

Healthcare and Regulatory Subcommittee Thursday, November 9, 2023

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AGENDA



South Carolina
House of Representatives
Legislative Oversight Committee

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**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

AGENDA

Thursday, November 9, 2023

10:30 a.m.

Room 110 - Blatt Building

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

AGENDA

- 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

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.

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

First Vice-Chair Chris Wooten

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

Lewis Carter
Research Director

Roland Franklin
Counsel/Associate General Counsel for Litigation

Cathy A. Greer
Administration Coordinator

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

Thursday, October 19, 2023

10:30am

Blatt Building Room 521

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 Thursday, October 19, 2023, in Room 521 of the Blatt Building. Four subcommittee members (Chair Jefferson; Representative Marvin “Mark” Smith; Representative Thomas Duval “Val” Guest; and Representative April Cromer) were present, and one absent (Representative Roger Kirby.) 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 Wednesday, August 9, 2023, and Tuesday, September 26, 2023, meetings. 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 conduct the third meeting with the South Carolina Department of Consumer Affairs.

- II. Carrie Grube Lybarker, Administrator/ Consumer Advocate, of the South Carolina Department of Consumer Affairs, was recognized and turned the presentation over to agency staff.

Mandy Self, Consumer Services Division, presented the following information:

- Consumer Services Division
 - Staffing and division responsibilities
 - Division metrics
 - Complaint process and statistics
 - Homeowner Associations

Roger Hall, Deputy Consumer Advocate, presented the following information regarding the Advocacy Division:

- Advocacy Division
 - Staffing and division responsibilities (e.g., rulemaking, insurance, and utilities)
 - Division metrics
 - Rulemaking processes and responsibilities
 - Insurance processes and responsibilities
 - Utility processes and responsibilities

Adjournment

- I. 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



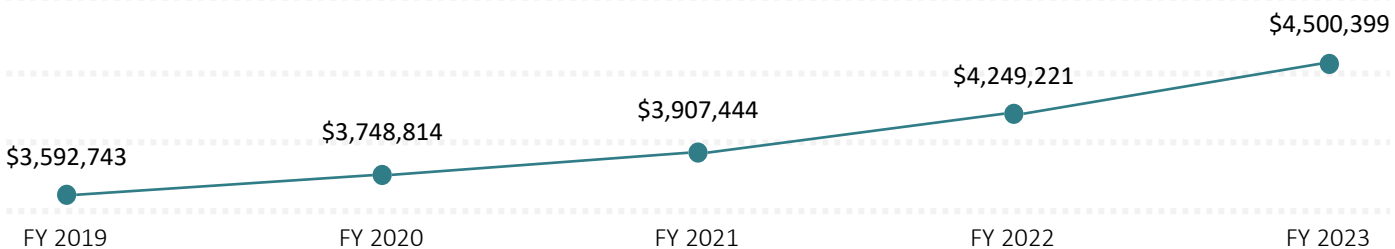
45 State FTEs

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.



