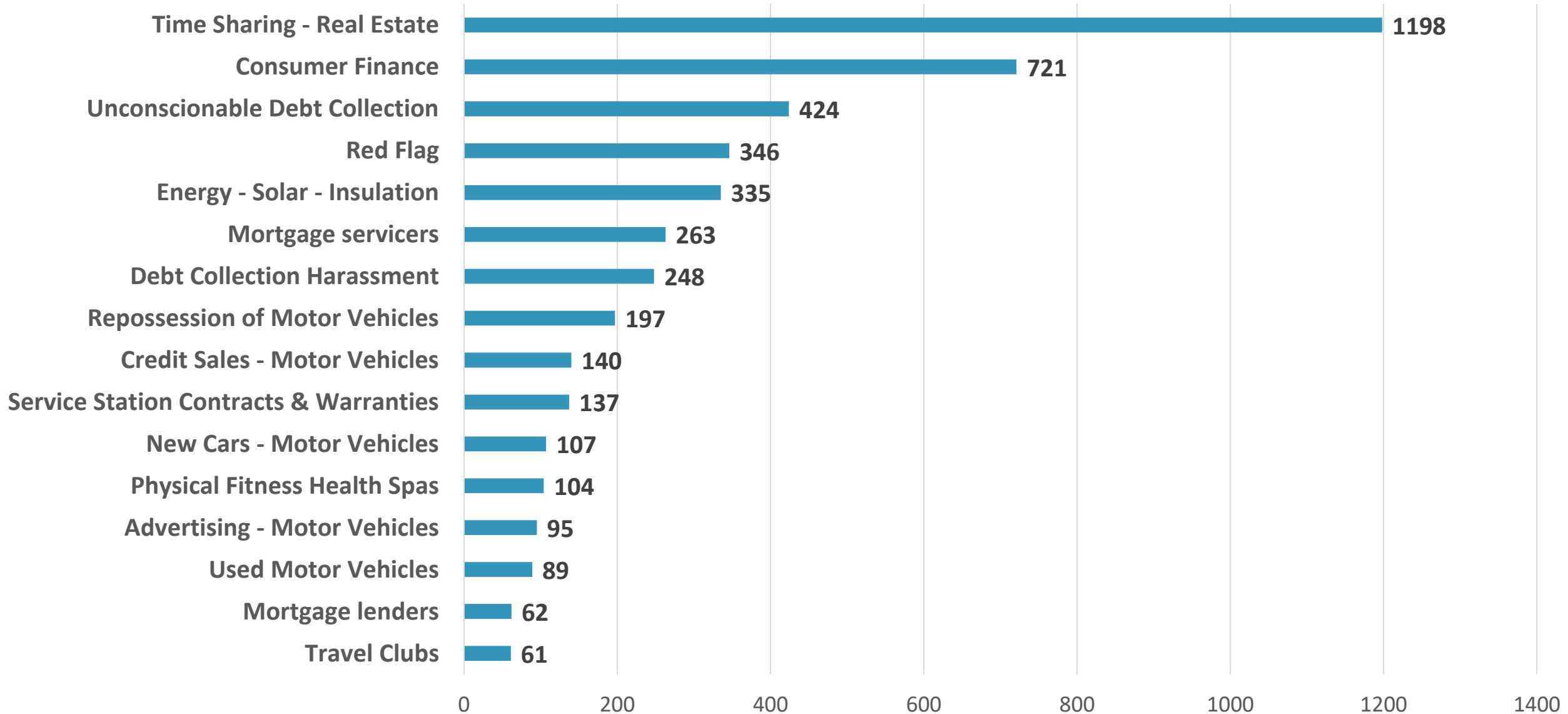
- Against businesses DCA regulates
- Filed in compliance with Unconscionable Debt Collection Practices statute
- Possible unfair or deceptive trade practice

Additional Steps Possible:

- Determination of whether violation of laws under DCA jurisdiction
- Visit from an investigator
- Letter from an attorney
- Phone calls and/or meetings with involved parties

Complaints Assigned to Legal Division

LOC Page 197



Sources of Enforcement Issues

Consumers

Industry
Members

Attorneys

General
Assembly

BOFI -
Consumer
Finance Division

DMV

ATF

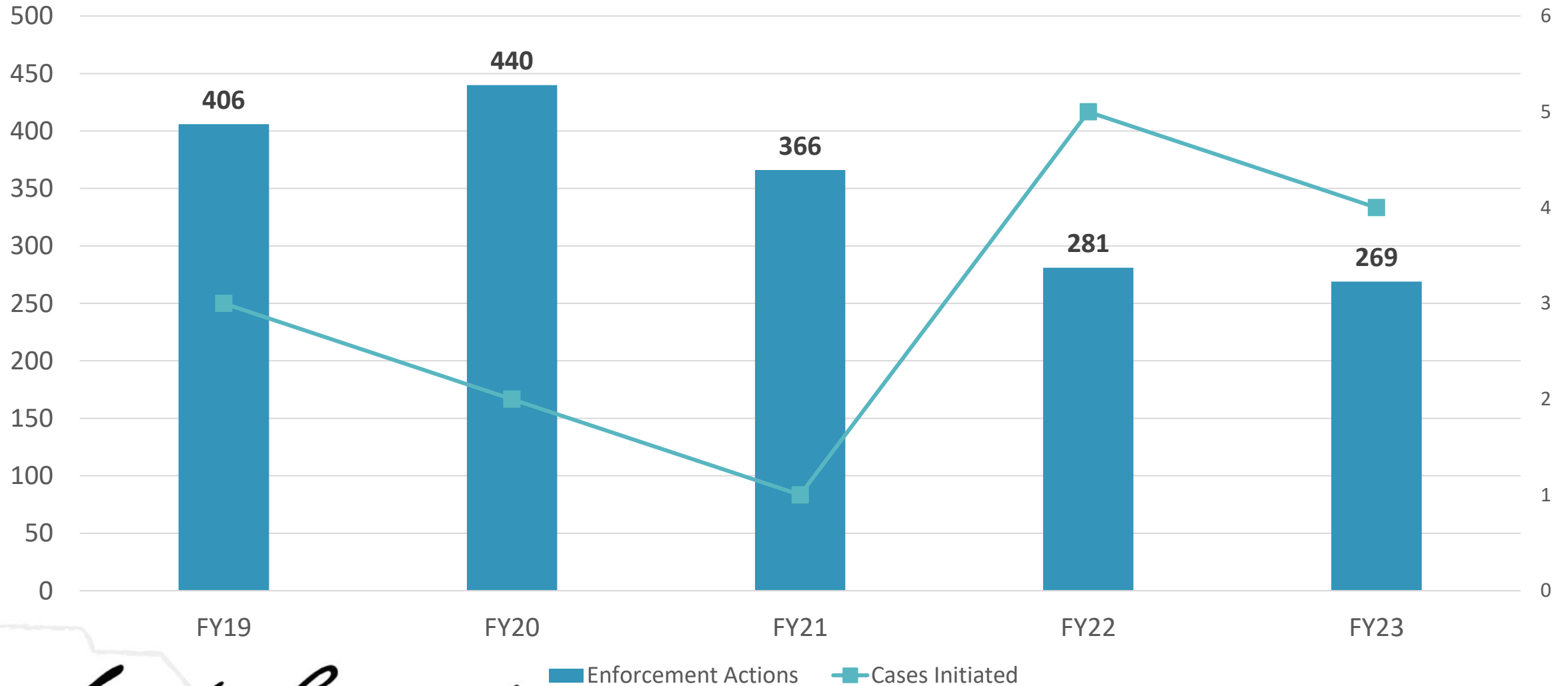
CFPB

FTC

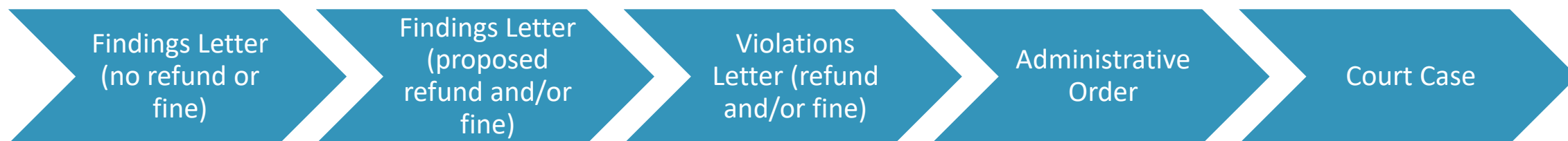
Many more...

Enforcement Actions & Cases Initiated

LOC Page 199



Stages of Enforcement

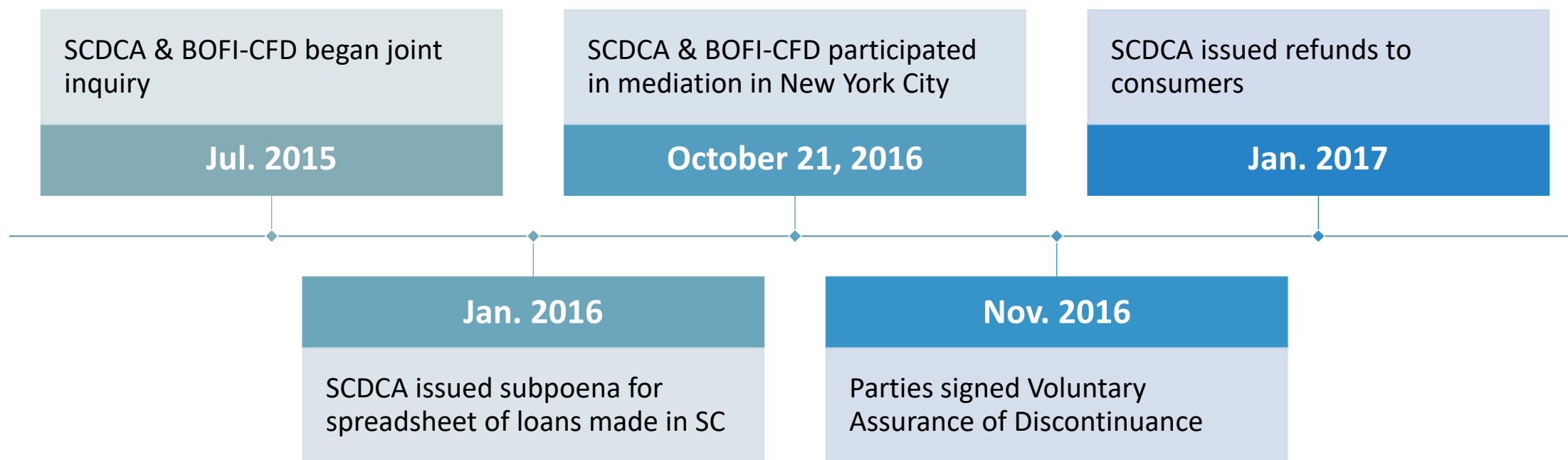


Settlement Possible

Interaction with Board of Financial Institutions

DCA	BOFI-CFD
Administers & enforces statutes re Consumer Loans (Title 37, Chapter 3)	Licenses & examines certain Consumer Lenders: <ul style="list-style-type: none"> • Supervised Lenders (Title 37, Chapter 3) • Restricted Lenders (Title 34, Chapter 29)
May assist BOFI with enforcing the laws applying to Check Cashing Services (§ 34-41-100)	Licenses & examines Check Cashing Service Providers (Title 34, Chapter 41)
May assist BOFI with enforcing the laws applying to Deferred Presentment Services (§ 34-39-220)	Licenses & examines Deferred Presentment Service Providers (a/k/a Payday Loans) (Title 34, Chapter 39)
Licenses & examines Mortgage Loan Brokers (Title 40, Chapter 58)	Licenses & examines Non-Depository Mortgage Lenders/Service Providers (Title 37, Chapter 22)
Assists BOFI with enforcing the laws applying to Non-Depository Mortgage Lenders/Service Providers	

CashCall, Inc. & Western Sky Financial, LLC



CashCall, Inc. & Western Sky Financial, LLC – Resolution

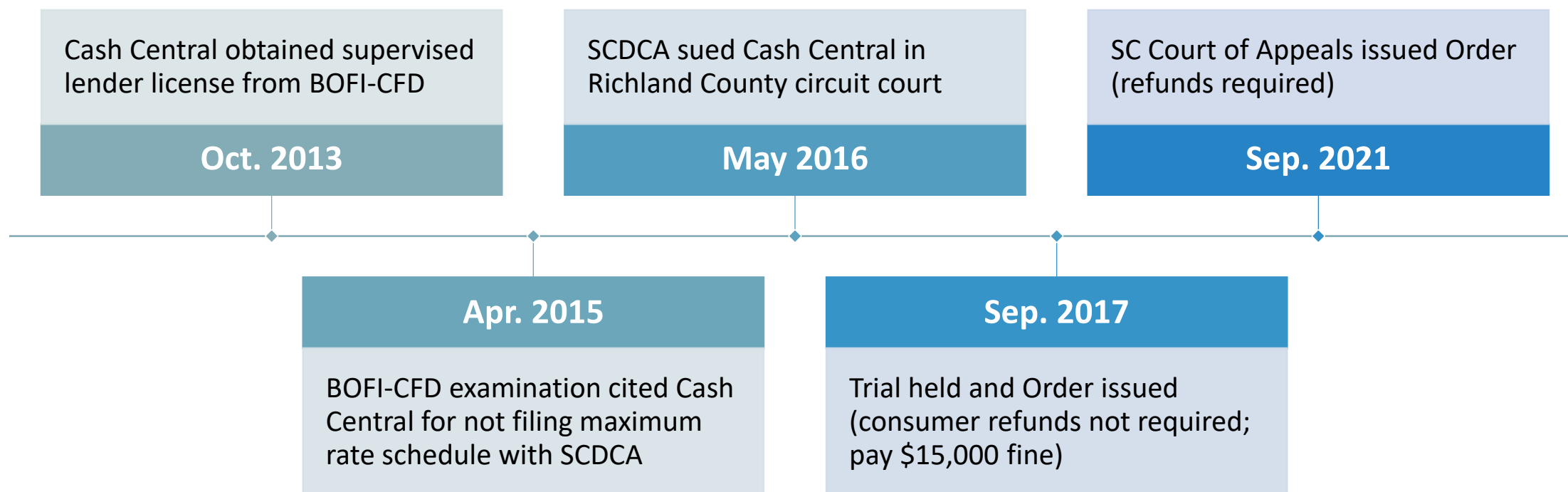
Stop servicing & collecting on outstanding loans; release and adjust to \$0

Pay SCDCA \$500,000 for costs, fees, potential restitution

Contact credit bureaus to remove all credit reporting re loans

Notify third party debt buyers that loans should be deemed cancelled

Cash Central of South Carolina, LLC



Supervised lender must file & post MRS before charging and collecting over 18% APR