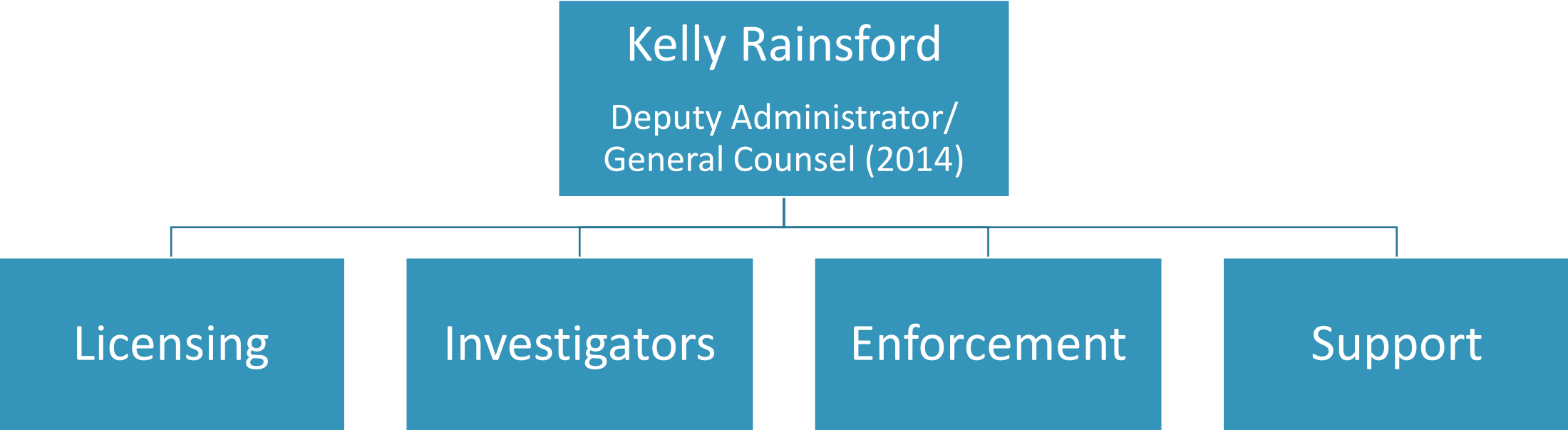
AGENCY PRESENTATION



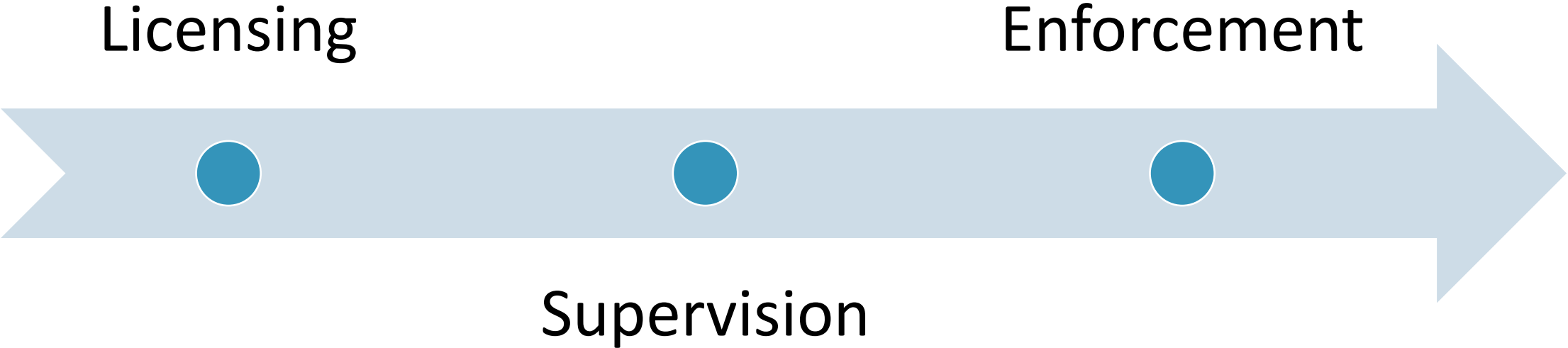
Legal Division

Kelly Rainsford, CIPP/US
Deputy Administrator/General Counsel

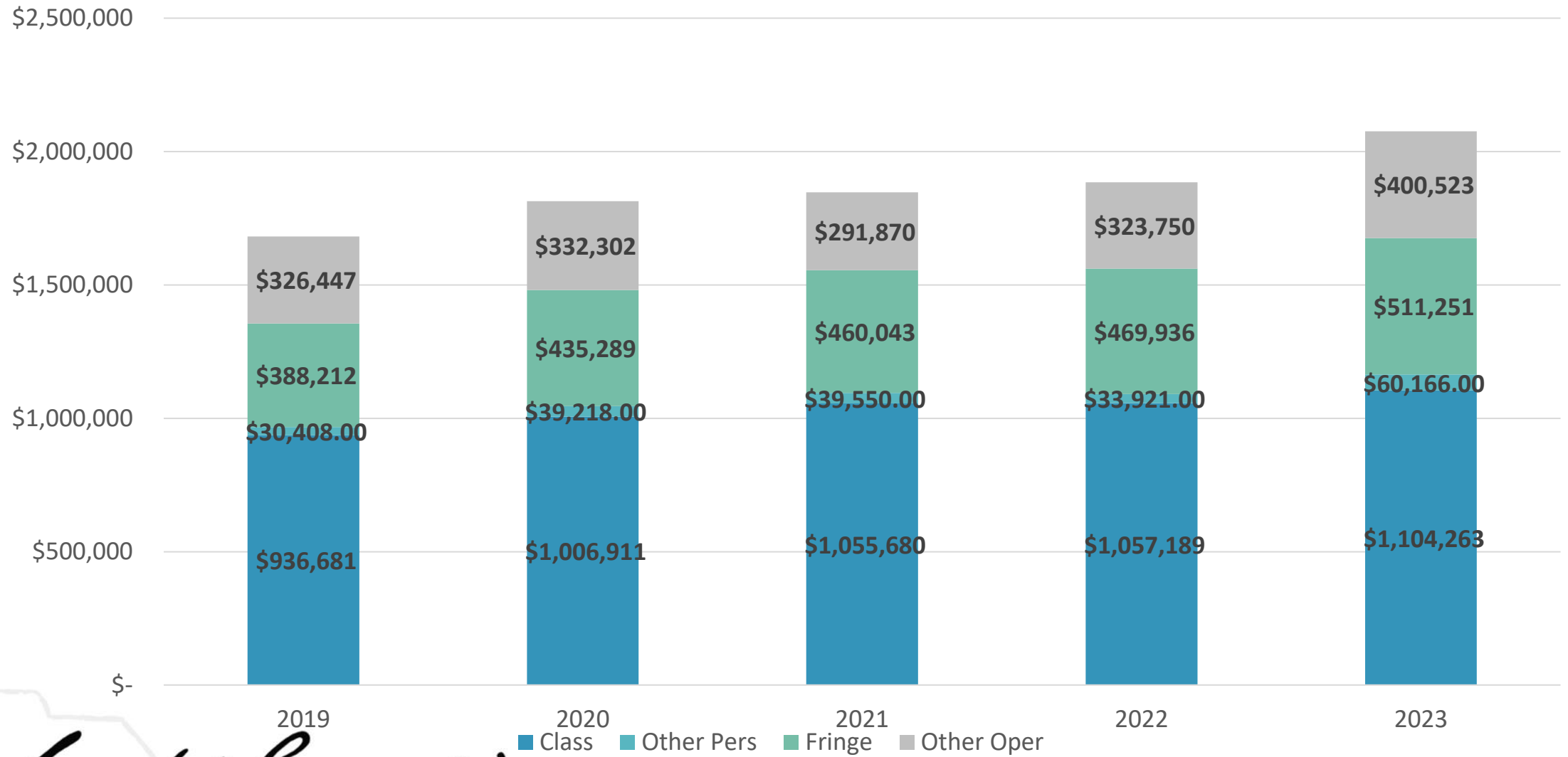
Legal Division Structure



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

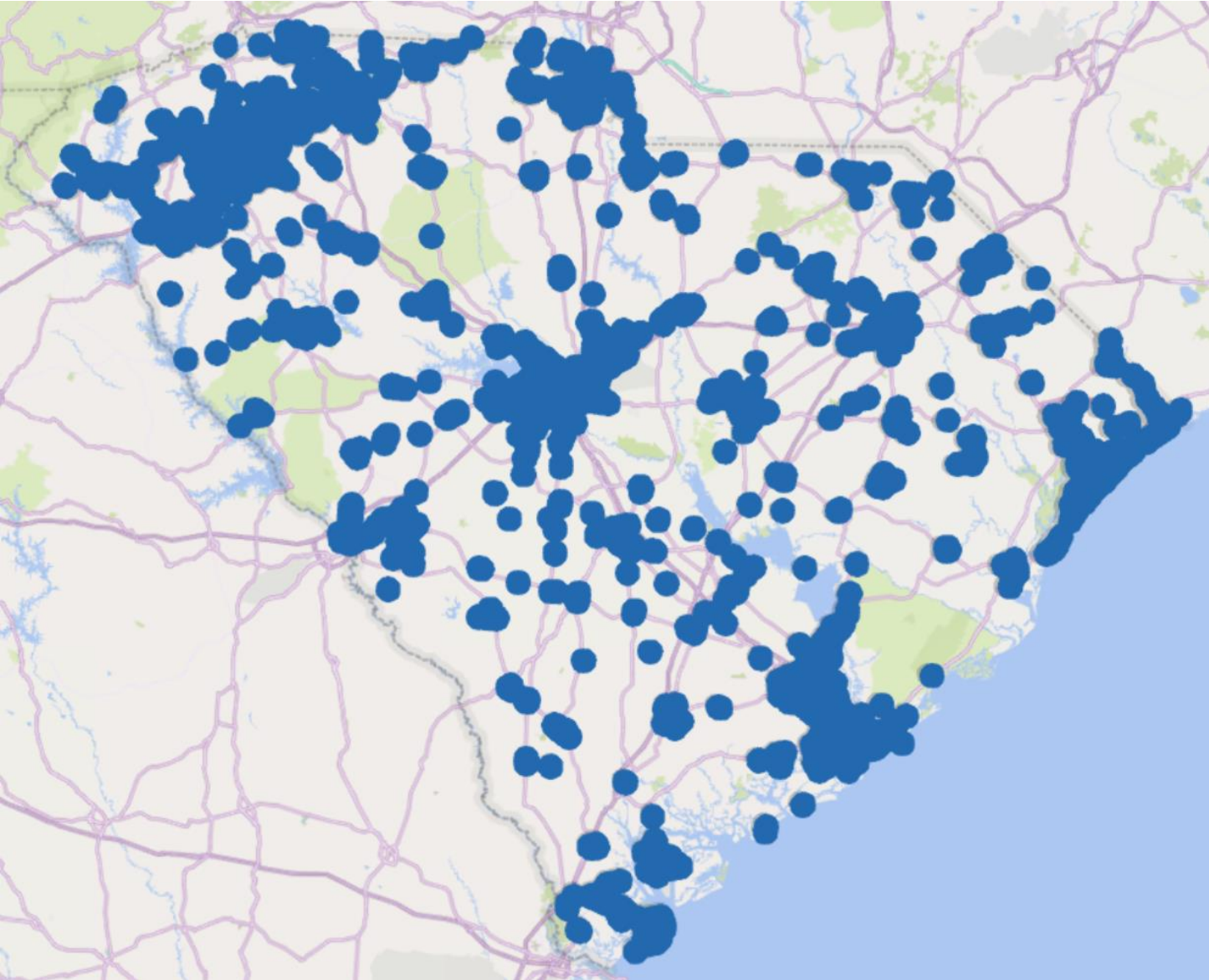
Educate businesses about licensing & filing requirements

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.

Physical Fitness Service Providers	<p>Includes personal trainers, gyms, health or exercise centers, clubs, studios, or classes; health spas; weight control centers, tanning centers; and athletic or sport clubs.</p>
Preneed Funeral Contract Providers	<p>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.</p>
Prepaid Legal	<p>Offers contracts for legal services or reimbursement for legal services for a predetermined, specific, periodic (ie: monthly) fee.</p>
Professional Employer Organizations	<p>Shares employment responsibilities with a client company that outsources certain tasks to the PEO (ie: payroll, benefits, recruiting, training and insurance services).</p>
Registered Creditors	<p>Credit Grantor Notification 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>Maximum Rate Schedules Charges an Annual Percentage Rate (APR) in excess of 18% on consumer credit sales or consumer loans.</p> <p>Motor Vehicle Dealers Charges a closing fee (administrative fee, doc prep fee).</p>

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:

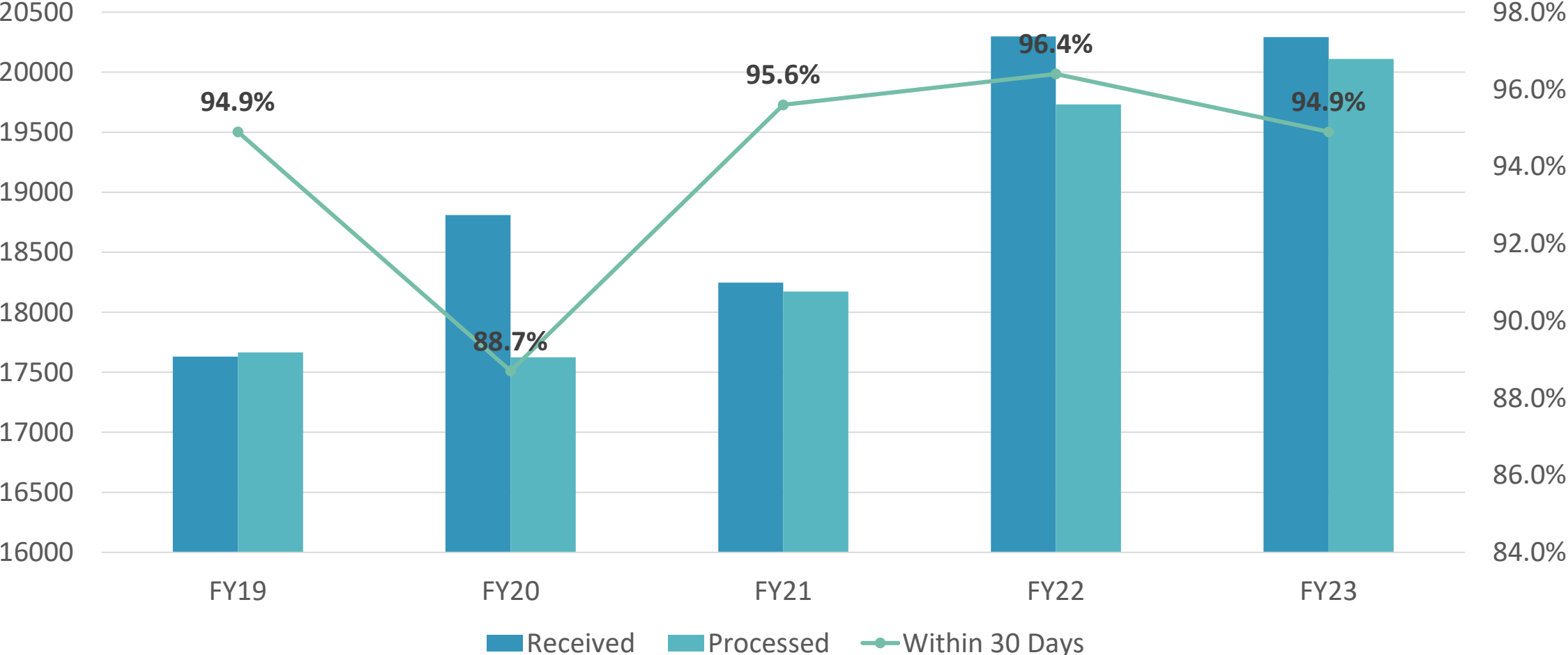
- Engage in consumer credit transaction *OR* takes assignment and undertakes direct collection
- Annual gross volume > \$150K
- Use written agreements to extend consumer credit

Maximum Rates Report

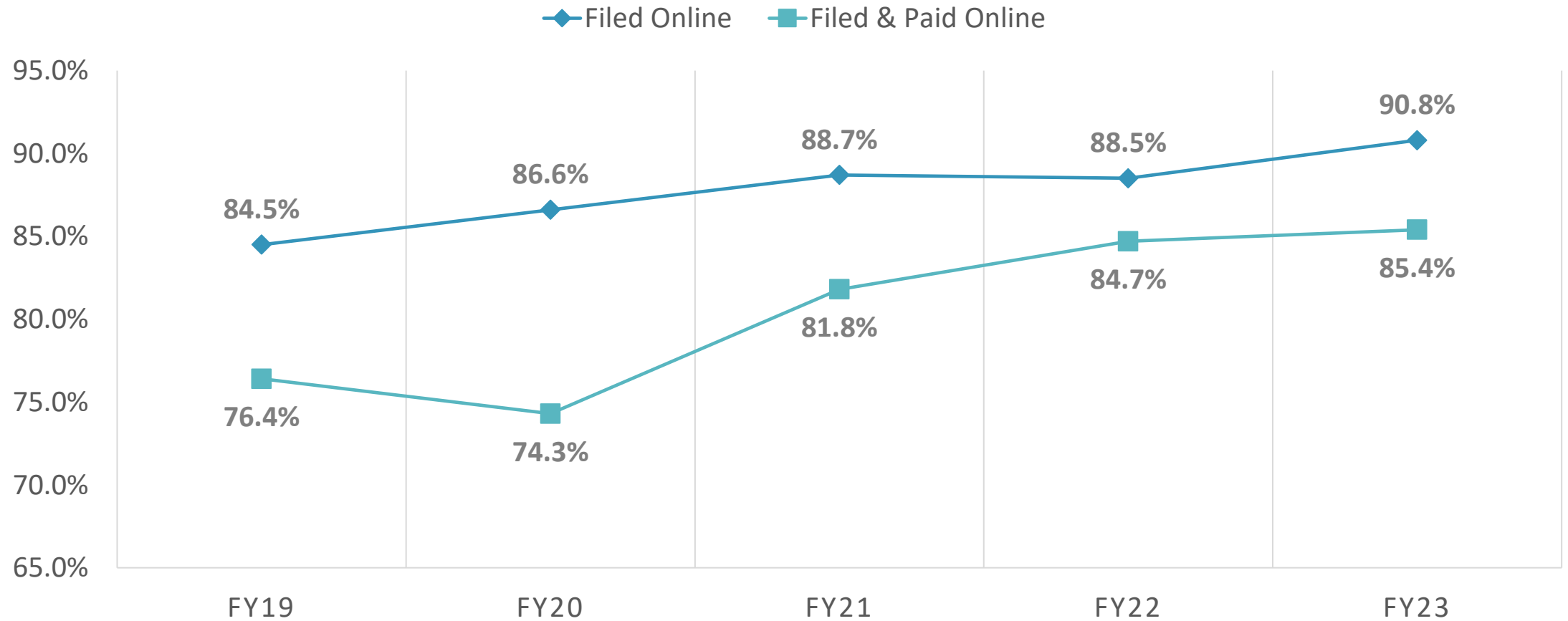
Company	Type	Descriptions	Addl. Desc	Category	Fixed Apr	Var
LORIS DRUG STORE INC	Max Rate (Credit Sales)	Other	PRESCRIPTIONS	Unsecured	24	
LUGOFF TIRE CO., INC	Max Rate (Credit Sales)	Other	TIRE SALES & AUTO	Unsecured	24	
M&M BEDDING, LLC	Max Rate (Credit Sales)	Household goods		Unsecured	21.99	
MAE'S	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 INSTALLMEI	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



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



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


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

Jake's Pawn Shop » Pawn Broker

License #: PBC-9876543 **Date Issued:** 06/05/2023

Status: Active

Options

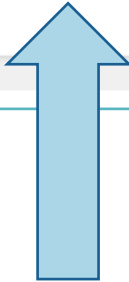
No options are available at this time.