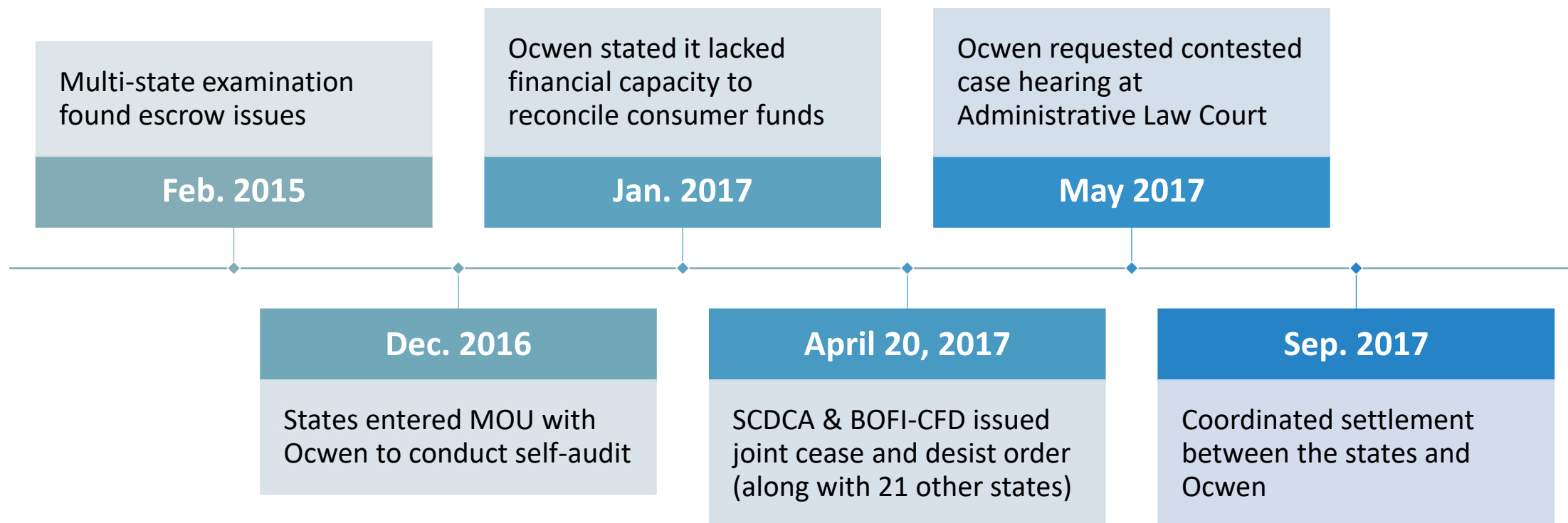
Lenders must strictly comply with statutory requirements before charging over 18% APR

Bona fide error defenses in statute do not prevent refund of excess charges over 18% APR

SCDCA seeking refunds from Cash Central

Cash Central of South Carolina, LLC – Resolution

Ocwen Loan Servicing, LLC



Ocwen Loan Servicing, LLC – Resolution

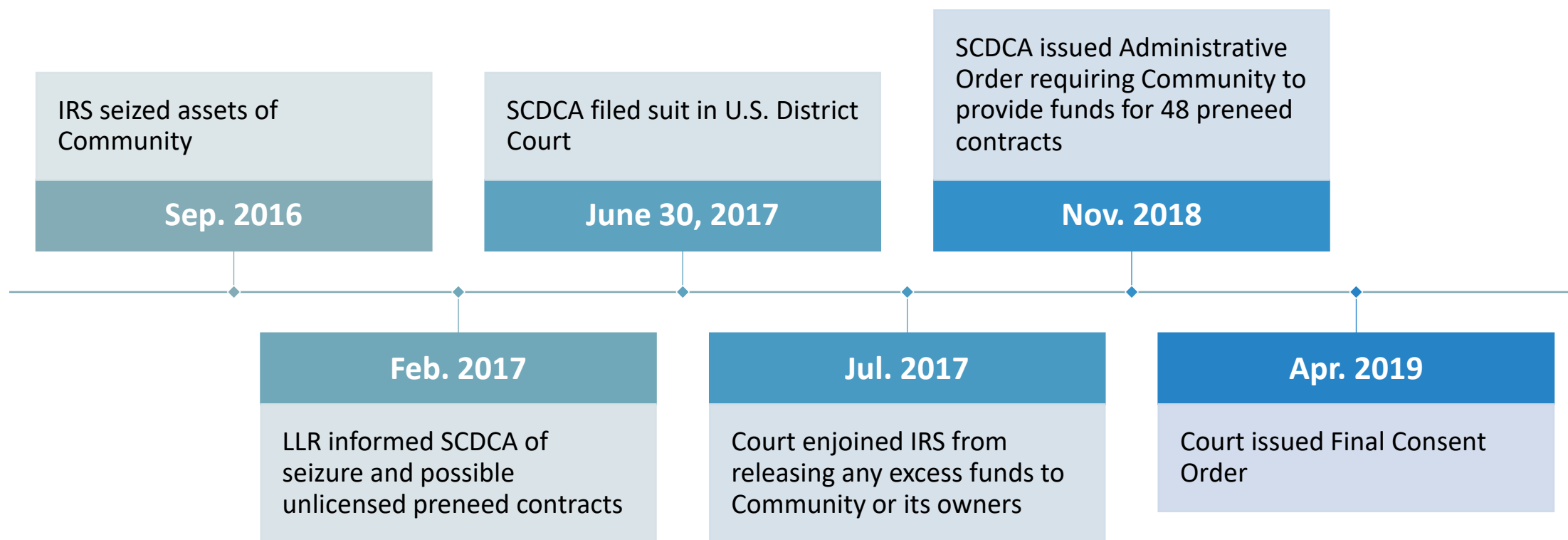
Transition servicing portfolio to servicing platform better able to manage escrow accounts

Hire third-party firm to audit escrow accounts

Provide restitution to consumers identified during audit

Establish a new complaint resolution process

Community Funeral Home



Community consented to IRS releasing excess proceeds of \$72,535.42 to SCDCA

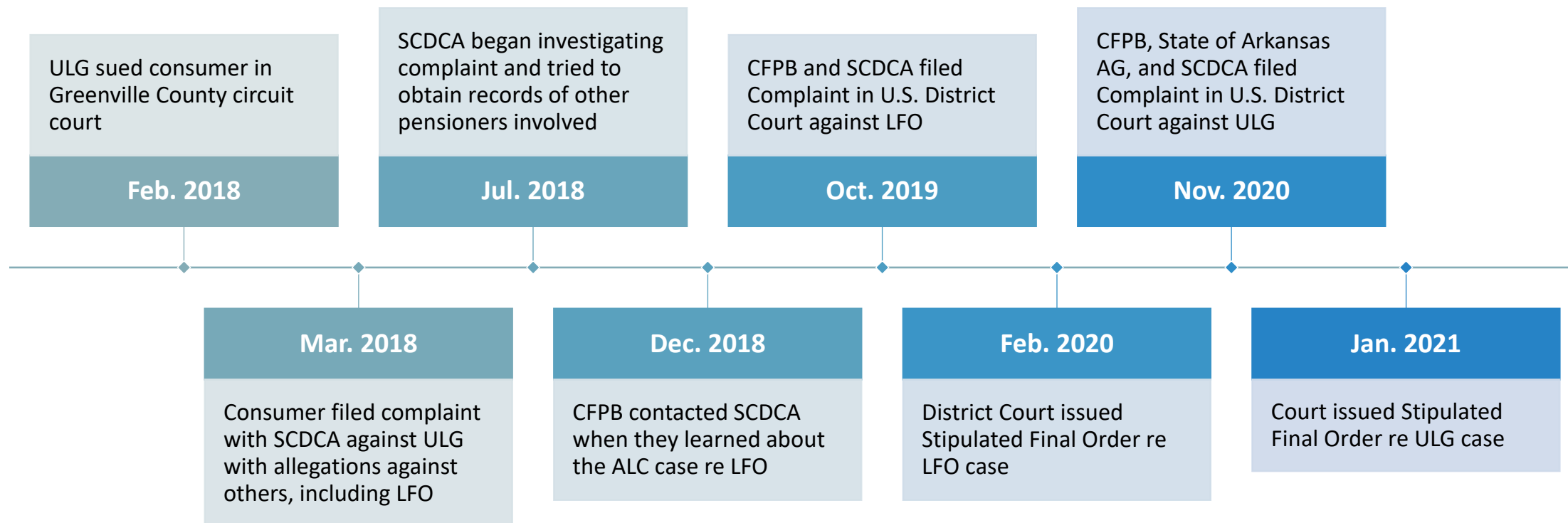
IRS gave the funds to SCDCA

SCDCA accepted the funds in full and complete satisfaction of Community's obligations

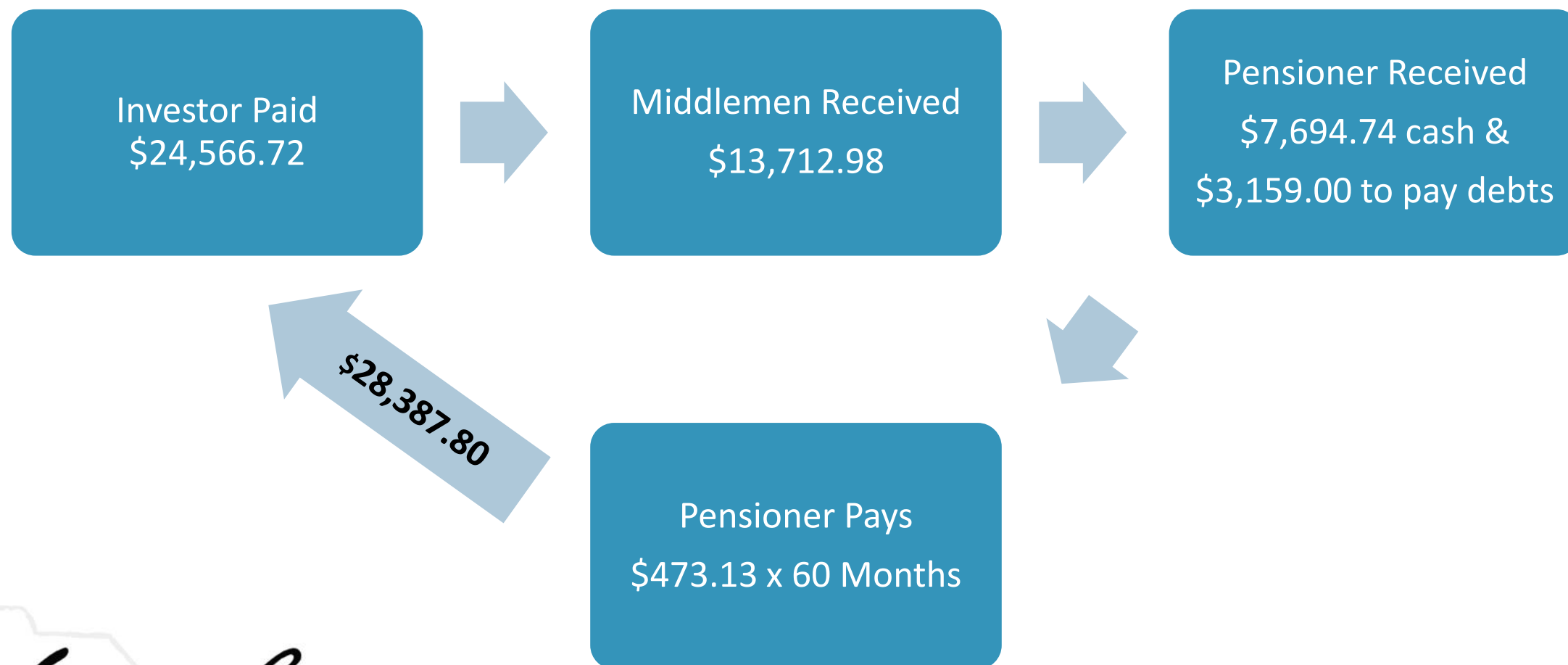
SCDCA applied funds to outstanding preneed contracts

Community Funeral Home – Resolution

Pension Loans Cases



Pension Loans Cases



Pension Loans Cases – Resolution

Permanent ban on brokering, offering, arranging extensions of credit related to pension or disability benefits

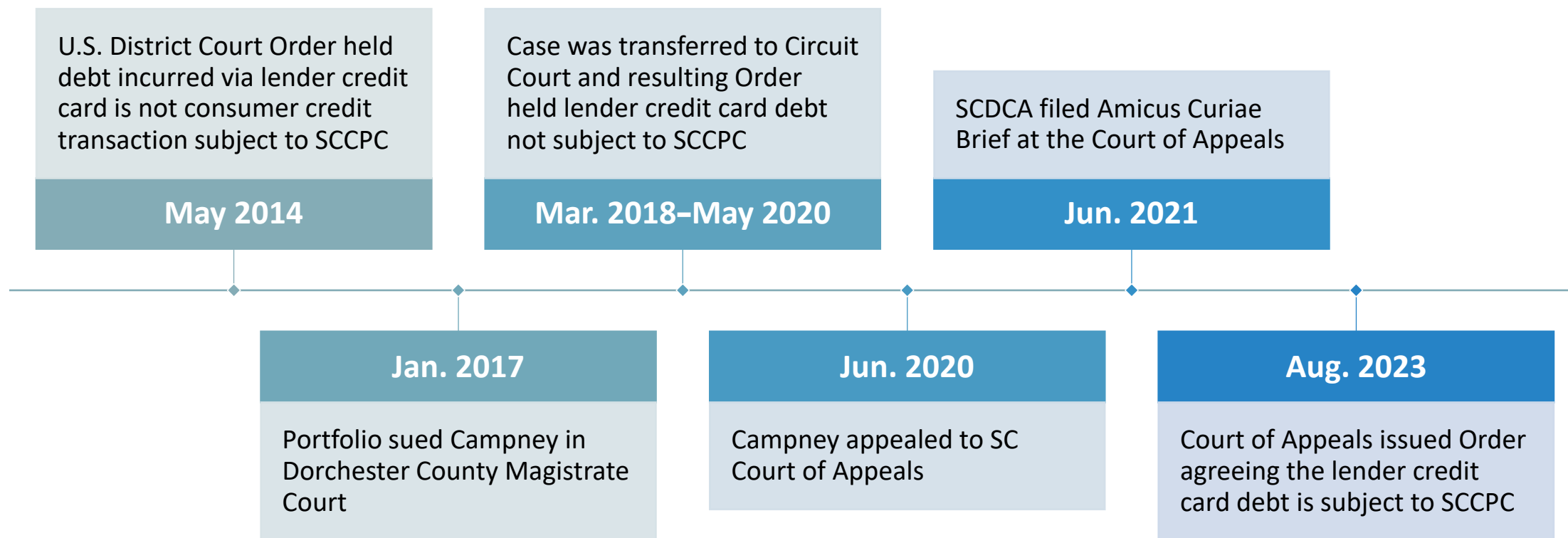
Permanent ban on enforcing or collecting on any contract or debt arising from purported sale or assignment of pension or disability benefits