Current Applications

No application history is available at this time.

Files

Date:	File Name
06/05/2023	Jake's Pawn Shop Pawn Ticket.pdf
06/05/2023	Renewal Deficiency
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			
[Redacted]	[Redacted]	7/12/2023 10:18:23 AM	Active	09/17/2019 10:29			
[Redacted]	[Redacted]	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-[Redacted]	Pawn Broker Location - Renewal Application	Paid	\$275.00	\$0.00	05/12/2023				
122365	PBL-[Redacted]	Pawn Broker Location - Renewal Application	Paid	\$275.00	\$0.00	05/27/2022				
103762	PBL-[Redacted]	Pawn Broker Location - Renewal Application	Paid	\$275.00	\$0.00	06/09/2021				
85707	PBL-[Redacted]	Pawn Broker Location - Renewal Application	Paid	\$275.00	\$0.00	06/03/2020				
66829	PBL-[Redacted]	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



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.

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



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



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



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.

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 definition 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 withdrawn. If no credit decision was made during the year, the mortgage log must be filed with "No Activity." Third Party Processors and Underwriters – Third Party Processor/Underwriter."
- All licensed mortgage lenders/servicers must file 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 on any South Carolina residential mortgage application must provide a 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 March 31 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 with the following information: **Company NMLS # – Company Name**

What if information changes after I submit the report?

All licensees are required to correct and submit a corrected 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 supplemental information, you may contact DCA by calling (803) 734-4256 or emailing mortgagelog@scconsumer.com

1. Export Data on Data Entry Software.

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 Manual 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 12/1/96) 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) 1 – Secured by a first lien 2 – Secured by a subordinate lien 3 – Not secured by a lien 4 – Not applicable (purchase money mortgage)
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

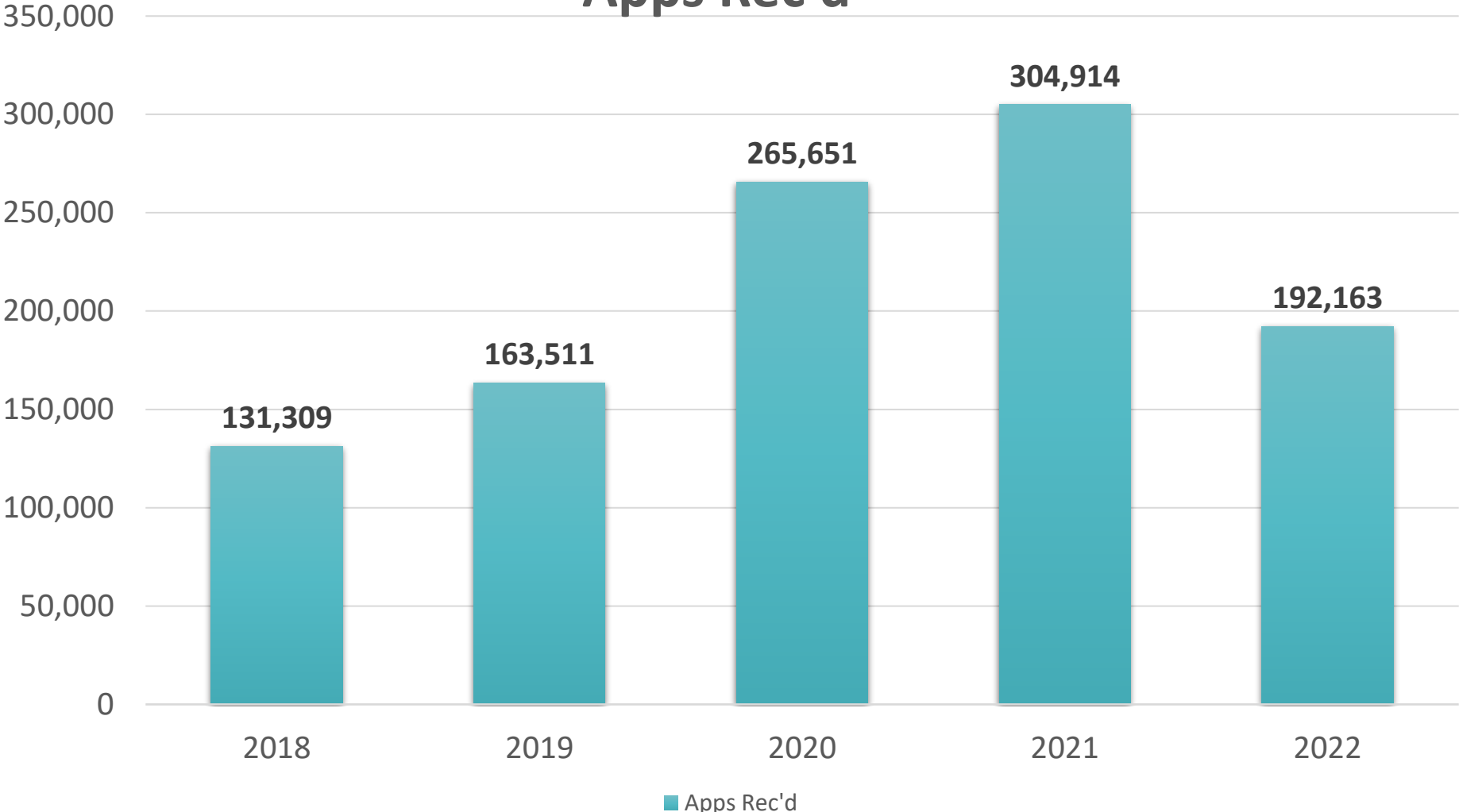
293 GREYSTONE BLVD., SUITE 400 / P.O. BOX 5757

COLUMBIA, SOUTH CAROLINA 29250

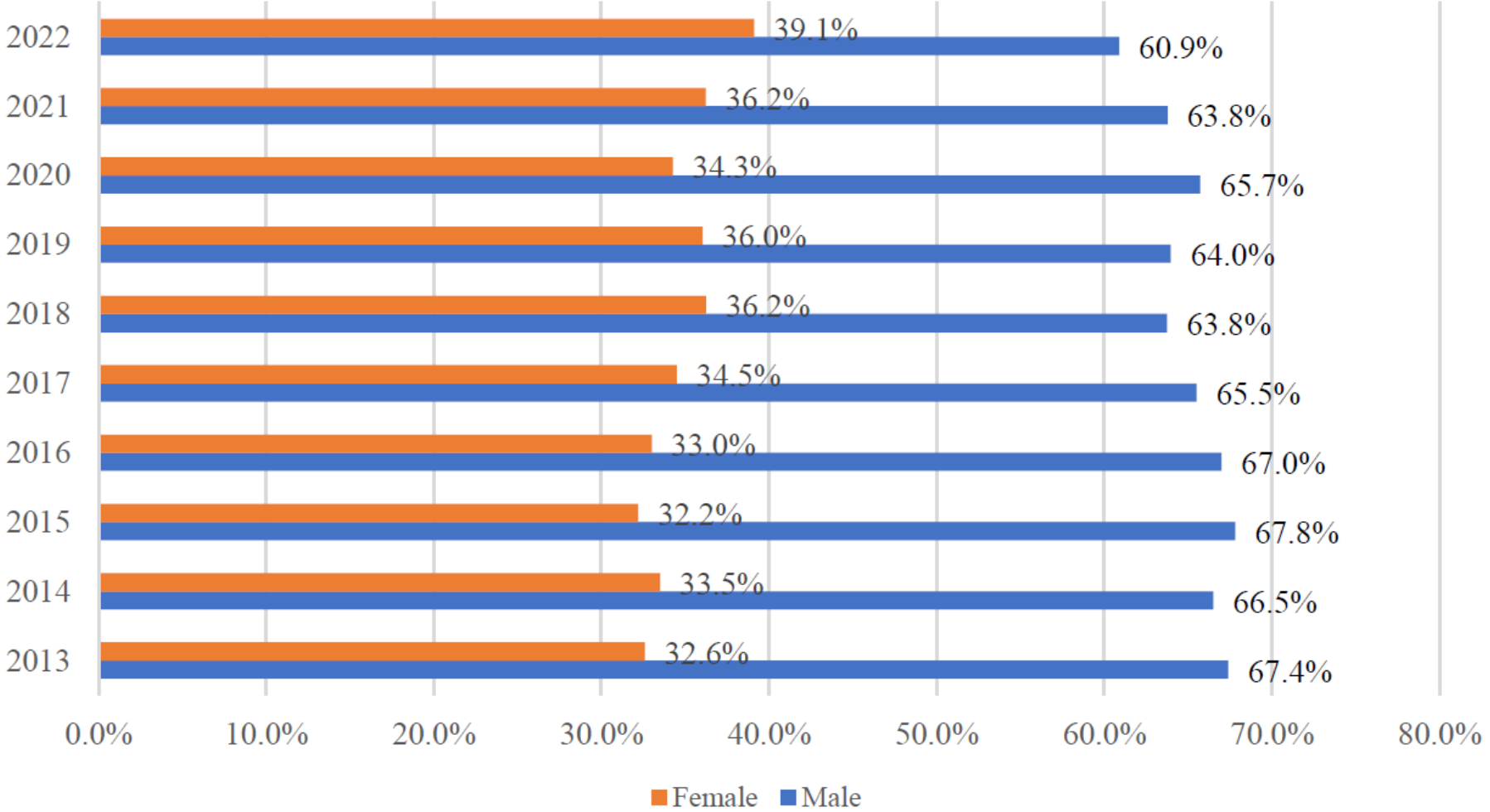
803-734-4200 | FAX: 803-734-4229

CONSUMER.SC.GOV

Apps Rec'd

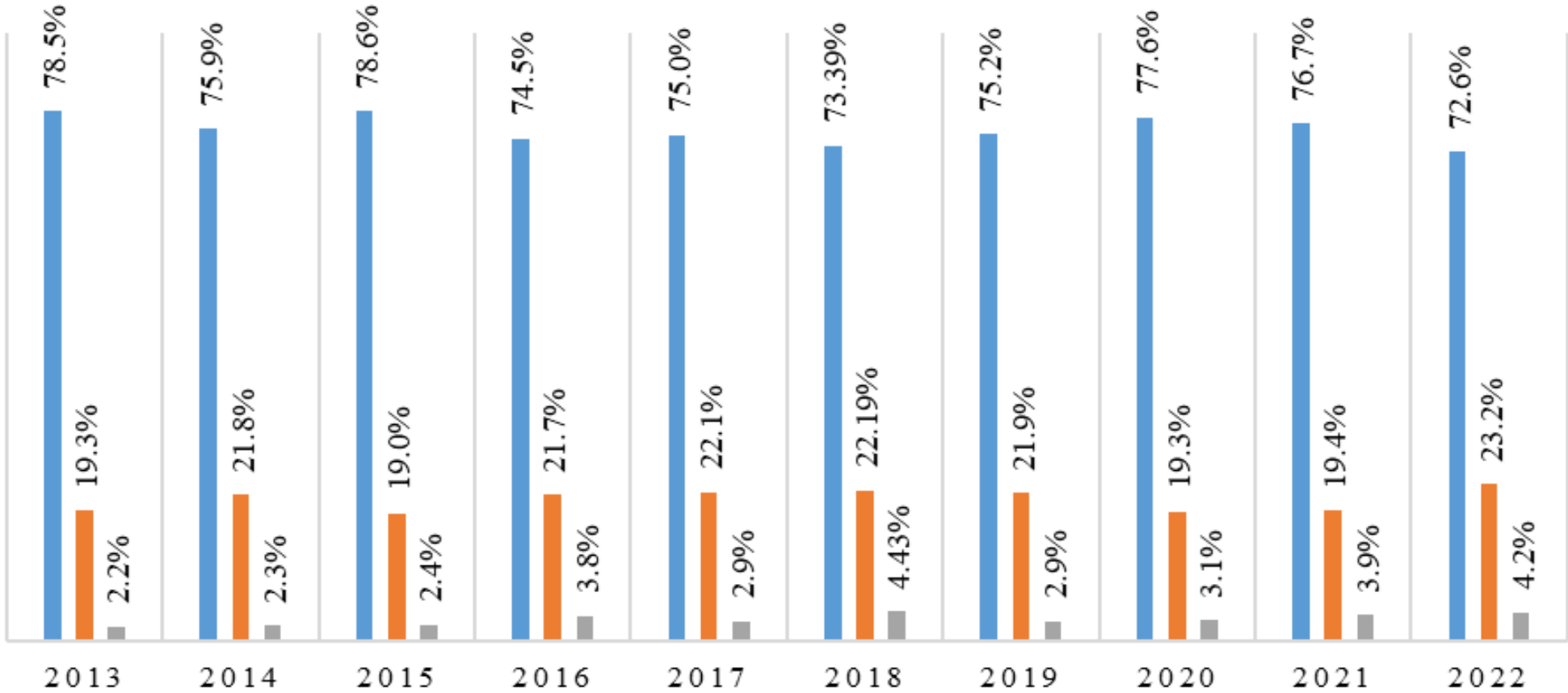


APPLICANT GENDER



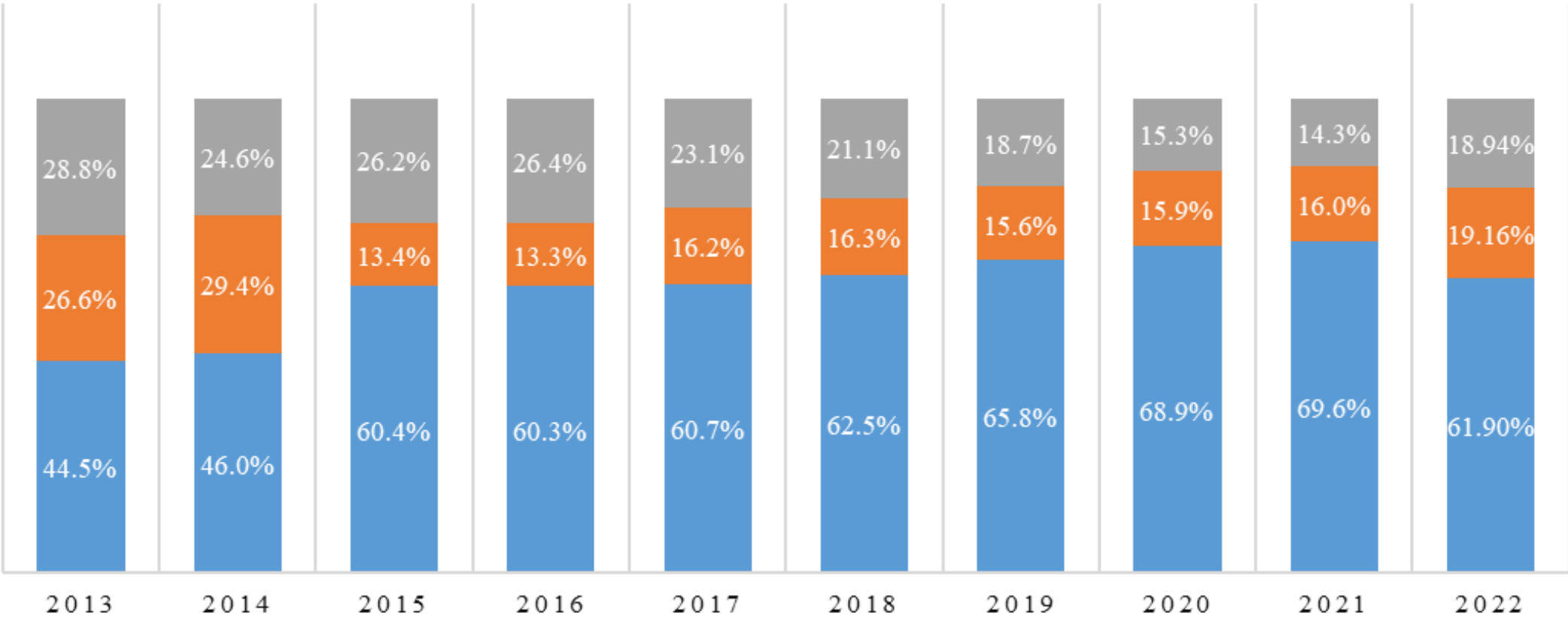
APPLICANT RACE

■ White ■ African American ■ Other

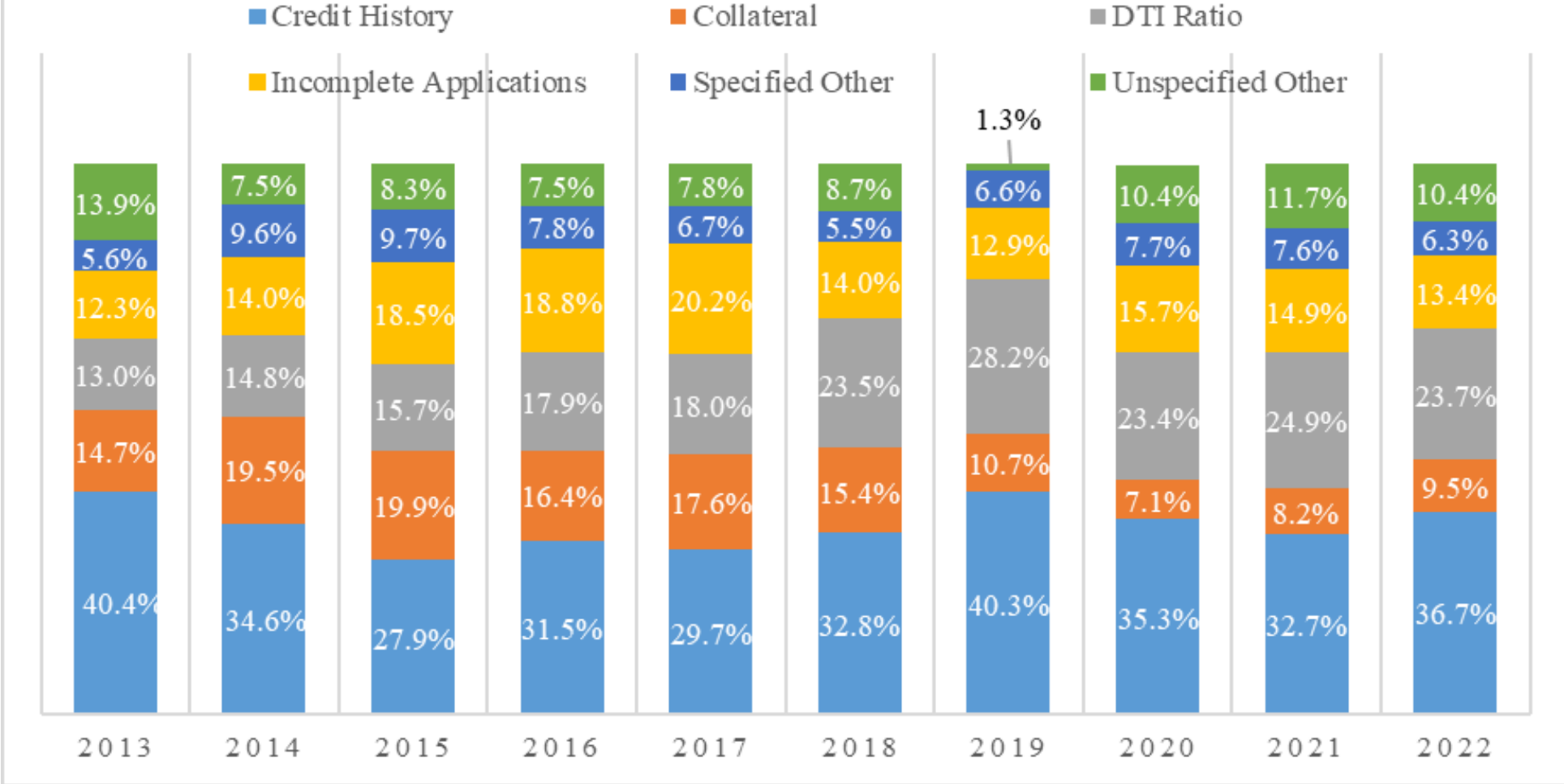


APPLICATION ACTION

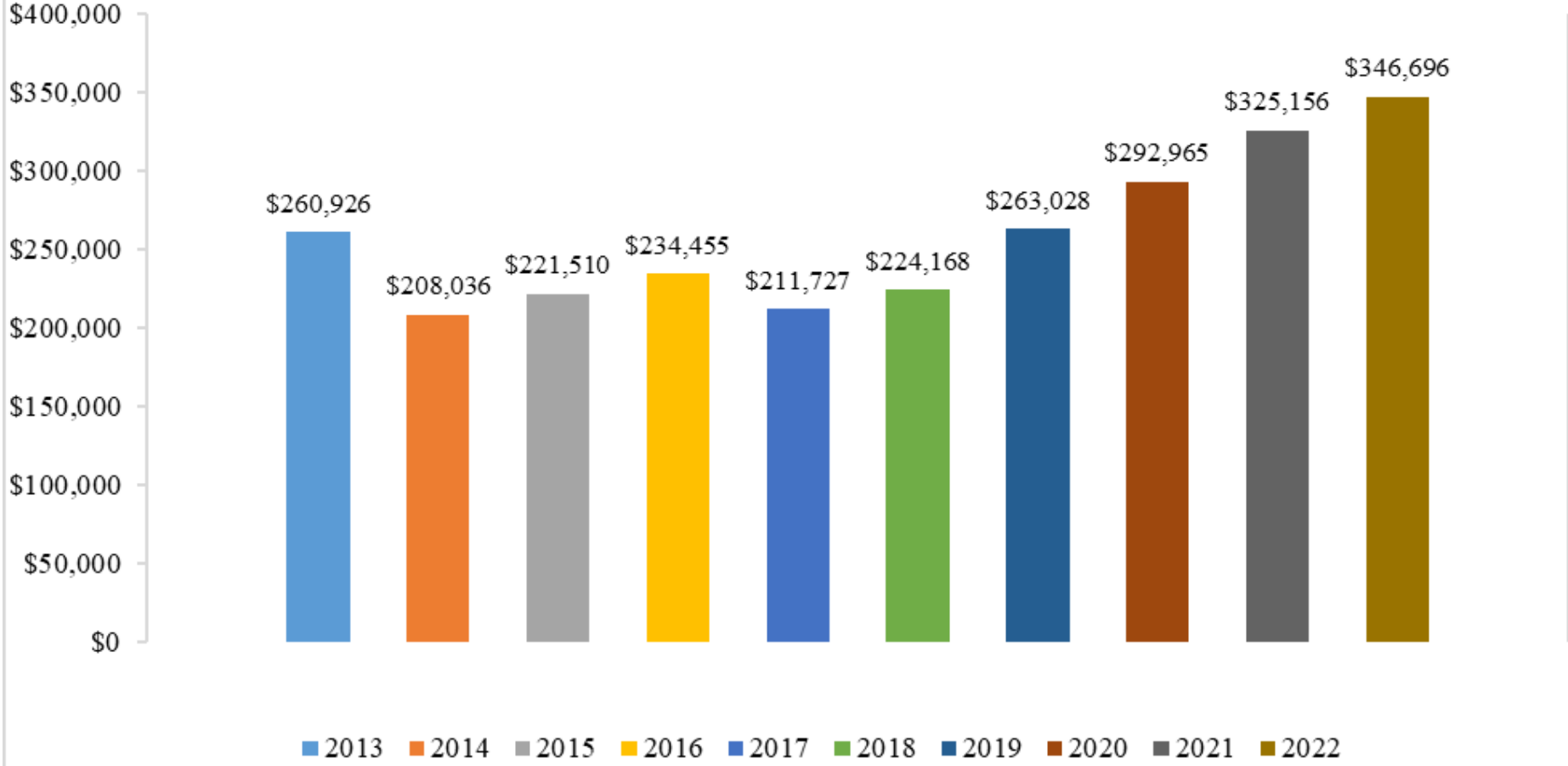