Prohibition on use of consumer information

ULG paid penalty of \$725,000 to civil penalty fund

Reporting & Recordkeeping requirements

Portfolio Recovery Assoc. v. Campney



Consumer debt created pursuant to a lender credit card is consumer credit transaction governed by the SCCPC

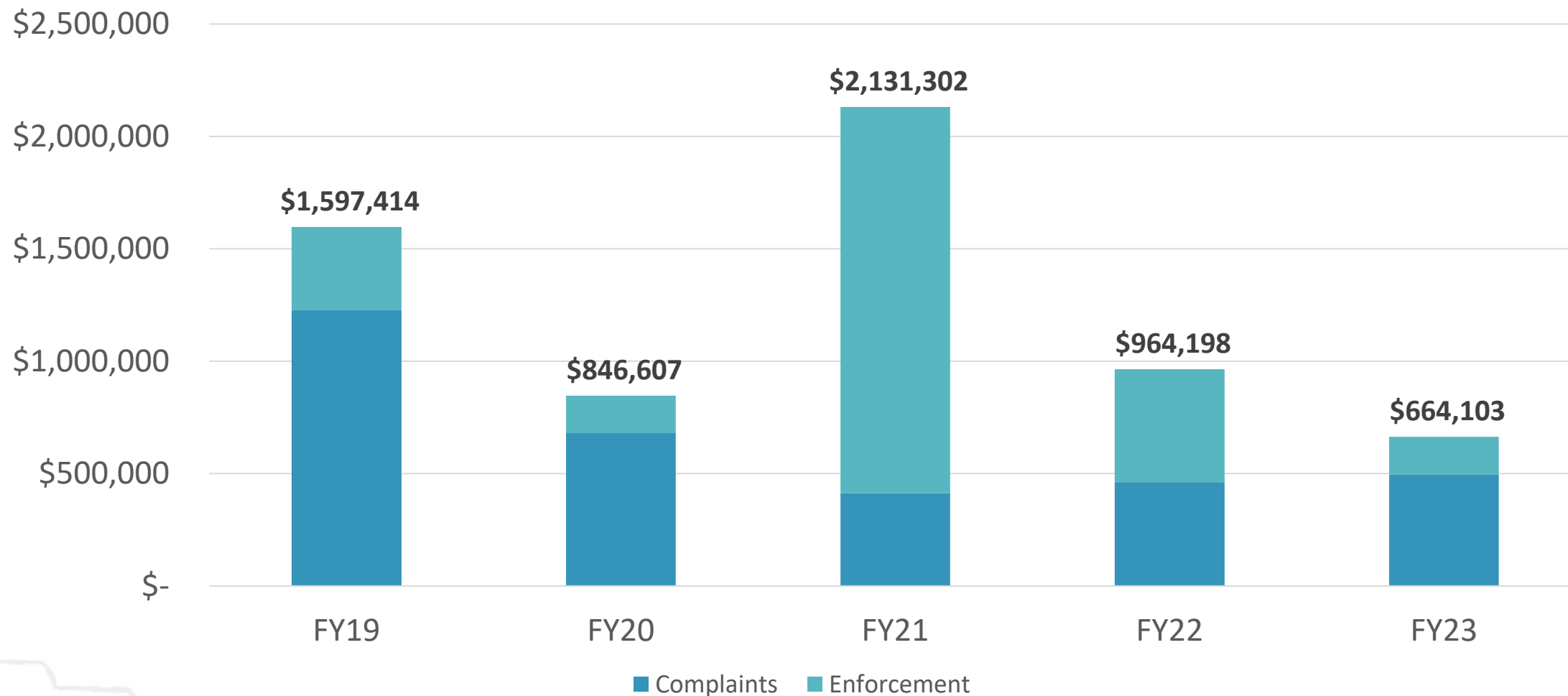
Before filing lawsuit for consumer credit transaction debt, Portfolio was required to send a notice of right to cure to Campney

Case was remanded to determine any setoff and attorney's fees Campney may be entitled to

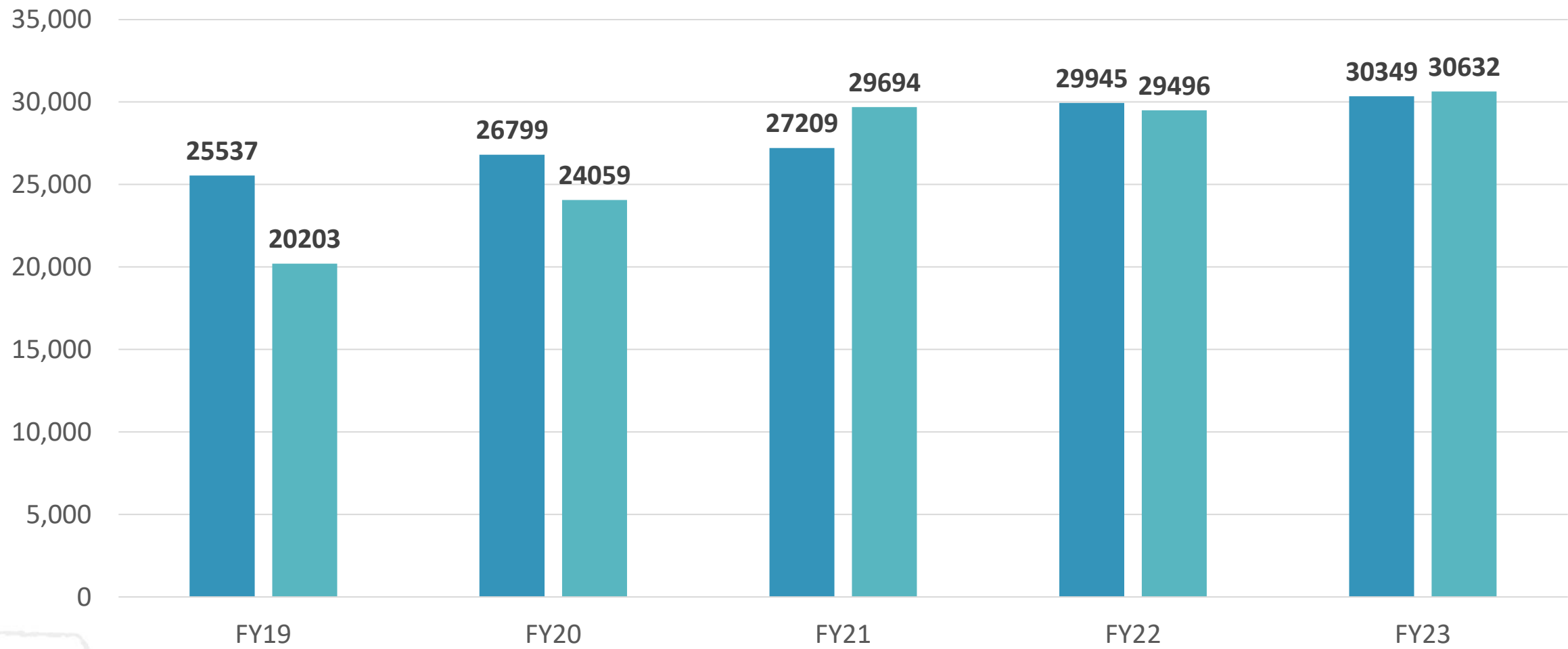
Portfolio Recovery Associates – Resolution

Legal Division Successes & Challenges

Success: Refunds, Credits & Adjustments for Consumers



Success: Processed More Filings & Applications



■ Total Received ■ Total Processed



Other Successes

Ability to Pivot

Over 90%
adoption of our
online licensing
system

FBI CJIS audit in
2021 (no findings)

Legal Division: Challenges

Staff Retention

Preneed Contracts System

Investigator Module

QUESTIONS?



AGENCY SUPPLEMENTAL DOCUMENTS

COMPLAINT FORM WITH INSTRUCTIONS.



PO Box 5757 | 293 Greystone Blvd, Suite 400 | Columbia SC 29250-5757
Phone: 800-922-1594 | Fax: 803-734-4286 | www.consumer.sc.gov

The South Carolina Department of Consumer Affairs (SCDCA) is the state consumer protection agency and has the role of receiving and mediating consumer complaints. SCDCA encourages consumers to contact the business first to try and resolve a complaint. If you would like to file a complaint with SCDCA, please read the following information so we can better assist you.

ATTENTION: ONLINE FILING AVAILABLE

If you have an email address you can file your complaint online by visiting www.consumer.sc.gov and Clicking "File a Complaint."



Filing online allows our office to receive and process your complaint faster. In addition to having 24/7 access to your complaint, you can also correspond directly with your assigned analyst via our system.

Please read the following information carefully. Be businesslike and do not make degrading remarks or unfounded claims. **Your complaint will not be processed if it contains profanity or vulgar language. It is very important that you provide all of the requested supporting documents.**

Once you file a complaint, it will be assigned to an analyst who will determine if SCDCA can proceed. We can only handle complaints involving a consumer transaction or a business we regulate. A consumer transaction involves goods or services purchased for personal, family or household use.

By law, if the complaint falls within another agency's jurisdiction, we will refer it to that agency and notify you. If the business is not regulated, SCDCA will act as a mediator between you and the business. If the business is regulated or licensed by SCDCA, we will attempt to resolve the complaint and may take additional action.

Under the guidelines of the South Carolina Consumer Protection Code, the Department cannot handle the following types of complaints:

- Business versus business;
- Between individuals;
- If you are represented by an attorney;
- Against a government agency; or
- If legal action has already been started, with limited exceptions.

If our office has jurisdiction, we will send the complaint to the business for their response and resolution. Our complaint analysts are knowledgeable about consumer rights and have access to attorneys who provide legal guidance to them. However, staff attorneys represent the state and cannot give personal legal advice. To preserve any legal rights you may have, you may wish to consult a private attorney.

When SCDCA receives a reply from the business, the analyst will review your complaint and the response to determine if additional assistance is needed. **Please let your analyst know if your complaint is resolved before you hear from us.** If the business fails to respond, we will contact you.

Please keep in mind, SCDCA cannot always satisfy the consumer, but will try to determine the obligation of the business. SCDCA receives a large number of complaints which require varying lengths of time to resolve. Your patience is appreciated.

The South Carolina Freedom of Information Act may require SCDCA to release documents you submit, including the complaint. Do not submit sensitive information such as social security numbers, account numbers, or death certificates.

Mail Complaint to: SCDCA Attn: Consumer Services
PO Box 5757
Columbia, SC 29250-5757



Consumer Information	
Name:	
Address:	
County:	
Phone:	
Email:	

Business Information The name and mailing address of the business must be provided to proceed.	
Name:	
Address:	
Contact:	
Phone:	
Email:	

PLEASE INDICATE YOUR AGE RANGE: 17 and Under ☐ 18-24 ☐ 25-34 ☐ 35-44 ☐ 45-54 ☐ 55-64 ☐ 65-74 ☐ 75-84 ☐ 85+ ☐

1. Have you filed a complaint with any other consumer services agency? Yes___ No___
2. Have you filed a summons and complaint with a magistrate's office? Yes___ No___
3. Is an attorney handling your complaint? Yes___ No___

If you answered yes to any of the above questions, please provide the corresponding name, address, and telephone number.

PLEASE ATTACH A COPY OF CONTRACTS, WARRANTIES, CHECKS, BILL OF SALE, ETC.

PLEASE DO NOT SUBMIT SENSITIVE INFORMATION SUCH AS SOCIAL SECURITY NUMBERS, ACCOUNT NUMBERS, ETC.

Complete Explanation of Complaint (Attach additional page(s) as necessary):
Company Response:
What do you want the business to do?

PLEASE SIGN AND DATE THIS COMPLAINT.

YOUR INFORMATION MAY BE RELEASED AS A MATTER OF PUBLIC RECORD.

DATE _____

SIGNATURE _____

AGENCY COPY

How did you hear about the South Carolina Department of Consumer Affairs?

- ☐ **Word of Mouth**
 - ☐ **Radio**
 - ☐ **Referred by a Government Agency**
 - ☐ **Referred by a non-government organization**
 - ☐ **Other** *Please Specify
 - ☐ **TV**
 - ☐ **Internet Search**
 - ☐ **Social Media**
 - ☐ **Not Sure**

Office Use Only	County:								
AGE RANGE: 17 and Under <input type="checkbox"/> 18-24 <input type="checkbox"/> 25-34 <input type="checkbox"/> 35-44 <input type="checkbox"/> 45-54 <input type="checkbox"/> 55-64 <input type="checkbox"/> 65-74 <input type="checkbox"/> 75-84 <input type="checkbox"/> 85+ <input type="checkbox"/>									

HOA SUPPLEMENTAL QUESTIONNAIRE



Mailing Address
P.O. Box 5757
Columbia, SC 29250-5757



**SUPPLEMENTAL HOMEOWNERS ASSOCIATION
QUESTIONNAIRE**

800-922-1594 | www.consumer.sc.gov | Fax 803-734-4286
scdcadoc@seconsumer.gov



Street Address
293 Greystone Boulevard
Suite 400
Columbia, SC 29210

State law (S.C. Code Ann. § 27-30-340) require SCDCA to collect certain data from consumers filing complaints against homeowners associations (HOA). Information collected will be reported yearly to the Governor, General Assembly and the public. **Please complete this supplemental questionnaire in its entirety and submit with your complaint form.** You may upload it as a supporting document through the Online Complaint System or submit via mail, fax or e-mail. While the Department is prohibited from serving as an arbitrator in disputes between homeowners and HOAs, we engage in a voluntary mediation process in hopes of resolving the complaint.

QUESTIONS

1. Is there a HOA management company? <i>If “Yes” provide:</i>				Yes	No
<i>Management Company Name:</i> _____					
<i>Management Company Address:</i> _____					
<i>Telephone Number:</i> _____					
<i>Contact Name:</i> _____					

2. Were you informed of the requirement of membership in a HOA as a condition of home ownership? <i>If “Yes” provide:</i>				Yes	No
<i>When was information provided:</i>	Before Closing	At Closing	After Closing		
<i>Who provided the information:</i>	Your realtor	Seller’s Realtor	Seller	Closing Attorney	
	Other				

3. Have you received a copy of the governing documents of the HOA?		Yes	No
<i>If “Yes” was it obtained before or after purchase?:</i>	Before After		

4. Have you been denied access to the governing documents? <i>If “Yes” provide:</i>		Yes	No
<i>An explanation of your attempt to obtain documents:</i>			
<i>(Governing documents are declarations, master deeds, or bylaws)</i>			

5. As a homeowner do you understand your rights and obligations under the governing documents?		Yes	No
--	--	-----	----

6. Have you communicated your concerns to the HOA or management company, if any?		Yes	No
--	--	-----	----

7. Have you exhausted all remedies in accordance with the terms of the HOA governing documents or rules and regulations?		Yes	No
--	--	-----	----

8a. Do you agree or disagree:		Agree	Disagree
With the provisions of the governing documents at issue?			
With how provisions were enforced?			
That more enforcement of provisions is needed?			
That less enforcement of provisions is needed?			