■ Approved ■ Withdrawn ■ Denied



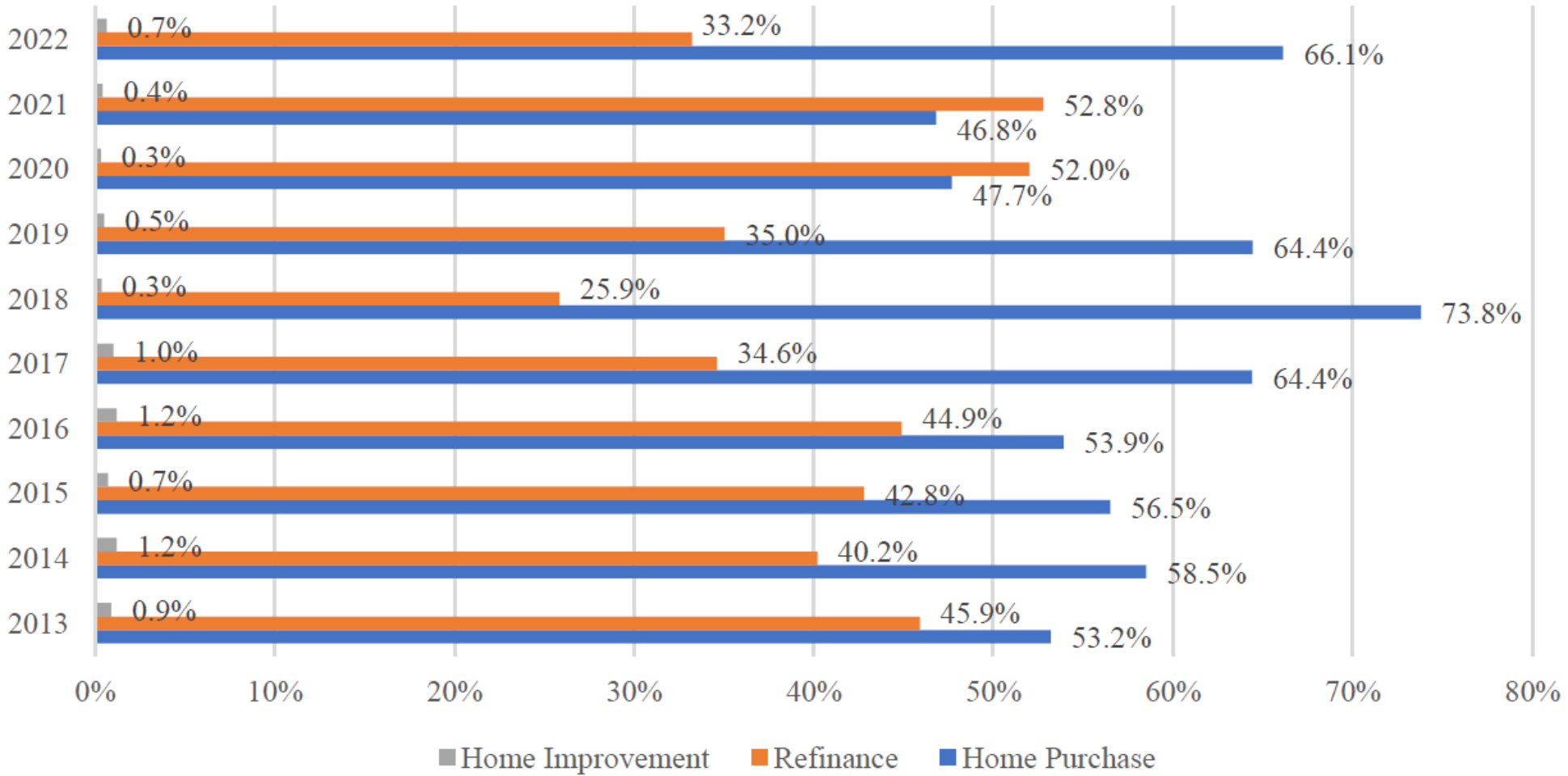
REASON FOR DENIAL



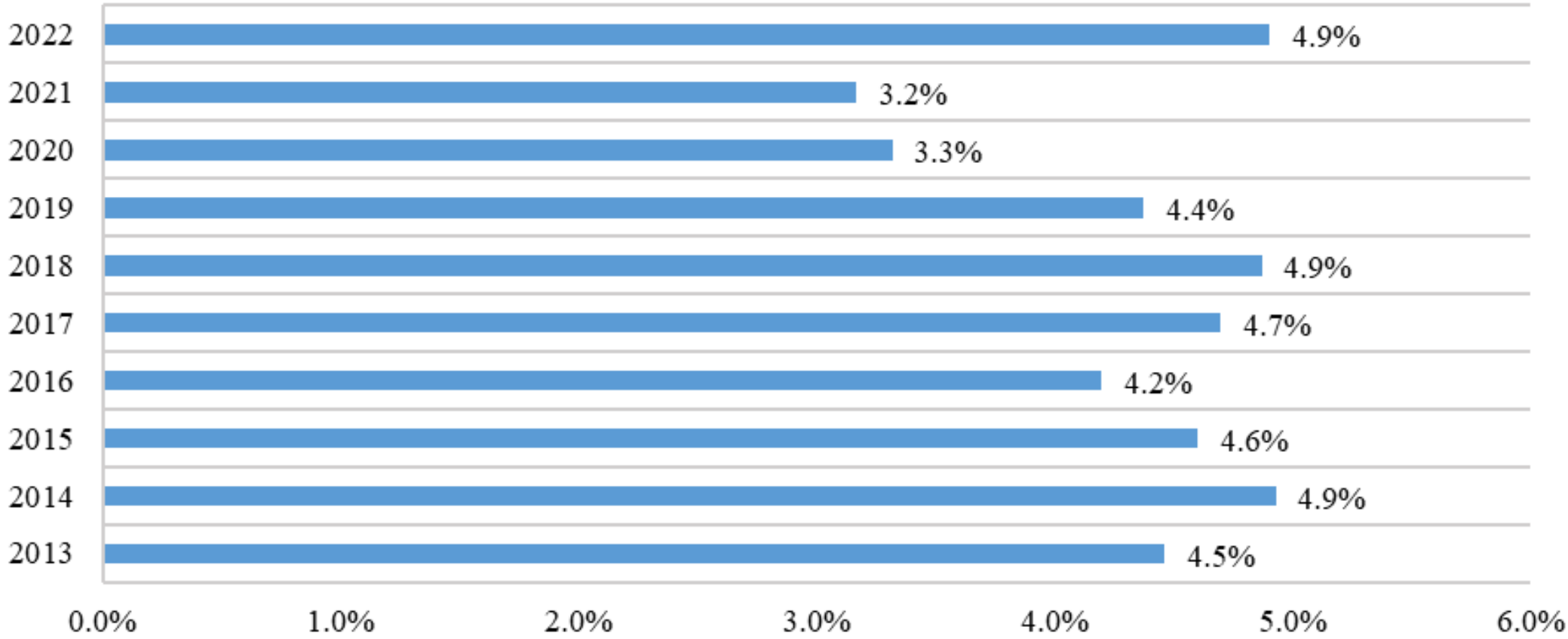
AVERAGE APPRAISED VALUE OF COLLATERAL



LOAN PURPOSE



AVERAGE APR



Other Reporting Requirements



Physical Fitness



Credit Counseling



Professional Employer Organizations



Pawnbrokers

2023

South Carolina
DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CREDIT REPORT