8b. Please indicate your recommendation(s) for enforcing the governing documents, if any:		
Dispute resolution process within the HOA	State agency oversight	HOA Ombudsman
Enforcement of provisions through magistrate’s court	Other:	

8c. Please provide any recommendations for changing provisions of the governing documents:	
Set/change developer transition of control	Forbid HOA from placing liens/foreclosing
Open meeting/ notice requirements	Set parameters for viewing/copying documents/records
Other:	

Completed By: _____ Complaint Number (if filed) C-

Print Name: _____ Date: _____

The South Carolina Freedom of Information Act may require SCDCA to release documents you submit.

FOR OFFICE USE ONLY:

SC HOMEOWNERS ASSOCIATION ACT

SC HOMEOWNERS ASSOCIATION ACT



The **Homeowners Association Act** applies to communities and horizontal property regimes requiring homeowners to pay assessments. The law requires governing documents to be filed, provides certain meeting notice requirements and access to association budget and membership lists.

The law also requires Department of Consumer Affairs (DCA) to collect specific data on HOA complaints, compile and share it with the Governor and the General Assembly each year.

FILING REQUIREMENT — GOVERNING DOCUMENTS, RULES, REGULATIONS & AMENDMENTS:

Any governing documents existing before the Homeowners Association Act became effective (5/17/2018) must have been recorded in the county [clerk of court's](#), Register of Mesne Conveyance, or [Register of Deeds](#) office by January 10, 2019 to be enforceable. New or amended governing documents, rules and regulations must also be filed in the county by January 10th of each year following their adoption or amendment. Governing documents includes the HOA declaration, master deeds and bylaws.

HOMEOWNERS ACCESS TO DOCUMENTS:

Rules, regulations & amendments — HOAs must make rules, regulations and their amendments available to members upon request, unless they are:

- Posted in a conspicuous place in a common area in the community; OR
- Available on a webpage maintained by the HOA, where the member can download them.

When responding to a request, the association may send the items via email or through methods provided in the HOA's bylaws.

Budget & Membership lists — All HOAs are subject to certain access to documents requirements in the [SC Nonprofit Corporation Act](#) for the purpose of letting homeowners inspect and copy the association's budget and membership lists.

MEETING NOTICE REQUIREMENT — BUDGET INCREASE:

Associations other than those incorporated under the [SC Nonprofit Corporation Act](#) must provide homeowners notice 48 hours in advance of the meeting in which a decision to raise the annual budget is made. Notice may be through posting:

- In conspicuous place in a common area in the community;
- On an Internet website maintained by the homeowners association;
- By electronic mail; or
- Through methods provided in the association's bylaws that ensure actual notice.

SC HOA ACT CONTINUED...

DISCLOSURE FOR HOMEBUYERS:

A seller must let the purchaser know if the property is part of a homeowners association. This is done through the "[South Carolina Residential Property Disclosure Statement](#)" produced by the SC Department of Labor, Licensing and Regulation. The form can be found on their website at www.llr.sc.gov.

MAGISTRATE'S COURT:

The [Magistrate's Court](#) may hear monetary disputes involving a HOA if the amount in issue does not exceed \$7,500.

COMPLAINT PROCESSING AND REPORTING — DEPARTMENT OF CONSUMER AFFAIRS:

The Department of Consumer Affairs is to take and collect specific data on [HOA complaints](#), compile and share the data with the Governor and the General Assembly each year. The law specifically prohibits the agency from serving as an arbiter of disputes.

FOR MORE HOA INFORMATION, VISIT CONSUMER.SC.GOV.



EMAIL DCA



GET LATEST
FROM DCA



FILE YOUR
COMPLAINT



SEARCH
COMPLAINTS

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South Carolina Department of Consumer Affairs
293 Greystone Blvd., Ste. 400 • PO Box 5757 • Columbia, SC 29210
(800) 922-1594 • www.consumer.sc.gov

SC NONPROFIT CORPORATION ACT.

SC NONPROFIT CORPORATION ACT



The **Nonprofit Corporation Act** (Act) applies to a business, including homeowners associations (HOA), that have filed its nonprofit articles of incorporation with the Secretary of State. The law provides details on meetings (including notice & quorum requirements), rules for the board of directors, access to records and more.

Below are highlights of the law. It does not serve as a substitute for reviewing the actual statute.

SETTING UP A NONPROFIT CORPORATION:

Filing Requirement — To become a nonprofit corporation, Articles of Incorporation ("articles") must be filed with the South Carolina Secretary of State. For filing forms and more information on what is required, visit <https://businessfilings.sc.gov/businessfiling>. To see if an HOA is registered as a nonprofit corporation, visit sos.sc.gov/searches and click "Business Entities Search."

Bylaws — The incorporators or board of directors must adopt the corporation's initial bylaws. The bylaws set out how the business will operate, including what it can and cannot do. A corporation can put what they wish in the bylaws so long as it doesn't conflict with the law or the business' articles. Amendments to the bylaws can be made by either the board of directors, or the members, depending on (1) the topic and (2) what the law, articles and bylaws provide.

DIRECTORS & OFFICERS:

A nonprofit corporation must either have a board of directors or someone named in the articles who has powers normally held by the board. When the business chooses a board, it must consist of 3 or more people either elected by members or appointed through the bylaws for a term of five years or less.

Unless otherwise provided in the articles or bylaws, a corporation must have a president, a secretary, a treasurer. One officer must be given the duty to take minutes at directors' and members' meetings.

MEMBERS:

The articles or bylaws must set out how someone becomes a member of the corporation. All members have the same voting rights and obligations unless the articles or bylaws lay out different member classes.

ACCESS TO DOCUMENTS:

Members of the HOA have the right to inspect and copy records held by the corporation. The law requires nonprofit corporations to keep certain items, including:

- Minutes of director's and members' meetings, including committees of the board;
- Articles and any current amendments;
- Names and addresses of its current directors and officers;
- Written communications to members made within the past three years, including financial statements;
- Records of all actions approved by members for the past three years;
- Copies of reports filed with the Secretary of State.

NONPROFIT CORPORATIONS ACT CONT...

MEETINGS - TYPES, NOTICE AND VOTING:

Meeting Types — Nonprofit corporations must have an annual meeting each year where the President and Chief Financial Officer report on activities and the financial condition of the corporation. Regular membership meetings and special-called meetings are allowed.

Notice — The Act sets rules for giving notice. One requirement is that notice must be “fair and reasonable.” If the corporation notifies members of the following, the notice is considered “fair and reasonable.”

1. The place, date, and time of each annual, regular and special meeting at least 10 days ahead of time, but no sooner than 60 days before the meeting (if using first-class or registered mail);
2. Any matter the members must approve if an annual or regular meeting or if a special-called meeting, a description of what will be discussed; and
3. Issues a member intends to raise at the meeting, if certain requirements are met.

VOTING:

Unless the Act, articles or bylaws say otherwise: (1) each member is entitled to one vote, (2) a quorum is 10% of votes entitled to be cast and (3) proxies are allowed.

COMPLAINT PROCESSING AND REPORTING — DEPARTMENT OF CONSUMER AFFAIRS:

The Department of Consumer Affairs is to take and collect specific data on [HOA complaints](#), compile and share the data with the Governor and the General Assembly each year. The law specifically prohibits the agency from serving as an arbiter of disputes.

FOR MORE HOA INFORMATION, VISIT CONSUMER.SC.GOV.



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SC HORIZONTAL PROPERTY ACT

SC HORIZONTAL PROPERTY ACT



The **Horizontal Property Act** (Act) applies to apartments/condominiums. This law provides details on how to set up a horizontal property regime, what must be included in the master deed/ lease and bylaws, record keeping requirements and allocation of expenses. Below are highlights of the law. It does not serve as a substitute for reviewing the actual statute.

SETTING UP A HORIZONTAL PROPERTY REGIME:

Filing Requirement — To become a horizontal property regime, lessees or owners must create a master deed or lease stating they want to create the regime and record it with the [register of deeds](#) or [clerk of court](#) in the county where the property is located. Bylaws detailing how the regime will be run must be attached to the recorded master deed/ lease along with a plot plan and a building plan that should include a map or plat showing the location of the building and indicate the common elements.

Master Deed/Lease — In addition to lessees and owners stating the intent for their property to be part of the regime, a master/deed lease of a regime must also include:

- 1) Description of land and buildings;
- 2) General description and number of each apartment;
- 3) Description of common elements & restricted common elements;
- 4) Value of the property and each apartment along with the percentage of rights to common elements;
- 5) Name of regime (must be followed by the words "HORIZONTAL PROPERTY REGIME");
- 6) Description of legal rights and obligations of apartment owner, the co-owners, and person establishing regime;
- 7) If planning to develop property in multiple stages, additional items are required.

Bylaws — A regime must have bylaws detailing how it will run. The law requires the following items be included in the bylaws:

- 1) **Administration** – Whether the regime will be run by an administrator, board, etc. and the powers, manner of removal and compensation for the person(s);
- 2) **Meetings** – Method of calling a meeting of owners, who will preside over meetings and who will take minutes;
- 3) **Voting** – That a majority of at least 51% is required to adopt decisions;
- 4) **Common elements & services** – Description of the care, upkeep and surveillance of property and common expenses and designation and dismissal of personnel necessary to provide common services;
- 5) **Payments** – Description of the manner payments will be collected from owners.

Owners must comply with the bylaws. Failure to comply may be grounds for civil or injunctive relief.

HORIZONTAL PROPERTY ACT CONT...

EXPENSES, RECORDKEEPING & ACCESS TO RECORDS:

Owners must contribute pro rata* toward expenses of:

- (1) administration,
- (2) maintenance and repair of common elements,
- (3) repair of limited common elements (ie: insurance doesn't cover repairs/ reconstruction of common element shared by a few owners) and
- (4) any other item/ service agreed to. Assessments left unpaid at the time an apartment sells will be taken out of the sale price.

The regime administrator must keep detailed records of receipts and expenditures. Owners have a right to inspect these books and vouchers.

**The law lays out how the pro rata share is determined.*

GENERAL APARTMENT OWNER PROPERTY RIGHTS:

An apartment owner has the right to exclusive ownership of his/her apartment and the right to use common elements so long as the use does not hinder the rights of other owners.

Common elements include elevators, garbage incinerators, basements, flat roofs, yard, gardens, main walls, roofs, hall, lobbies, stairways.

Limited common elements are those common elements the owners agree are reserved for the use of specific owners.

COMPLAINT PROCESSING AND REPORTING — DEPARTMENT OF CONSUMER AFFAIRS:

The Department of Consumer Affairs is to take and collect specific data on [HOA complaints](#), compile and share the data with the Governor and the General Assembly each year. The law specifically prohibits the agency from serving as an arbiter of disputes.

FOR MORE HOA INFORMATION, VISIT CONSUMER.SC.GOV.



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HOA FREQUENTLY ASKED QUESTIONS

FREQUENTLY ASKED QUESTIONS about HOAs



CAN MY HOMEOWNERS ASSOCIATION *[INSERT ISSUE HERE]*?

Homeowners Associations (HOAs) can only do what state law allows and what their governing documents allow. Governing documents include: declaration, master deeds, bylaws, covenants, conditions and restrictions.

WHAT IF I AM UNHAPPY WITH THE ACTION OF MY ASSOCIATION?

- First try talking with the HOA Board of Directors. Check your governing documents to see if a formal dispute process is included.
- If you are unhappy with decisions of the association, its board or other governing body, attempt to use the democratic processes of the association to seek election of members that are more responsive to your needs.
- If you are unable to find a solution, you also may wish to file a complaint with the South Carolina Department of Consumer Affairs (SCDCA). Homeowners associations go through our voluntary mediation process.
- If the issue involves a monetary dispute, magistrate's court may be an option (<https://www.sccourts.org/selfHelp/FAQMagistrate.pdf>).
- You can also seek legal advice from a lawyer. The SC Bar has a referral service if you need help contacting an attorney. They can be reached at 1 (800) 868-2284 or visit lrs.scbarr.org.

WHAT ROLE DOES THE SCDCA PLAY IN THE NEW HOA LEGISLATION?

SCDCA does not administer or enforce the South Carolina Homeowner's Association Act. Our role is to collect specific data on HOA complaints, compile and share it with the Governor and the General Assembly each year. We provide education to homeowners and HOAs on their rights and responsibilities under South Carolina law as well.

DOES SCDCA HAVE ANY ENFORCEMENT OR OVERSIGHT AUTHORITY OVER HOAs?

No - Our complaint process is one of voluntary mediation. We cannot force a HOA or homeowner to participate in the complaint process, require a specific outcome or attempt to arbitrate the dispute.

WHY SHOULD I FILE A COMPLAINT IF DCA CAN'T TAKE ANY ACTION AGAINST MY HOA?

If you decide to pursue a complaint with our office your issue may be resolved through the process. Your complaint data will also be included on our website and in the yearly report provided to the Governor and General Assembly. This data helps them decide if changes to the law are needed.

CAN SCDCA PROVIDE LEGAL ADVICE RELATED TO HOAs?

While we can provide a broad overview of laws applicable to HOAs, because SCDCA does not have administration or enforcement authority over such laws, we cannot provide legal advice or guidance based on specific situations.



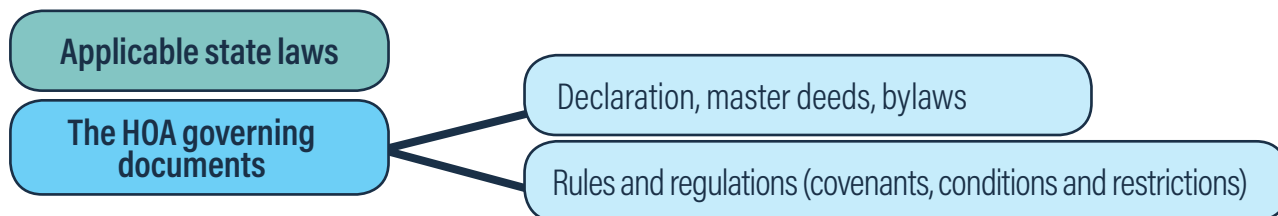
HOW DOES AN HOA KNOW WHAT THEY CAN AND CAN NOT DO?