ADMINISTRATOR: CARRI GRUBE LYBARKER
PO Box 5757 • COLUMBIA, SC 29250
(800) 922-1594 • WWW.CONSUMER.SC.GOV

South Carolina
DEPARTMENT OF CONSUMER AFFAIRS

Total # Pawn Transactions for Licensees

311,998

Interest Collected

\$11,575,098



Amount Advanced

\$51,769,619

Average Amount Advanced

\$359,511



NUMBER OF LICENSED CREDIT COUNSELOR ORGANIZATIONS:

83

TOTAL # OF NEW CONSUMER CONTRACTS:

47,843

AVERAGE LENGTH OF CONTRACT (MONTHS):

24

AVERAGE AMOUNT OF DEBT PER CUSTOMER:

\$18,942

MONEY PAID TO CONSUMERS' CREDITORS:

\$36,047,170

PERCENT OF CONTRACTS COMPLETED:

37%



2021

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 51



Preneed Contracts



Dealer Closing Fees (>\$225)

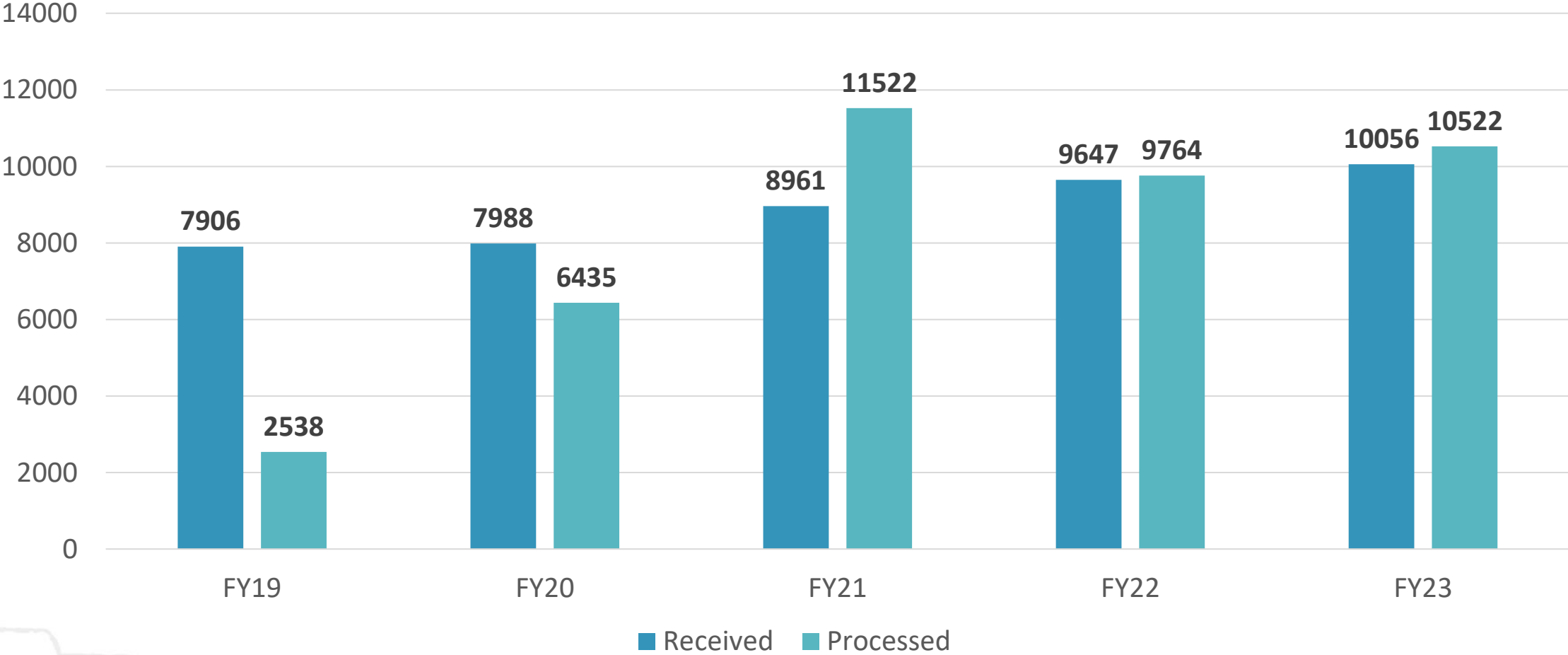


Security Breach Notices

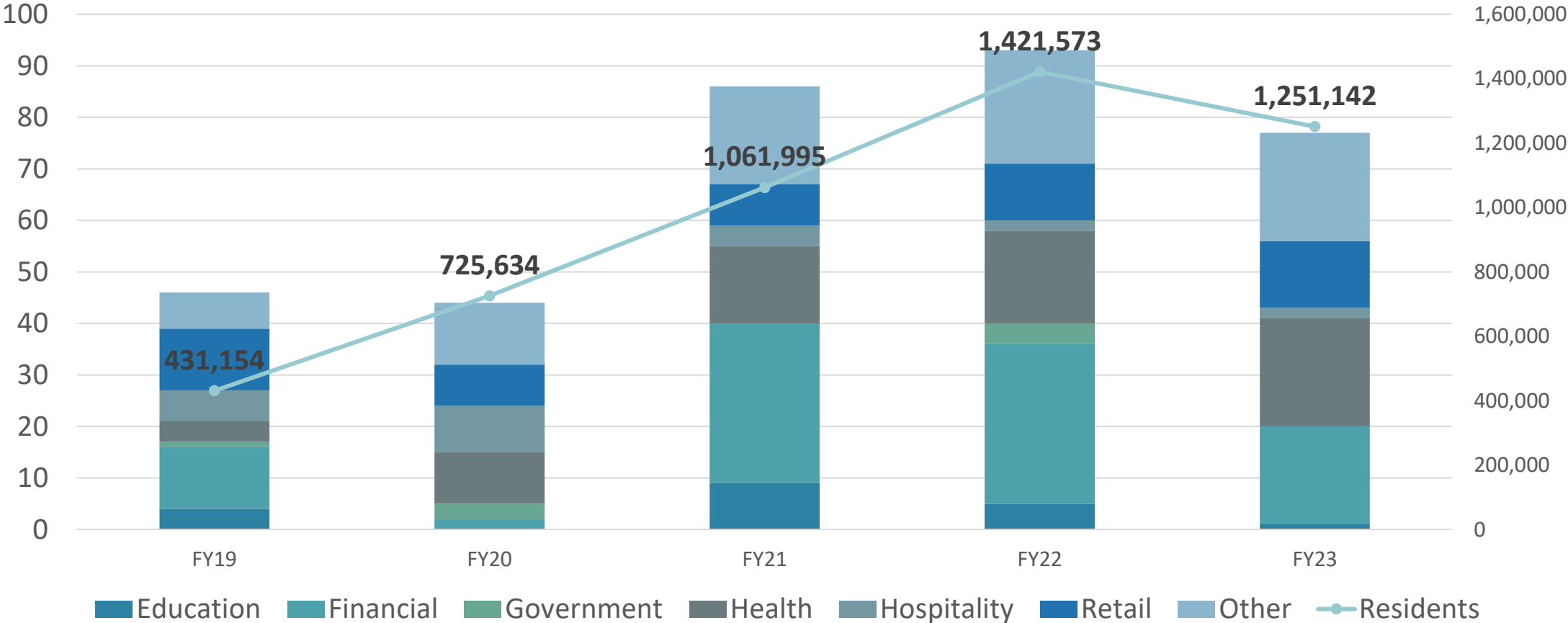


Lemon Law

Preneed Contracts



Security Breach Notices



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 \(PDF\)](#)

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



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

RECEIVED

SEP 22 2023

DEPT. OF CONSUMER AFFAIRS
«Date» (Format: Month Day, Year)

«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.