HOW DOES A HOA KNOW WHAT THEY CAN AND CANNOT DO?



NO TWO HOMEOWNERS ASSOCIATIONS ARE ALIKE...

The South Carolina Department of Consumer Affairs (SCDCA) often gets questions from homeowners and homeowners association (HOA) boards about the rights and responsibilities of associations and their members. These include whether dues can be increased, what constitutes a forum and meeting notice requirements. The majority of the questions can be answered by one or more of the following:



Generally, the **rules and regulations** (commonly referred to as the covenants, conditions and restrictions or CC&Rs) limit how a homeowner can improve or use their property. Topics often covered in the rules are related to landscaping, home/building standards, guests and pets.

The HOAs **declaration, master deeds and bylaws** cover rights and responsibilities of members and the HOA, but mainly set out how the homeowners association will operate. This includes information on meetings, dues, special assessments, elections and collection policies. Certain provisions in the rules and other governing documents may be superseded by state law.

WHICH LAW(S) APPLY TO THE NEIGHBORHOOD THAT I LIVE IN?

While South Carolina does not have a state specific law detailing how a homeowners association must operate, several South Carolina laws may apply. The most common laws are:

The Nonprofit Corporation Act applies to HOAs that have filed its nonprofit articles of incorporation with the Secretary of State. The law provides details on meetings (including notice & quorum requirements), rules for the board of directors and homeowners access to records. To find out if a HOA is registered as a non-profit visit the SC Secretary of State's website: <https://businessfilings.sc.gov/BusinessFiling/Entity/Search>.

The Horizontal Property Act applies to apartments/condominiums. This law provides details on how to set up a horizontal property regime, what must be included in the master deed/ lease and bylaws, record keeping requirements and allocation of expenses.

The Homeowners Association Act applies to communities and horizontal property regimes requiring homeowners to pay assessments. (Does not include timeshares). The law requires governing documents to be filed, provides certain meeting notice requirements and access to budget and membership lists. The law also requires DCA to collect specific data on HOA complaints, which are compiled and shared with the Governor and the General Assembly each year.

Other state laws referencing HOAs may be found on our [HOA education webpage](#).





REGISTERED CREDITORS FILING INSTRUCTIONS

Street Address

293 Greystone Blvd., Ste. 400
Columbia, SC 29210-8004

I. INTRODUCTION

The following information is intended to provide guidance regarding filings required for Registered Creditors. For detailed information regarding the filing requirements, please see the applicable statutes and regulations listed below. Call (803) 734-4238 if you have questions concerning filing requirements.

II. CREDIT GRANTOR NOTIFICATION

S.C. Code Ann. §§ 37-6-201, 37-6-202, 37-6-203, 37-6-204
Regulations 28-8, 28-30, 28-40

The requirement to file a Credit Grantor Notification applies to any person who meets items **1, 2, and 3**:

1. Any person:
 - a. engaged in consumer credit sales, consumer leases, consumer loans, or consumer rental-purchase agreements in South Carolina **OR**
 - b. with an office or place of business in South Carolina who takes assignment of and undertakes direct collection of payments from or enforcement of rights against debtors arising from consumer credit sales, consumer leases, consumer loans, or consumer rental-purchase agreements
2. Any person whose annual gross volume of business exceeds \$150,000
3. Any person who uses written agreements to extend consumer credit

"Person" includes an individual, organization, partnership, corporation, and association.

Examples of consumer credit include installment payment plans, regular and revolving charge accounts, personal loans, and leases of goods for more than four months.

Direct credit sellers and lenders without a location in South Carolina must file one notification fee if the annual gross volume exceeds \$150,000.

Filing must be received by January 31st of each year. The filing fee is \$120.00 per South Carolina location. NOTE: A website that conducts consumer credit transactions is considered to be a South Carolina location.

III. MAXIMUM RATE SCHEDULE

S.C. Code Ann. §§ 37-2-201, 37-2-305, 37-3-201, 37-3-305
Regulation 28-70

The requirement to file a Maximum Rate Schedule applies to any creditor who wants to charge an Annual Percentage Rate (APR) in excess of 18% on consumer credit sales or consumer loans in South Carolina.

There are two types of Maximum Rate Schedule filings:

1. Consumer Credit Sales (sale of goods or services, such as the sale of motor vehicles or furniture)
2. Consumer Loans (includes secured and unsecured personal loans, real estate and non-real estate loans, and some mortgage loans)

Creditors should file only the type of Maximum Rate Schedule that corresponds with the nature of their business.

Filing must be received by January 31st of each year. The filing fee is \$40.00 per South Carolina location. NOTE: A website that conducts consumer credit transactions is considered to be a South Carolina location.

Failure to file will require that the creditor rollback contracts to 18% APR.

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IV. MOTOR VEHICLE CLOSING FEE

S.C. Code Ann. § 37-2-307

All motor vehicle dealers licensed pursuant to Title 56, Chapter 15 who want to charge a closing fee on a motor vehicle sales contract must file the proposed maximum closing fee amount.

Regardless of what the dealer calls the fee (admin fee, doc prep fee, etc.), the filing requirement applies to any fee charged for administrative and financial work needed to transfer and deliver the motor vehicle to the consumer including, but not limited to, compliance with all state, federal, and lender requirements, preparation and retrieval of documents, protection of the private personal information of the consumer, records retention, and storage costs.

If the maximum amount the dealer proposes to charge is **\$225 or less**, the dealer must complete a Notice of Closing Fee form. The proposed maximum closing fee amount will automatically be considered reasonable and will not be subject to further review by the Department.

If the maximum amount the dealer proposes to charge is **greater than \$225**, the dealer must complete a Notice of Closing Fee form and Addendum. The dealer may be required to provide supporting documentation as well. The Department may review the filing to determine the reasonableness of the proposed closing fee.

Filing must be made before the dealer begins charging a closing fee and, thereafter, only when the dealer wants to change the maximum closing fee amount. The filing fee is \$25.00.



REGISTERED CREDITORS FILING FLOWCHART

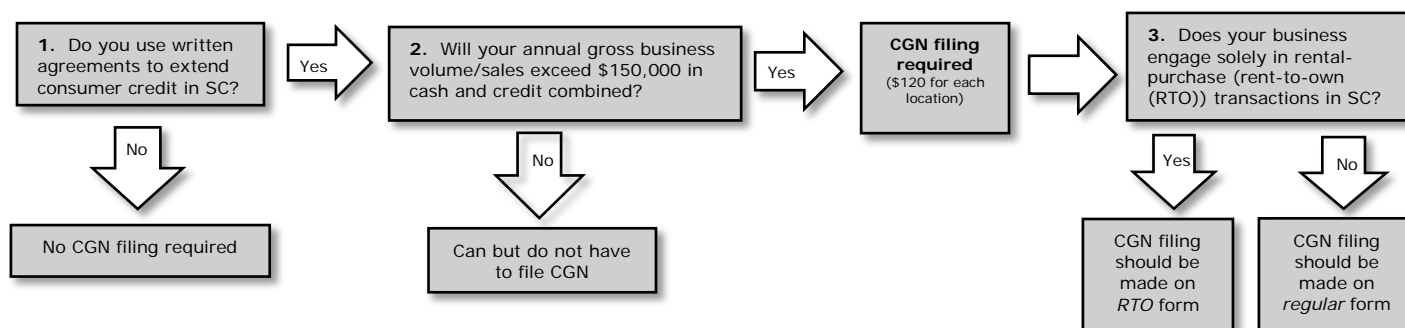
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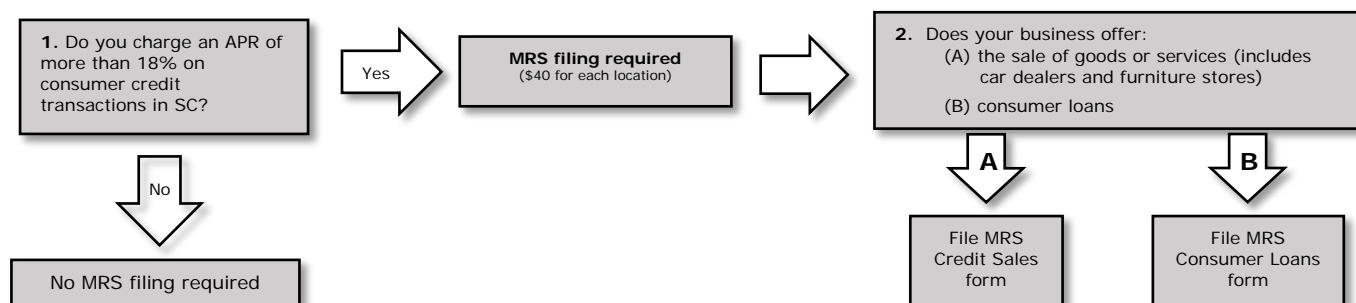
I. INTRODUCTION: The following flowcharts are intended to provide general guidance regarding filings required for Registered Creditors. For more details about the filing process, please refer to the Registered Creditors Filing Instructions form as well as the applicable statutes and regulations listed below. Call (803) 734-4238 if you have questions concerning filing requirements.

II. CREDIT GRANTOR NOTIFICATION (CGN)

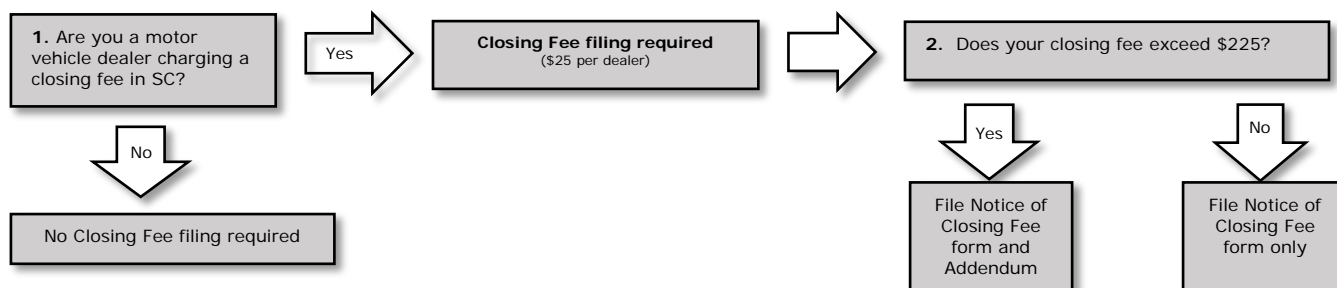
S.C. Code Ann. §§ 37-6-201, 37-6-202, 37-6-203, 37-6-204
Regulations 28-8, 28-30, 28-40

**III. MAXIMUM RATE SCHEDULE (MRS)**

S.C. Code Ann. §§ 37-2-201, 37-2-305, 37-3-201, 37-3-305
Regulation 28-70

**IV. MOTOR VEHICLE CLOSING FEE** (applies to dealers licensed pursuant to Title 56, Chapter 15)

S.C. Code Ann. § 37-2-307





REGISTERED CREDITORS GUIDANCE

Street Address

293 Greystone Blvd., Ste. 400
Columbia, SC 29210-8004

This information is provided to help creditors when filing Maximum Rate Schedules. Page 1 provides explanations of various terms while Page 2 provides charts and examples.

For additional information regarding filing requirements for Registered Creditors, please see the Filing Instructions and Flowchart available on our website. Call (803) 734-4238 if you have questions concerning filing requirements.

I. CREDIT SALE vs. LOAN

S.C. Code Ann. § 37-2-305; S.C. Code Ann. § 37-3-305; Regulation 28-70

A **credit sale** occurs when a business sells an item to a consumer and allows the consumer to pay the business for it over a period of time. Motor Vehicle Dealers typically fall within this category because the dealership is either “buy here pay here” or is involved in preparing the paperwork or obtaining credit for the consumer.

A **loan** occurs when one business (Company A) lends money to a consumer so that consumer can purchase an item from another business (Company B). When the transaction is a loan, the consumer is paying to use Company A’s money, rather than owing Company B for the purchased item. This is typically what happens when a finance company gives the consumer money to go to a dealership to buy a car (Note: the dealership is not involved in the transaction between the borrower and the finance company).

II. SECURED vs. UNSECURED

A **secured** credit transaction is a transaction that involves a lien on property. With a secured credit transaction, the consumer has collateral the lender may take if the consumer fails to repay the debt. The property used as collateral may be either real estate or non-real estate (such as a motor vehicle). Creditors sometimes offer lower interest rates and better terms on secured credit transactions. Most motor vehicle dealers use secured credit transactions when selling motor vehicles.

An **unsecured** credit transaction is a transaction that does not involve a lien on property. With an unsecured credit transaction, the creditor does not require any collateral, but rather takes the consumer’s word that he or she will repay the debt. These are sometimes referred to as Signature Loans or used for services that will not be taken back (for example, dental work).

III. VARIABLE RATE vs. FIXED RATE

A **fixed rate** is an interest rate that remains the same throughout the duration of the contract or agreement. With a fixed interest rate, the consumer will pay the same percentage of interest, regardless of any changes in the market rate. It does not matter if a company’s rates vary by consumer, as differing rates are typical depending on each consumer’s credit history. Rather, the determining factor is whether the rate remains the same during the course of a particular contract.

A **variable rate** is an interest rate that changes with the market. The interest rate on any outstanding balance will vary as the benchmark interest rate or index changes. For example, assume the variable interest rate on a credit card is the United States Prime Rate plus 12.75%. In this instance, the margin, 12.75%, is added to whatever the prime rate is at the time to come up with the total interest rate. If Prime is 5%, the total interest rate would be 17.75%.

IV. OPEN-END CREDIT

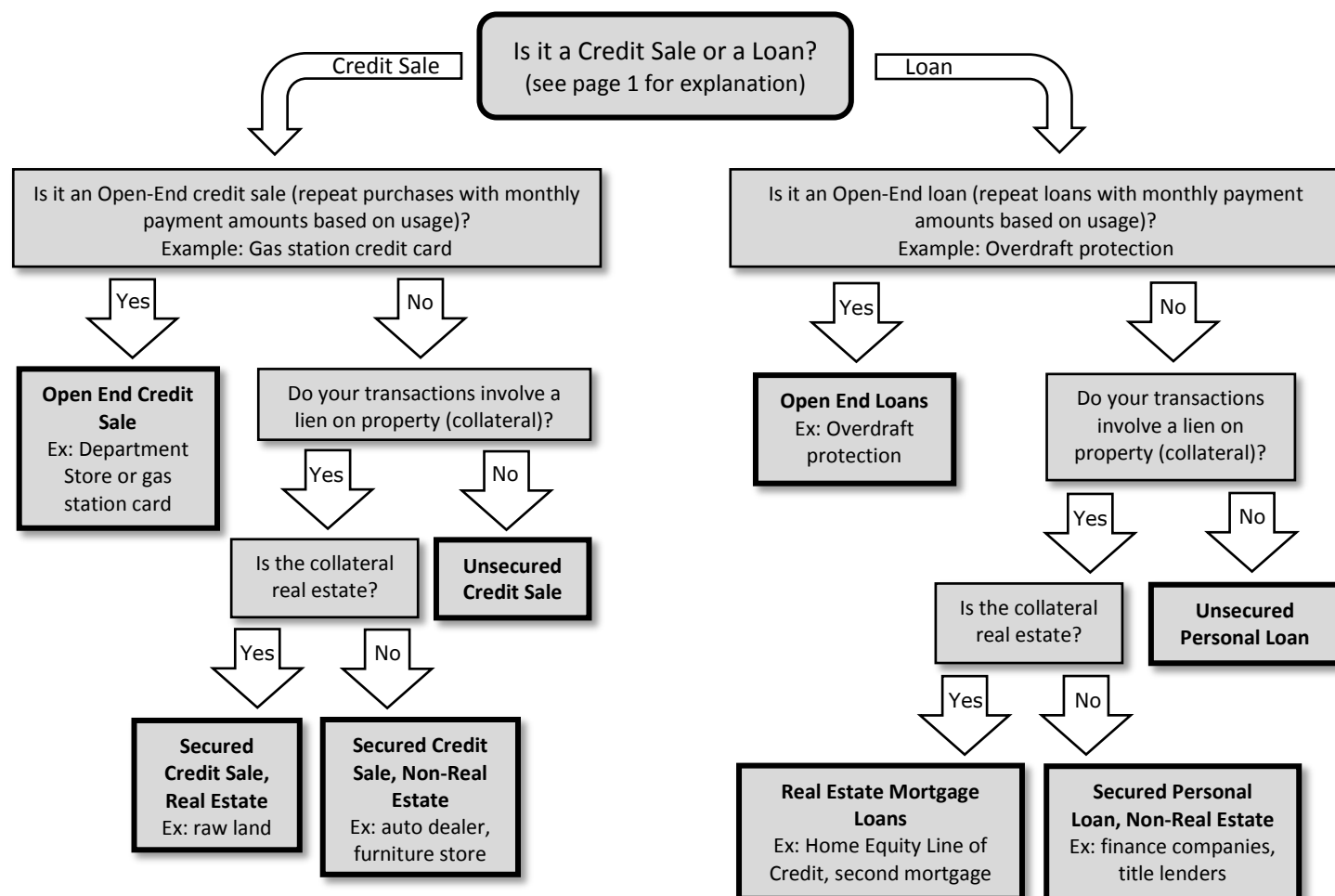
An **open-end credit** account is one under which the consumer is allowed to make repeated purchases (credit sales) or obtain loans. The consumer is given the privilege of paying the balance in full or paying in installments.

CREDIT SALES (§ 37-2-305)

CATEGORY	EXPLANATION	EXAMPLES (but not limited to)
1. Unsecured Credit Sales	No lien	Dental work, funerals
2. Secured Credit Sales, Non-Real Estate	Lien on collateral other than real estate	Auto dealers, furniture stores
3. Secured Credit Sales, Real Estate	Lien on real estate	Raw land
4. Open-End (Revolving) Credit Sales	Month to month	Department store or gas station credit cards
5. Other	Anything that does not fit in 1 through 4	<i>*Very rarely applies*</i>

LOANS (§ 37-3-305)

CATEGORY	EXPLANATION	EXAMPLES (but not limited to)
1. Unsecured Personal Loans	No collateral	Signature loan
2. Secured Personal Loans, Non-Real Estate	Collateral other than real estate	Finance companies, Title lenders
3. Real Estate Mortgage Loans	Real estate is used as collateral	Home Equity Line of Credit or Second Mortgage
4. Open-End (Revolving) Loans	Month to month up to limit	Overdraft protection
5. Other	Anything that does not fit in 1 through 4	<i>*Very rarely applies*</i>





SUPERVISED LOAN BROCHURE

REPOSSESSIONS

In order for a lender to repossess, or take back, the property: (1) it must be collateral for the loan and (2) you must have defaulted on your contract. Your rights and the lender's rights when it comes to default are laid out in the contract you signed and in SC law. Usually, default includes the failure to make a payment on time or failing to keep insurance on a vehicle.

If you don't make timely payments, the lender must send you a "Notice of Right to Cure" before repossessing the property. After the lender sends the notice you have twenty (20) days to make the missed payment(s).

Did you make the loan current by paying any missed payments within 20 days?

YES



The property will not be repossessed.

REMEMBER:

You may not receive another Right to Cure notice, depending on your type of loan. (see below)

NO



Your lender can repossess the property and sell it to pay your loan.

You could be responsible for paying any amount not repaid by selling the collateral.

A "Right to Cure" notice is not required before repossession if you:

- (1) Are in default for any reason other than missing a payment; or
- (2) Voluntarily surrender the collateral.

CAUTION: If you miss another payment, you will not receive any additional Right to Cure notices, unless you renew your account or it is a revolving account.

COMPLAINTS

If you have a problem with your lender, file a complaint with the lender's home office. If you don't receive the response you desire, file a complaint with the Department of Consumer Affairs using the information below.

COMPANY OFFICE



SC Department of Consumer Affairs

293 Greystone Blvd. • PO Box 5757
Columbia, SC 29250
(800) 922-1594
www.consumer.sc.gov



**SC Board of Financial Institutions,
Consumer Finance Division**

1205 Pendleton St. • Columbia, SC 29201
STE. 306 • Edgar Brown Building
(803) 734-2020
www.consumerfinance.sc.gov

CONSUMER LOANS: *Your Rights and Responsibilities*

LENDER

LENDER'S OFFICE

This pamphlet is meant to serve as a summary of your rights and responsibilities under this loan. It is not a complete review of the laws that apply. For more information on your rights, contact the South Carolina Department of Consumer Affairs.



AMOUNT FINANCED

This is how much money you are actually borrowing. It includes the cash you get plus any other payments or payoffs of another loan and any type of credit insurance you have purchased.

ANNUAL PERCENTAGE RATE (APR)

This is the cost of your loan stated as a yearly rate. All lenders must calculate the APR the same way so you can compare different loans and determine which is the best deal for you.

BALANCE

The amount of money you currently owe a lender.

COLLATERAL

Items such as cars, boats, and jewelry you allow a lender to have a lien on so you can get credit.

CANNOT be: your furniture, other than antiques, appliances, radio or television (unless you own more than one), or wedding rings UNLESS the lender finances the purchase of the item(s).

CREDIT INSURANCE

There are several types of credit insurance. Credit Life, Credit Accident and Health, and Credit Property are a few. If credit insurance is purchased with a loan, a policy must be given to you outlining the coverage. To file a claim for benefits on credit insurance, ask your lender for a claim form and instructions on how to complete.

DEBTOR

A person who owes a lender money.

FINANCE CHARGE

This tells you how much the loan costs you in dollars and cents. You may be able to save some money if you pay off your loan early.

LATE CHARGES

If you do not make your payments on time you can be charged a late charge. Ask your lender or refer to your loan papers for details about this charge, including the amount.

LENDER

The person or company to whom you owe money.

LOAN RENEWALS

If you and your lender agree, you can renew your loan. Renewing a loan means you are taking out a **NEW** loan. You will pay finance charges again. Generally, when you renew a loan of \$1,000 or less, you must be able to receive at least ten percent (10%) of the payoff amount of your old loan in cash.

MINIMUM PAYMENT

The amount of money a debtor must pay a lender to avoid late penalties and fees.

REFINANCE

Replacing an older loan with a new loan that may offer better terms.

REPOSSESS

When a lender takes collateral the lien is on - with or without a court order.

TOTAL OF PAYMENTS

This is how much you will pay for your loan if you make all payments as stated in your contract.

WHAT A LENDER CAN'T DO

- Threaten use of force, violence or criminal prosecution against you.
- Contact you at work if you or your boss told them in writing not to do so.
- Communicate with you before 8:00 am or after 9:00 pm (without your permission).
- Tell anyone not signed on the contract that you have not paid.
- Put a notice about your debt on your door (unless it is sealed in a plain envelope).
- Swear or curse at you.
- Have money you owe taken out of your pay, or threaten to do so.
- Communicate with you many times in a short period of time.
- Pretend to be an attorney.
- Contact you if you are represented by an attorney and the lender is aware of this, unless the attorney fails to respond to the lender.

➡ If you do not want a lender to contact you, send them a letter, certified mail return receipt requested, asking them to stop. Beware, that stopping all contact with the lender may force them to take legal action.

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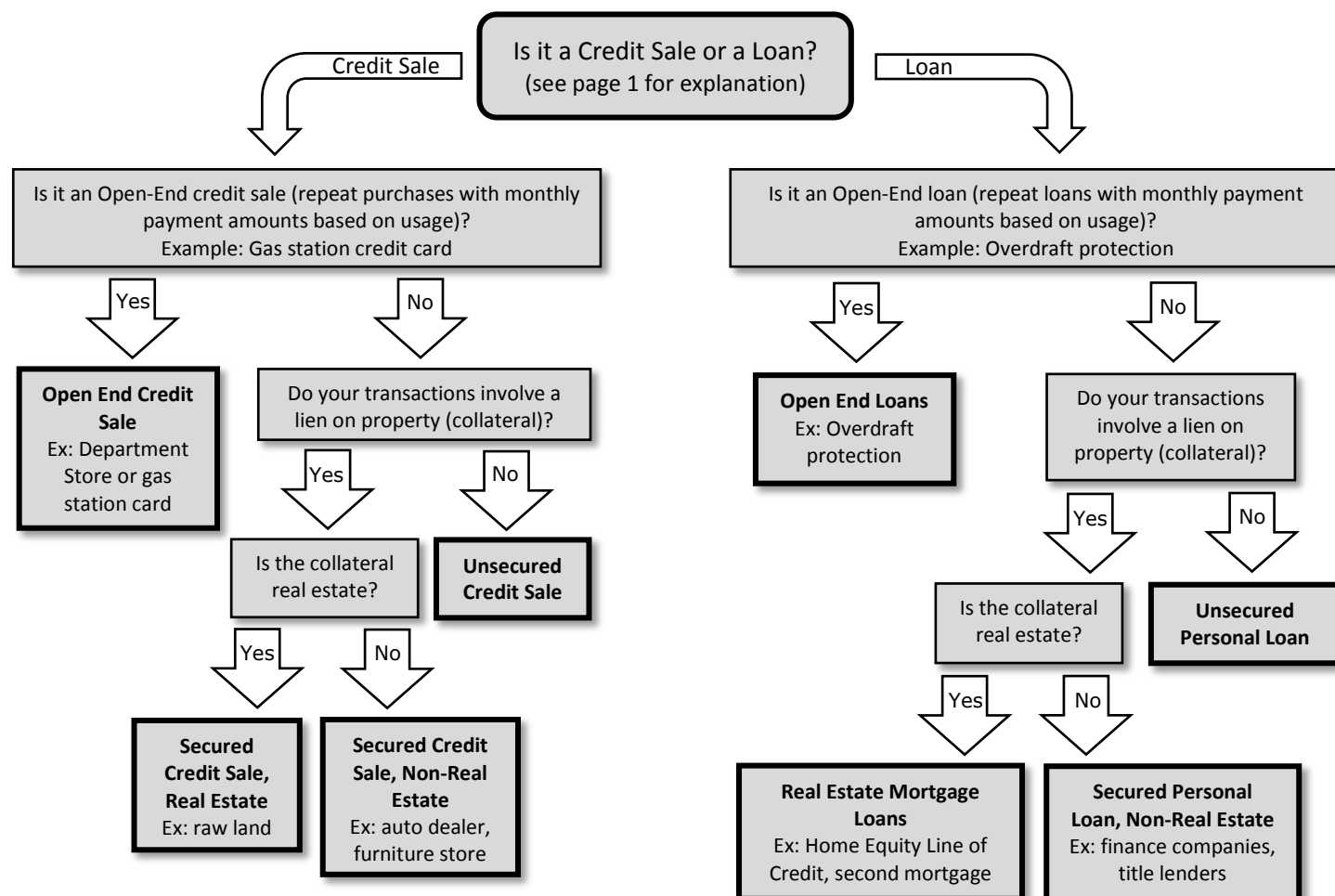
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CATEGORY	EXPLANATION	EXAMPLES (but not limited to)
1. Unsecured Personal Loans	No collateral	Signature loan
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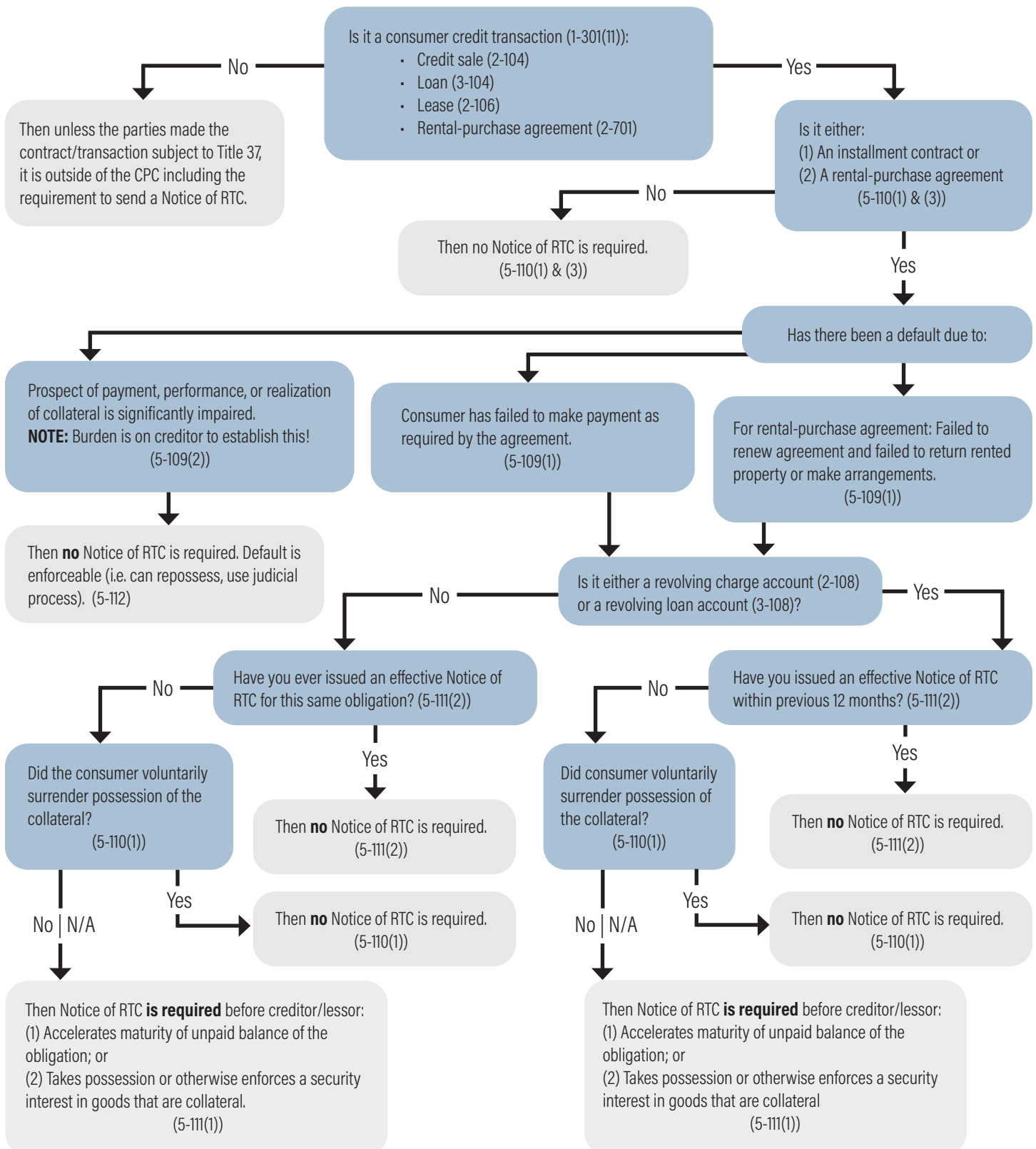


RIGHT TO CURE GUIDANCE

The following flowchart is intended to provide general guidance regarding whether a notice of a right to cure is required and is not meant to serve as a substitute for reading the various laws discussed, seeking legal counsel, or otherwise requesting Department guidance and/or interpretations on the laws it administers and enforces.