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

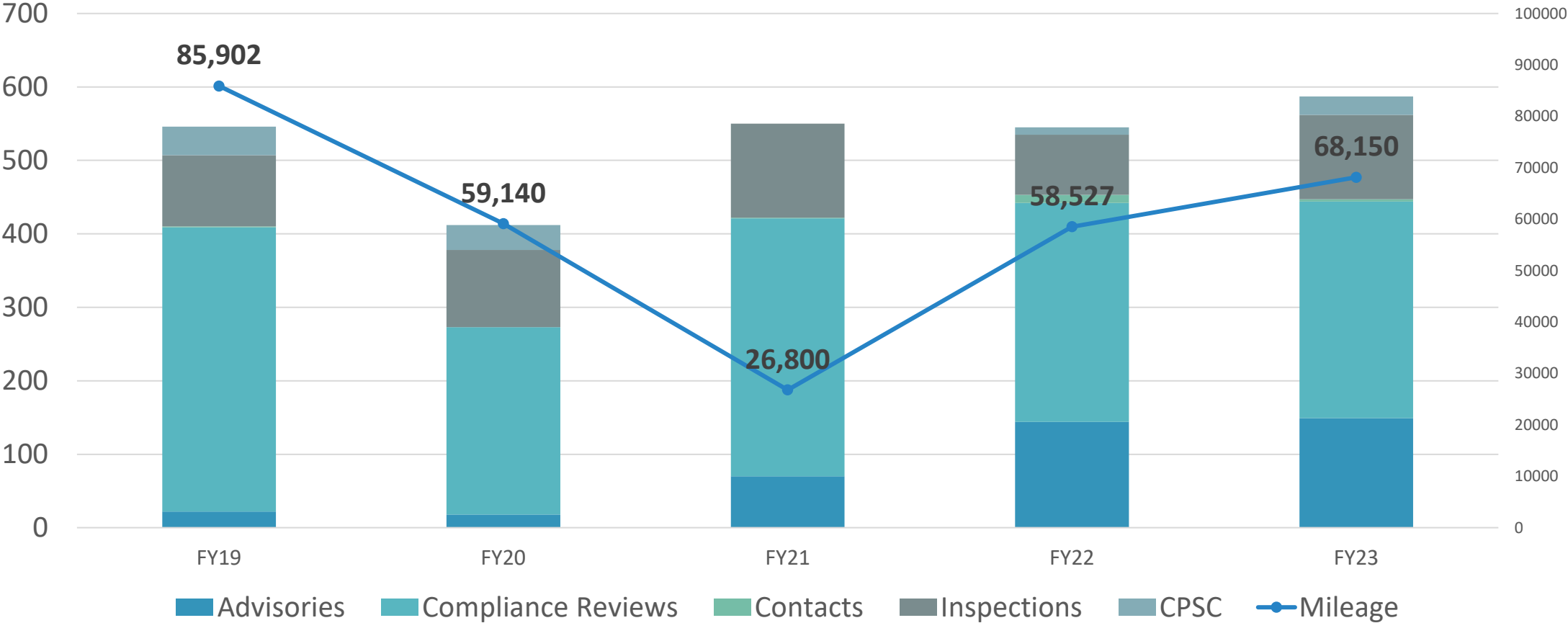
Educate businesses

Get businesses in compliance

Assist with consumer complaints

Investigate matters under DCA's jurisdiction

Investigator Activities FY19–FY23

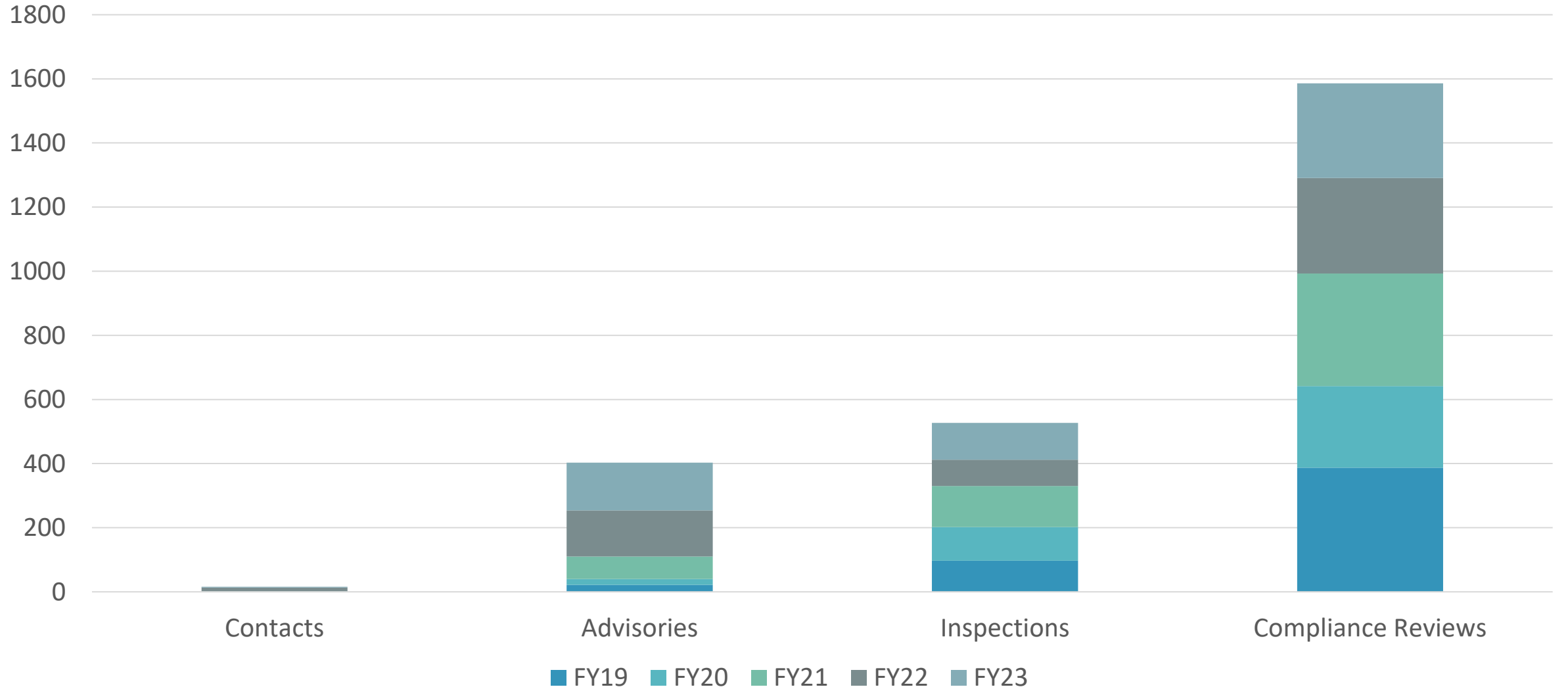


Investigator Activities (DCA)



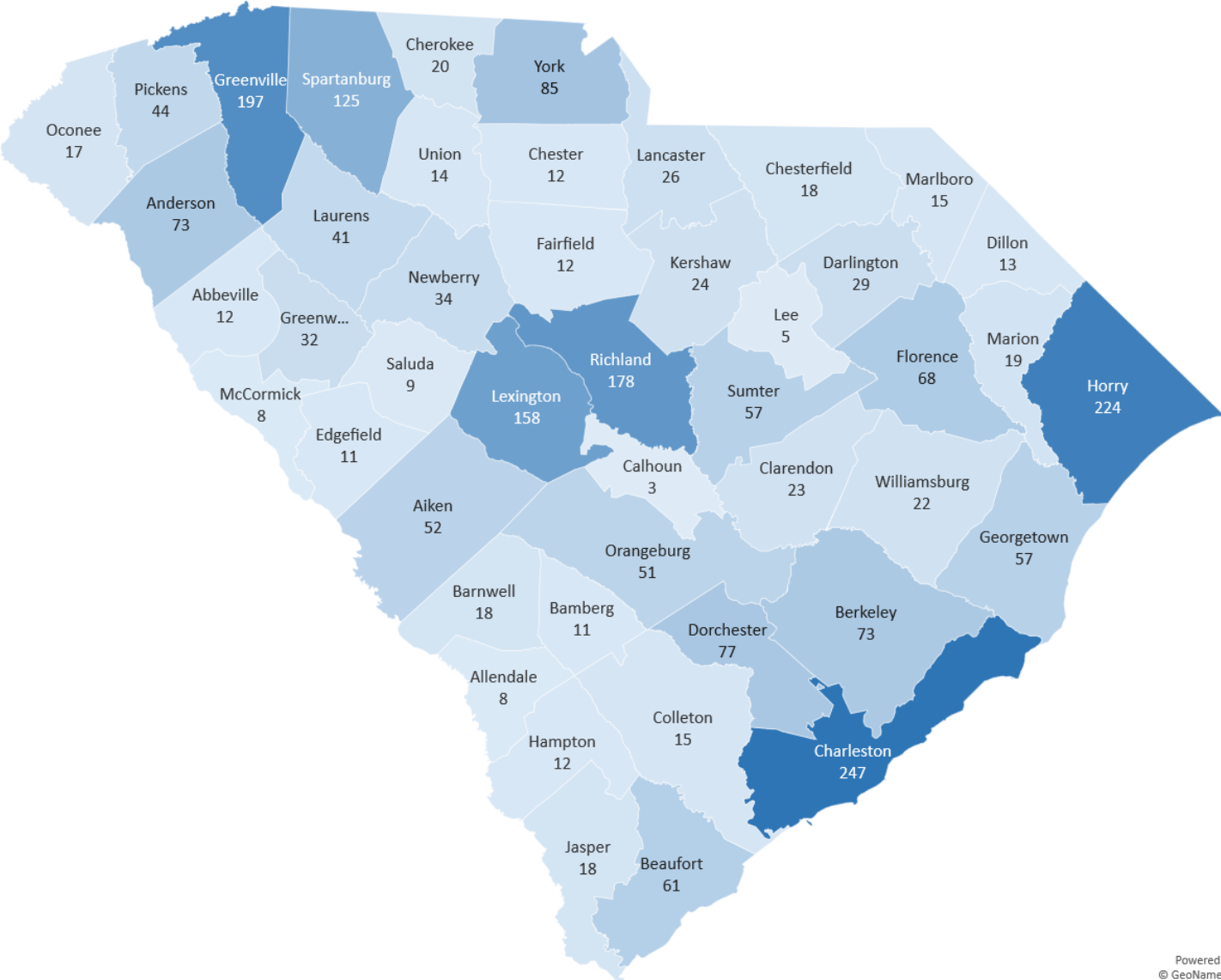
	Compliance Review	In-depth review (varies for each type of business) More documents than an inspection
	Inspection	High-level review Limited number of documents
	Advisory	Usually within 6 months of opening/licensing, visit business and advise how to comply with the law
	Contact	Visit businesses that 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