IS A NOTICE OF A RIGHT TO CURE REQUIRED BY TITLE 37?

Numbers in parentheses refer to the chapter and section of Title 37.





RIGHT TO CURE TIMING GUIDANCE

The following chart is intended to provide general guidance regarding the timing and content requirements for a notice of a right to cure and is not meant to serve as a substitute for reading the various laws discussed, seeking legal counsel, or otherwise requesting Department guidance and/or interpretations on the laws it administers and enforces.

NOTICE OF RIGHT TO CURE (RTC)

Timing, Content and What the Consumer Can Cure

Description/Activity	Credit Sale, Loan, Lease	Rental-Purchase Agreement (Rent-to-Own)
Payment Due	Day 1	Day 1
Delay required before sending Notice of RTC	§ 37-5-110(1) 10 full days: Day 2 Day 3 Day 4 Day 5 Day 6 Day 7 Day 8 Day 9 Day 10 Day 11	§ 37-5-110(3) 3 full business days: 1st business day 2nd business day 3rd business day
First day creditor/lessor can send Notice of RTC	Day 12	Day after the 3rd business day <i>(Day 5 would be the earliest the Notice of RTC could be sent and that is only if Days 2, 3, and 4 are all business days)</i>
Minimum period for consumer to cure default after notice is given	§ 37-5-111(1) 20 full days before creditor/lessor can: <ul style="list-style-type: none"> • accelerate maturity of the unpaid balance of the obligation, or • take possession of or otherwise enforce a security interest in goods that are collateral 	§ 37-5-111(3) If payments or options to renew are <u>monthly or less frequent than monthly</u> ; lessor may not instigate court action to recover rented property until <u>5 days</u> after giving Notice of RTC § 37-5-111(4) If payments or options to renew are more frequent than monthly (e.g. weekly or biweekly); lessor may not instigate court action to recover rented property until 3 days after giving Notice of RTC

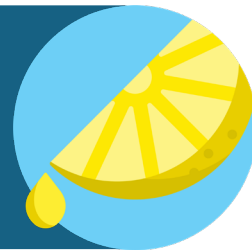
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Content of Notice of RTC	<p>§ 37-5-110(2) The notice must be in writing and conspicuously state:</p> <ul style="list-style-type: none"> the name, address and telephone number of the creditor to whom payment is to be made, a brief identification of the credit transaction, the consumer's right to cure the default, and the amount of payment and date by which payment must be made to cure the default. 	<p>§ 37-5-110(4) The notice must be in writing and conspicuously state:</p> <ul style="list-style-type: none"> the name, address, and telephone number of the lessor to whom payment is to be made, a brief identification of the transaction, the consumer's right to cure the default, and the amount of payment and date by which payment must be made to cure the default.
Types of default and how consumer can cure them	<p>§ 37-5-111(1) Consumer may cure:</p> <p>What: all defaults consisting of a failure to make the required payment</p> <p>How: by tendering the amount of all unpaid sums due at the time of the tender, without acceleration, plus any unpaid delinquency or deferral charges</p>	<p>§ 37-5-111(5) Consumer may cure:</p> <p>What: all defaults consisting of failure to renew and failure to return the property</p> <p>How: by tendering the amount of all unpaid sums due at the same time of the tender plus any unpaid delinquency charges or other charges authorized by Part 7, Chapter 2</p>



LEMON LAW CHECKLIST

LEMON LAW CHECKLIST



IS YOUR VEHICLE A “LEMON”?



- ☐ Vehicle is a private passenger car, van, truck or motorcycle.
- ☐ Vehicle is “new” – no previous owners, aside from the new motor vehicle dealer.
- ☐ Vehicle was purchased and registered in South Carolina.
- ☐ Issue(s) substantially affect the value of the vehicle (issue must not be caused by the consumer’s abuse, neglect or alteration of the vehicle).

HAVE YOU MET THE REQUISITE NUMBER OF REPAIR ATTEMPTS? (SELECT ONE)



- ☐ At least 3 repair attempts for the same issue; or
- ☐ Any number of repair attempts where the vehicle is out of service for 30 days or more (*does NOT have to be consecutive days*).

HAVE YOU SENT THE FINAL REPAIR ATTEMPT NOTICE TO THE MANUFACTURER?



- ☐ Final Repair Notice Sample.
- ☐ Notice sent within first 12 months of ownership or 12,000 miles (*whichever occurs first*).

WHAT’S NEXT?

- The manufacturer has 10 business days to notify you of a reasonably accessible repair facility where you should take your vehicle for the final repair attempt, free of charge.
- Once you drop your vehicle off, the manufacturer has up to 10 business days to repair the vehicle.
- If the manufacturer is unable to properly repair the vehicle, you should notify the manufacturer that the substantial issue persists. The manufacturer will then inform you of its informal dispute settlement procedure (if any), unless it has already done so.
- If the manufacturer does not have an informal dispute settlement procedure, you may file an action in court.
- If the manufacturer does have an informal dispute settlement procedure, you must pursue that avenue before filing an action in court. If you prevail in the informal dispute settlement, the manufacturer must either (1) replace the vehicle with an identical reasonably equivalent vehicle; or (2) refund the purchase price, less a reasonable allowance for the consumer’s use.
- If you remain unsatisfied after the informal dispute settlement, you may file an action in court.





FIFITPA BROCHURE

Identity THEFT *and the* LAW

A GUIDE FOR BUSINESS & GOVERNMENT

Their *information*,
Your *responsibility*.

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The South Carolina Financial Identity Fraud and Identity Theft Protection Act

A brief introduction

Identity Theft is one of the nation's fastest growing crimes.

To aid in combating identity theft in South Carolina, the General Assembly passed the Financial Identity Fraud and Identity Theft Protection Act (The Act, The Law) (Act No. 190, 2008).

The Act provides several protections for consumers in the areas of security freezes, credit reports, records disposal, security breaches and more. The Act also places requirements on businesses and public bodies with regard to the collection, maintenance and disposal of consumers' personal information. All portions of the law, except the provisions regarding security breaches, became effective on December 31, 2008. The security breach provisions became effective on July 1, 2009. Beginning July 2008 through December 2016, the South Carolina Department of Consumer Affairs (Department) received 248 data security breach notices affecting nearly eight million South Carolina residents.

In 2013, portions of the law were amended relating to initiation of law enforcement investigations of identity theft and the definition of personal identifying information (PII) (Act No. 15, 2013). Annually since 2014, the General Assembly has supplanted certain provisions applicable to state agencies via budget proviso(s).

This brochure is meant to highlight important portions of the Act and not to serve as a substitute for reading the Act. References to portions of the laws amended or added by the Act are to the appropriate section number within the South Carolina Code of Laws. The complete Act may be found on the South Carolina Department of Consumer Affairs' website at www.consumer.sc.gov or at the South Carolina's Legislature's website at www.scstatehouse.gov.

For questions about this guide or the Act, contact SCDCA directly at 800-922-1594.

Business Records Disposal

(Sections 37-20-190 & 30-2-310)

Persons conducting business in South Carolina and public bodies must properly dispose of records and items containing consumers' personal identifying information (PII).

A *public body* is defined as any department of the State, state board, commission, agency, and authority, public or governmental body or political subdivision, as well as any organization, corporation, or agency supported in whole or in part by public funds, including any bodies by whatever known name and quasi-governmental bodies of the State and its political subdivisions.

Personal identifying information (PII)* consists of, but is not limited to:

- | | |
|---|--|
| • social security numbers | • driver's license/State ID card numbers |
| • checking account numbers | • savings account numbers |
| • credit card numbers | • debit card numbers |
| • personal identification (PIN) numbers | • electronic identification numbers |
| • digital signatures | • dates of birth |
| • current/former names, including first & last, middle & last or first, middle & last (but when used in combination with and linked to other identifying information in this section) | |
| • current/former addresses, only when the addresses are used in combination with and linked to other identifying information in this section. | |

*See Section 16-13-510(D).

Businesses and public bodies must make the PII unreadable or undecipherable when disposing of records and remove it from hardware, storage media and other items before selling, transferring or otherwise disposing of the item.

The director of a public body or its information technology manager must verify all confidential information is removed from computer items and items are sanitized in compliance with statewide and internal policies for protecting PII assets of their agency.

A business or public body can hire a third party to destroy records.

The following businesses are exempt from this section:

- Bank or financial institution subject to, and in compliance with, the Gramm-Leach-Bliley Act.
- A health insurer subject to, and in compliance with, the Health Insurance Portability and Accountability Act of 1996.
- A consumer credit reporting agency subject to, and in compliance with, the Fair Credit Reporting Act.

Penalties for businesses:

- Private Cause of Action: actual damages, attorney's fees; injunctions.
- Administrative Action by the Department of Consumer Affairs.

THE DISPOSAL RULE

Any business or individual who uses a consumer report for business purposes is subject to the federal Disposal Rule. This includes debt collectors, attorneys, lenders, mortgage brokers, and government agencies. The Rule requires that reasonable measures be implemented to ensure the proper disposal of information in consumer reports and records and prevent the unauthorized access to and use of the information. For more information visit ftc.gov

Security Breach

(Sections 1-11-490 & 39-1-90)

Persons conducting business in this state and state agencies must notify South Carolina consumers when a security breach occurs.¹ A security breach is the unauthorized access to, and acquisition of, items containing personal identifying information (PII) and the illegal use of the PII has occurred or is likely to occur. Disclosure of the breach must be made within a reasonable, expedient time from the discovery or notification of the breach.

For persons conducting business in South Carolina and owning or licensing computerized or other data², PII means:

First name or first initial and last name in combination with and linked to any one or more of the following data elements relating to a South Carolina resident, when the data elements are neither encrypted nor redacted

- social security number
- driver's license number or state identification card number
- financial account number, or credit card or debit card number in combination with any required security code, access code, or password
- other numbers or information which may be used to access a person's financial accounts or numbers/information issued by a governmental or regulatory entity that uniquely identified an individual

See Section 39-1-90(D)(3)

For state agencies, PII has the same meaning as defined in Section 16-13-510(D), which is included on page 4 of this Guide. Additionally, agencies should monitor state budget provisos to ensure statutory definitions have not been supplemented.

¹ Pursuant to Section 1-11-490(D)(1), "state agency" means any agency, department, board, commission, committee, or institution of higher learning of the State or a political subdivision of it.

² SCDCA issued Administrative Interpretation 11.490-1002 regarding security breaches. The AI can be viewed at www.consumer.sc.gov

Consumers must be notified through direct mail, telephone, or if certain conditions are met, notice can be sent via electronic means. In specific instances, notification of statewide media or substitute notice is permitted. If notice of a breach is sent to more than 1,000 persons at one time, the business or state agency must also notify the Department of Consumer Affairs and the national credit reporting agencies.

When a person is required to notify the Department of Consumer Affairs and credit reporting agencies of a security breach, the notice should include all of the following:

1. *When the breach occurred.*
2. *When the organization became aware of the breach.*
3. *Number of persons affected by the breach.*
4. *When notice was/will be sent to the affected persons.*
5. *Method of consumer notification. (e.g., mail, phone, electronic)*
6. *A copy of the notice sent to affected persons.*

Items for a business or state agency to include in a breach notice to South Carolina residents:

1. *What happened?*
2. *What personal information was involved?*
3. *What are we (business/state agency) doing?*
4. *What can the consumer do?*
5. *Who can the consumer contact for more information? (include contact information for your organization, preferably a dedicated line if the breach was large.)*
6. *Consider including information from the Department, including educational resources and the availability of consumer assistance in your notice. **See page 14 for more information.***

Penalties:

- Civil Action: damages, injunction, attorney's fees and costs;
- Administrative fines of up to \$1,000 per affected resident.

Security Breach Notification

Security Breach Notifications should be mailed to:

Identity Theft Unit
Re: Security Breach Notification
South Carolina Department of Consumer Affairs
PO Box 5757
Columbia, SC 29250

Sample Consumer Security Breach Notification Letter

Date
Organization's Name and Address
Affected Person's Name and Address

Dear (Person's Name):

I am writing to inform you that our organization experienced (or discovered) a security breach on or about (date of breach and when breach was discovered). Unfortunately this has resulted in unauthorized access to your personal identifying information, specifically your (identify information that was or is reasonably believed to have been acquired).

(Organization Name) is taking this matter very seriously and has (describe steps taken to prevent further harm or access to the person's personal identifying information and indicate whether or not law enforcement and/or the Department of Consumer Affairs was notified of the breach). If you have any questions about this notice, please contact (name of contact person) at (contact's telephone number). You may also contact the South Carolina Department of Consumer Affairs at 1-800-922-1594 for guidance on avoiding and dealing with the effects of identity theft.

Sincerely,

(Organization's Representative)

Social Security Numbers

(Sections 37-20-180 & 30-2-310)

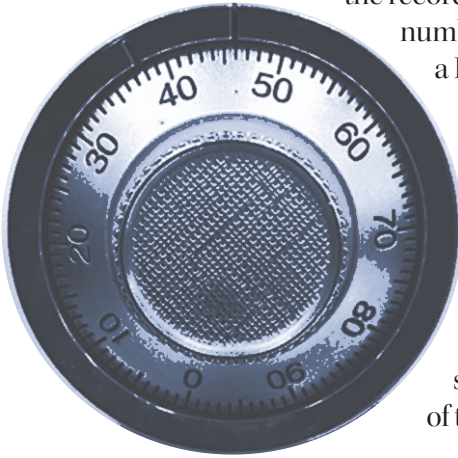
Among other prohibitions, a public agency and a person may not:

- Make available to the public a person's social security number or six or more digits of the number.
- Require a person to transmit a social security number or six or more digits of the number on a card required for access to a product or service.
- Require a person to transmit a social security number or six or more digits of the number over the internet UNLESS there is a secure connection or the number is encrypted.
- Require a person to use his/her social security number or six or more digits of the number to access the web unless a password is also required.
- Print a person's social security number or six or more digits of the number on materials mailed to that person UNLESS state or federal law requires it.
- Sell, lease, loan, trade, rent or otherwise intentionally disclose a person's social security number or six or more digits of the number unless (1) the consumer consents in writing, (2) disclosure is for a legitimate business or government purpose or (3) disclosure is allowed by law.

This portion of the law does not apply to the following scenarios, among others listed in section 37-20-180(B):

- I. Collection, use or release of a person's social security number for internal verification.
- II. To a person acting pursuant to a court order, subpoena or other legal process.
- III. The opening of an account or payment for a product or services authorized by the consumer.

- May not collect a person's social security number or six or more digits of the number UNLESS the body is (1) authorized by law or (2) the collection is imperative to the body performing its duties and responsibilities.
- When collecting a person's social security number or six or more digits of the number, must separate the number from the rest of the record, or as otherwise appropriate, so the number can be easily redacted pursuant to a Freedom of Information Act request.



- At a person's request, must give a statement of purpose for collecting the person's social security number or six or more digits of the number and how it will be used.
- Can only use a person's social security number or six or more digits of the number for the purpose stated.

Social security numbers and other identifying information may be released by a public body under certain circumstances, including (Section 30-2-320):

- Pursuant to a court order, subpoena, etc.
- For public health purpose.
- On a recorded document filed with court.*

**Remember to check court rules prior to filing.*

Security Freeze

(Section 37-20-160)

South Carolina consumers can place a security freeze on their credit reports. When in place, the credit report cannot be accessed without the consumer's permission.

The freeze may be temporarily removed, or "thawed," at the consumer's request. The thawing can be for a specified time or a specific creditor and must be enacted within 15 minutes of the consumer's request. There is no cost to place, thaw or remove a security freeze.

The freeze does not apply to credit reports in certain circumstances, including those provided to government entities acting pursuant to a subpoena or court order; child support agency; Department of Revenue; Department of Social Services when investigating fraud; local officials investigating or collecting delinquent amounts.

Businesses processing credit applications are encouraged to include a question on their application regarding the presence of a security freeze on the consumer's credit report. Asking this question can help both parties avoid delays in the application process.

Consumers can place a freeze on their credit report by contacting the following credit reporting agencies:

Equifax

www.equifax.com

800-685-1111

or TDD 800-255-0056

PO Box 105788, Atlanta, GA 30348

Experian

www.experian.com/freeze

888-EXPERIAN (397-3742)

or TDD 800-972-0322

PO Box 9554, Allen, TX 75013

TransUnion

www.transunion.com

888-909-8872

or TDD 877-553-7803

PO Box 6790, Fullerton, CA 92834

Protected Consumer Freeze

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(Section 37-20-161)

Effective January 1, 2015, an amendment to the South Carolina Consumer Protection Code allows parents, guardians, and representatives to create and freeze a protected consumer's credit file for free. A protected consumer is someone under the age of 16 or an incapacitated adult who does not currently have a credit report.

Upon receiving a request on behalf of a protected consumer, the credit reporting agency will create a credit file in that protected consumer's name and freeze it, helping to deter identity theft.

Parents/guardians must contact each credit reporting agency to place this freeze. There is no charge to place a protected consumer freeze.

For more information about security freezes, contact the Department of Consumer Affairs or visit www.consumer.sc.gov.

SCDCA's Identity Theft Unit

Offering tailored assistance to victims of ID theft

The Identity Theft Unit is dedicated to educating consumers on avoiding scams and identity theft. The Unit also provides one-on-one assistance to victims of identity theft.



Consider referencing one of the Unit's various resources on security freezes, child identity theft, or scams on your company website or in a consumer security breach notice. If space is limited, simply include the Department's contact information.



800-922-1594
www.consumer.sc.gov
2221 Devine St., STE. 200
PO Box 5757
Columbia, SC 29250

Other Provisions Under the Act

Seller/Lender Credit Card Issuer (Section 37-20-120): Businesses that mail offers to receive a seller or lender credit card must verify a change of address that is substantially different from the address on the offer. A seller/lender credit card issuer is prohibited from mailing out additional credit cards to a new address if the card is requested within 30 days of the address change, unless the change of address is verified by the issuer.

Register of Deeds and Clerk of Court (Section 30-2-330): Unless required by law, persons preparing or filing documents with the register of deeds or clerk of court cannot put the following on the document: social security number, driver's license number, checking account, credit card or debit card number, etc. A violation is a misdemeanor with \$500 fine per violation. A register of deeds and a clerk of court shall place notices in their respective office as well as on the internet regarding the restrictions above. The notice must be identical to that in Section 30-2-330 (C). An affected person may petition a court for an order compelling compliance if the register of deeds or clerk of court is not in compliance with this section.

CRIMES

Financial Identity Fraud and Identity Fraud (Section 16-13-510) and “dumpster diving” (Section 16-11-725), the rummaging or stealing of another person's household garbage for the purpose of committing identity theft or fraud.

PENALTIES

The crime of “dumpster diving” can be either a misdemeanor or felony, dependent on willfulness. The crime of Financial Identity Fraud is considered a felony and punishable up to ten years of imprisonment and/or fines.

Identity Theft and the Law: Q&A

Q: What's the best way to dispose of documents containing personal identifying information?

A: The law requires that the records be shredded, erased or that another method is used that ensures the PII is unreadable or undecipherable.

Q: When should I notify the Department of Consumer Affairs of a data security breach?

A: The requirement to notify the Department, and national credit reporting agencies, is triggered when more than 1,000 South Carolina residents are affected by your organization's security breach.

Q: Are there any consequences for not complying with the Financial Identity Fraud and Identity Theft Protection Act?

A: Yes. The Act provides several penalties including being fined by the Department of Consumer Affairs and sued by an affected person.

Q: What can I do to assist my staff and organization with complying with the Act?

A: Take stock of the PII your organization receives or has on file and develop a data security plan, data disposal plan and security breach plan. Implement staff training so they are clear on the organization's policies and procedures regarding the protection of PII. As always, the Department of Consumer Affairs is available as a resource to answer questions and provide educational literature on the Act.

Definitions Index:

Personal Identifying Information, 6, 8
Public Body, 6
Security Breach, 8
Security Freeze, 13
State Agency, 8

Additional Resources:

Federal Trade Commission Privacy and Security

www.ftc.gov

(Click “Tips & Advice” --> “Business Center” --> “Privacy & Security”)

National Institute of Standards and Technology (NIST)

Computer Security Resource Center

<http://csrc.nist.gov>

OnGuard Online

www.OnGuardOnline.gov

South Carolina Division of Technology

www.admin.sc.gov/technology

Consumer Financial Protection Bureau

www.consumerfinance.gov

The Consumer Federation of America

(Checklist for Breached Entities)

http://consumerfed.org/wp-content/uploads/2016/09/9-7-16-7-Questions-to-Ask_Fact-Sheet.pdf

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Find the latest scam alerts and news here.
twitter.com/scdca

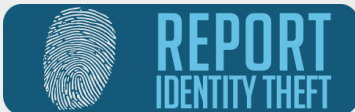


Look here for updates & educational materials.
facebook.com/SCDepartmentofConsumerAffairs



Check out our YouTube channel.
youtube.com/scdcatv

WWW.CONSUMER.SC.GOV



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South Carolina Department of Consumer Affairs
2221 Devine St. STE 200 • PO Box 5757 • Columbia, SC 29250
800-922-1594 • www.consumer.sc.gov



BUSINESS INDUSTRY INFORMATION

SCDCA Business/Industry Information

Business/Industry	Description	Staff Responsible
Athlete Agents <ul style="list-style-type: none"> Individuals 	Uniform Athlete Agents Act (59-102-10 et seq.) Who: All athlete agents What: Must file with DCA Filing fee/agent: New \$1,500; Renewal \$700	Deborah Lockard (Lic Superv) Stacy Staley (Lic Exam)
Continuing Care Retirement Communities (CCRC) <ul style="list-style-type: none"> Locations 	Continuing Care Retirement Community Act (37-11-10 to -140; Reg. 28-600) Who: All continuing care retirement communities What: Must obtain a license from DCA Filing fee is \$2,000/location	Deborah Lockard (Lic Superv) <i>Vacant</i> (Lic Exam)
Credit Counseling <ul style="list-style-type: none"> Locations Counselor 	Consumer Credit Counseling Act (Title 37, Chapter 7; Reg. 28-700) Who: Organization and certain employees (1) receiving money to distribute to creditors; (2) improving/offering to improve credit record, history, rating; (3) negotiating to defer or reduce obligations What: Must be licensed Filing fee is \$100/location and \$40/counselor	Deborah Lockard (Lic Superv) Stacy Staley (Lic Exam)
Discount Medical Plan Organizations (DMPO) <ul style="list-style-type: none"> Organization Representatives 	Discount Medical Plan Organization Registration Act (37-17-10 to -120; Reg. 28-90) Who: Companies that offer discount programs for health care services (subject to some exemptions) and their marketing companies What: Must register with DCA and pay fees Filing fee ranges based on size from \$500-\$1,000	Deborah Lockard (Lic Superv) <i>Vacant</i> (Lic Exam)
Mortgage Brokers <ul style="list-style-type: none"> Organization Branches Loan Originators 	Mortgage Brokers Act (40-58-10 to -130; Reg. 28-400) Who: All businesses offering mortgage brokerage services, including loan correspondents, table-funding, and third party loan processors and underwriters What: Must file with DCA using NMLS Filing fees: Organization: New \$750; Renewal \$550 Branch: \$150 (new and annual renewal) MLO: New \$50-\$100; Renewal \$50	Deborah Lockard (Lic Superv) Tyesha Stover (Lic Exam)
Motor Clubs <ul style="list-style-type: none"> Club Representatives 	Motor Club Services Act (39-61-40 et seq.; Reg. 28-80) Who: All motor clubs doing business within the state What: Must file with DCA Filing fee is \$500/Motor Club; \$20/Representative	Deborah Lockard (Lic Superv) Stacy Staley (Lic Exam)

Business/Industry	Description	Staff Responsible
Pawnbrokers <ul style="list-style-type: none"> Locations 	Pawnbroker Laws (40-39-10 et seq.; Reg. 28-200) Who: All businesses offering pawnbroker services What: Must file with DCA and pay filing fee Filing fee is \$275/location	Deborah Lockard (Lic Superv) Tyesha Stover (Lic Exam)
Physical Fitness Services <ul style="list-style-type: none"> Locations 	Physical Fitness Services Act (44-79-10 et seq.; Reg. 28-100) Who: All businesses offering physical fitness services (health clubs; health spas; weight control centers; figure salons; tanning centers; athletic or sport clubs) What: Must file with DCA for physical fitness Certificate of Authority Filing fee is \$50/location	Deborah Lockard (Lic Superv) <i>Vacant</i> (Lic Exam)
Preneed Funeral <ul style="list-style-type: none"> Locations 	Statutes (32-7-10 et seq.; 40-19-290(E)) Who: Funeral homes accepting funds to pay for prearranged services What: Must be licensed to sell Preneed Funeral Contracts; must deposit all monies into trust account or burial insurance policy; must submit contract to DCA with filing fee Filing fee is \$20/contract Filing fee: New \$250; Renewal \$200 (odd numbered years)	Deborah Lockard (Lic Superv) Stacy Staley (Lic Exam)
Prepaid Legal <ul style="list-style-type: none"> Company Employees 	Prepaid Legal Services Act (37-16-10 et seq.; Reg. 28-1100) Who: All companies selling prepaid legal services plans What: Must register with DCA Filing fee is \$800/company; \$40/individual selling plan	Deborah Lockard (Lic Superv) Tyesha Stover (Lic Exam)
Professional Employer Organizations (PEO)	PEO Laws (Title 40, Chapter 68; Reg. 28-1000) Who: All businesses offering professional employer organization services What: Must be licensed by DCA Filing fees: \$2,000/single; \$4,000/Group for biennium \$1,000/single; \$3,500/Group second year of biennium Renewal \$1,500/single; \$3,000 Group	Deborah Lockard (Lic Superv) <i>Vacant</i> (Lic Exam)

Registered Creditors	Description	Staff Responsible
Consumer Credit Grantor Notification/ Consumer Credit Grantor Notification Rent-to-Own	<p>Credit Grantor Notification law (37-6-201 to -204)</p> <p>Who: Persons who make consumer credit sales, leases or loans or who rent-to-own and persons who take assignments of rights against debtors re such transactions</p> <p>What: Must file notification form and pay notification fee to DCA</p> <p>Filing fee is \$120 per location</p>	Deborah Lockard (Lic Superv) Tenitia Baskett (Lic Exam)
Maximum Rate Schedules	<p>Credit sales (37-2-305 et seq.; Reg. 28-70)</p> <p>Who: Every creditor making consumer credit sales (includes motor vehicle dealers) who wishes to charge an APR above 18%</p> <p>Consumer loans (37-3-305 et seq.; Reg. 28-70)</p> <p>Who: Every creditor making supervised or restricted consumer loans and who wishes to charge an APR above 18%</p> <p>Credit Card disclosure (37-3-306; Reg. 28-70)</p> <p>Who: Every creditor making consumer loans pursuant to lender credit card or similar arrangement</p> <p>What: Must file maximum rate schedule with DCA and post it in creditor's place of business</p> <p>Filing fee is \$40/location</p>	Deborah Lockard (Lic Superv) Tenitia Baskett (Lic Exam)
Motor Vehicle Dealers Closing Fees	<p>Closing Fee Statute (37-2-307)</p> <p>Who: Every motor vehicle dealer charging closing fees (also referred to as doc fees or closing costs) on motor vehicle sales and lease contracts</p> <p>What: Must file motor vehicle disclosure form and pay registration fee; if over \$225, must provide supporting docs</p> <p>Filing fee \$25/dealership (regardless of # locations)</p>	Deborah Lockard (Lic Superv) Teresa DiVittorio (Legal Asst)