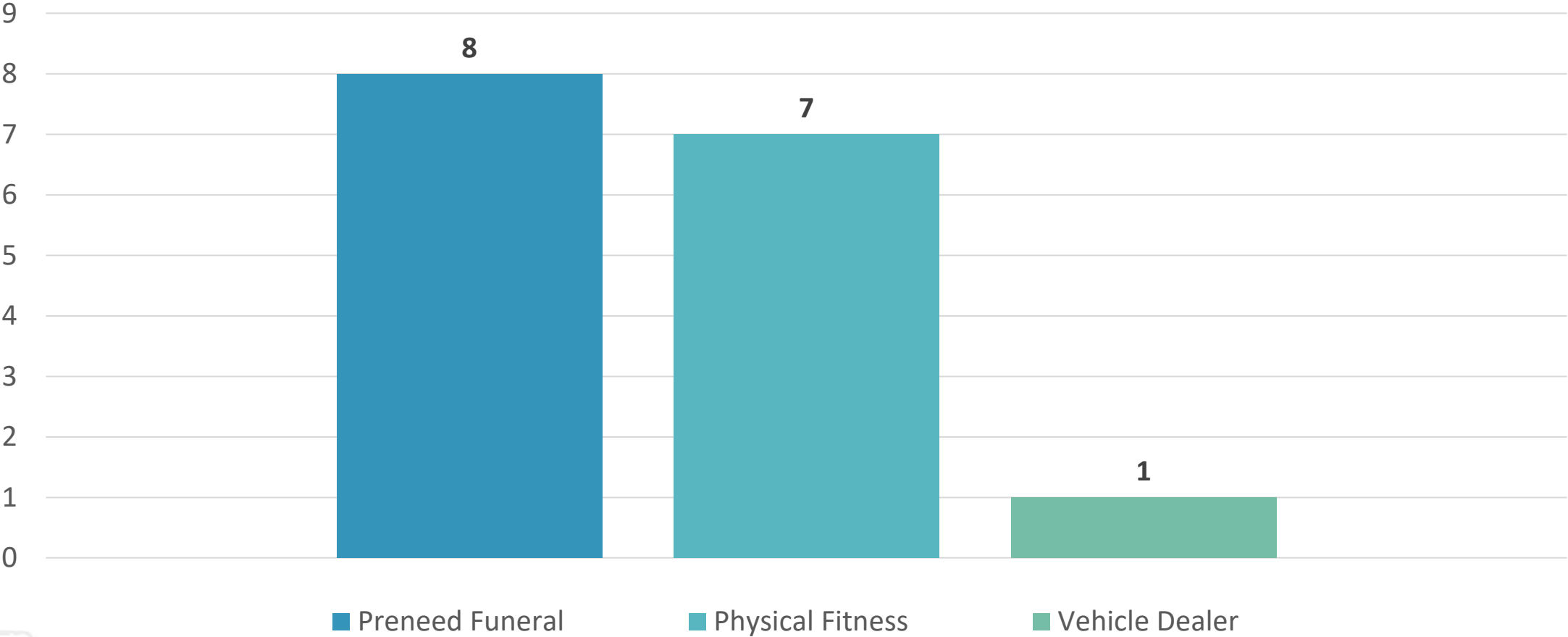


Investigator Activities (DCA) FY19-FY23

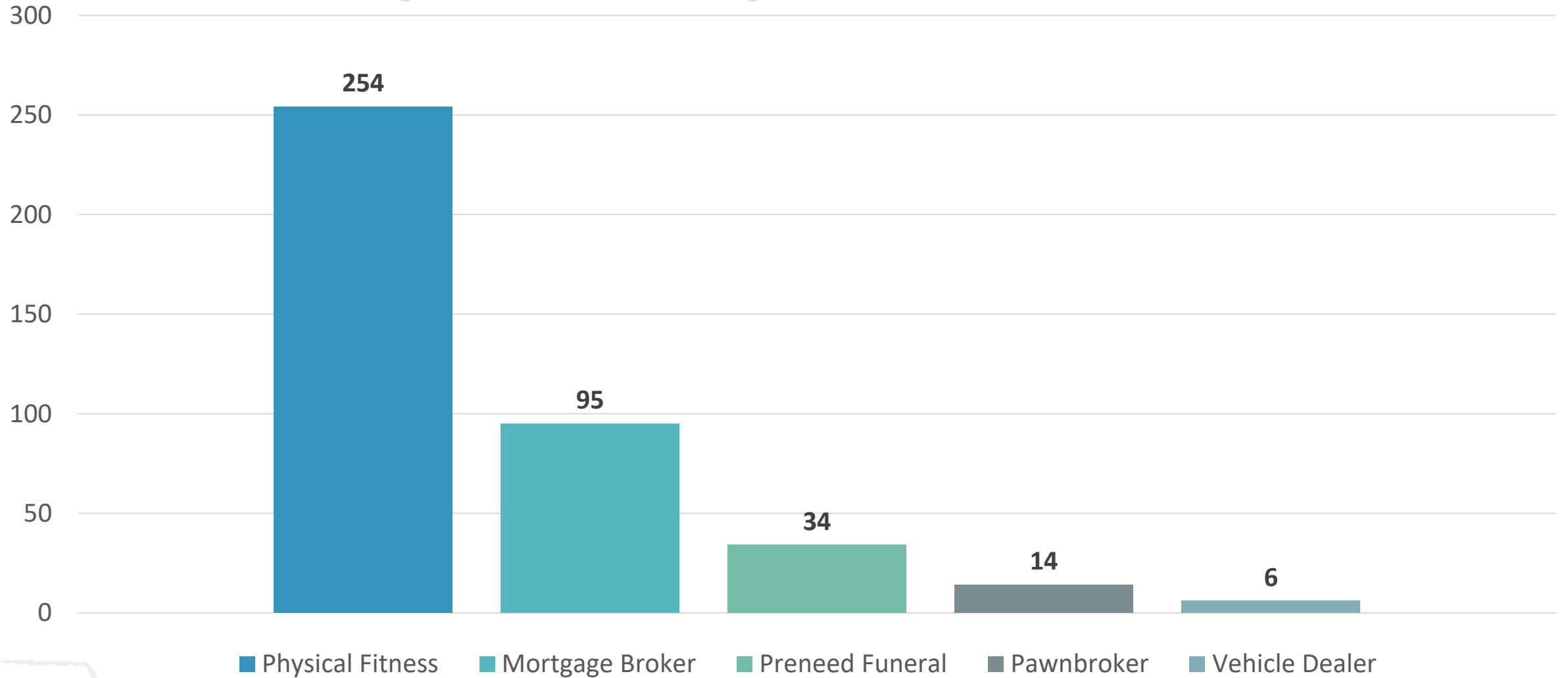
- Low Country: 594
- Midlands: 689
- Pee Dee: 550
- Upstate: 495
- *Out-of-State: 204*



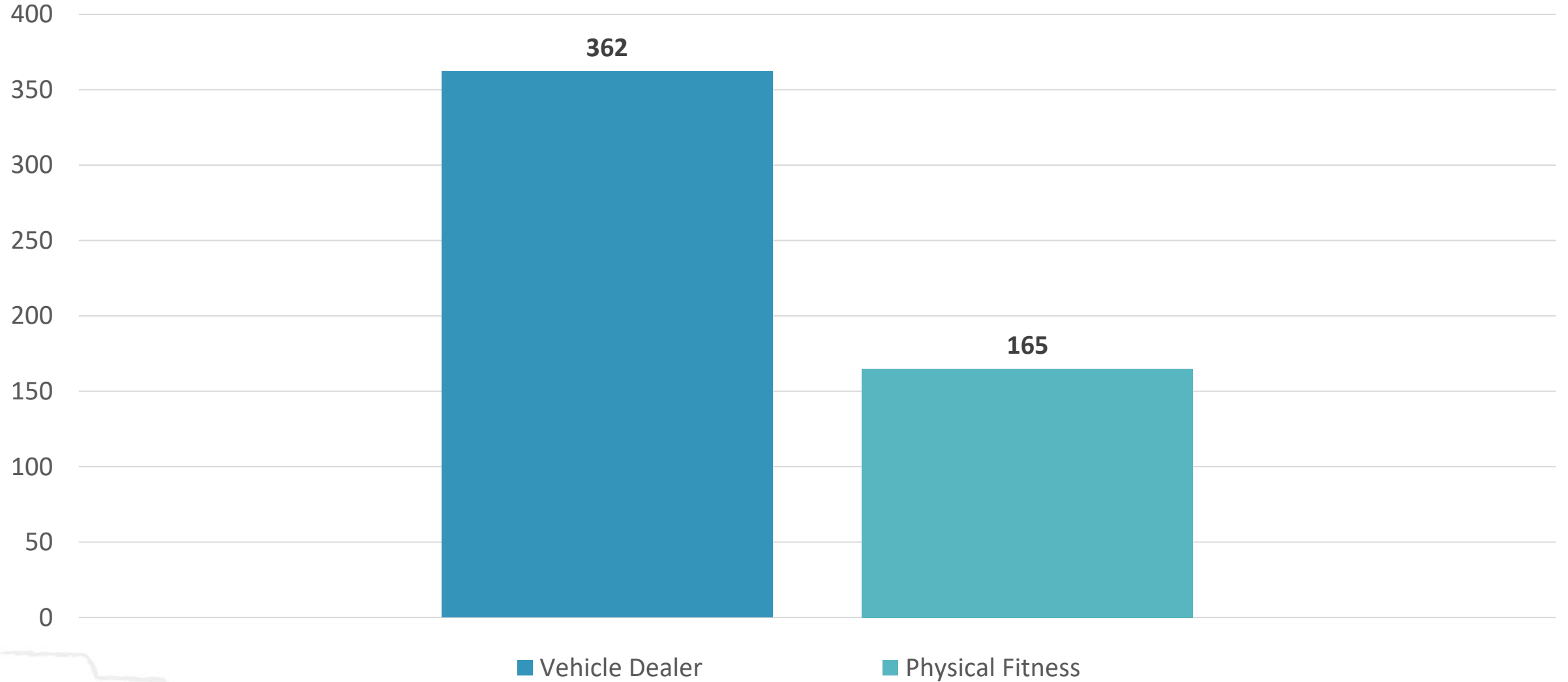
Contacts (FY19-FY23)



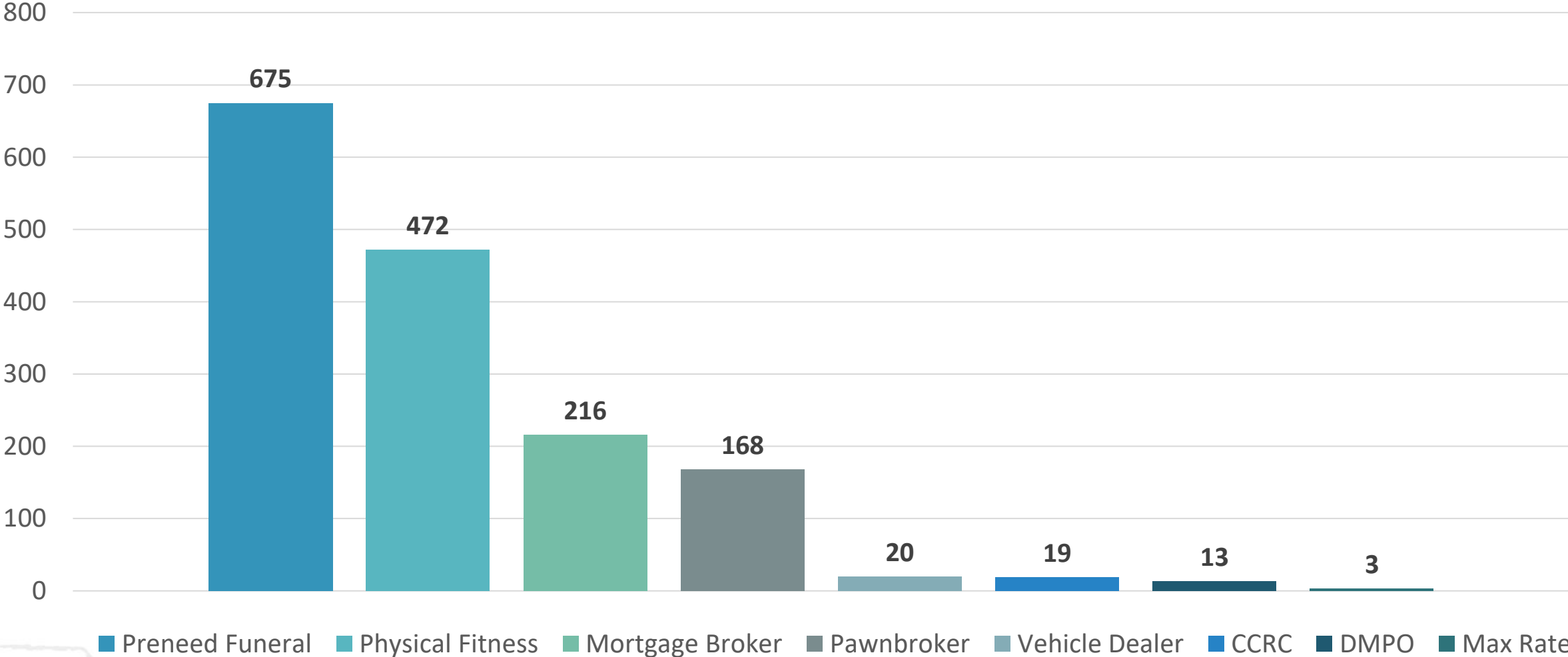
Advisories (FY19–FY23)



Inspections (FY19–FY23)



Compliance Reviews (FY19-FY23)



Investigator Activities (Consumer Product Safety Commission)

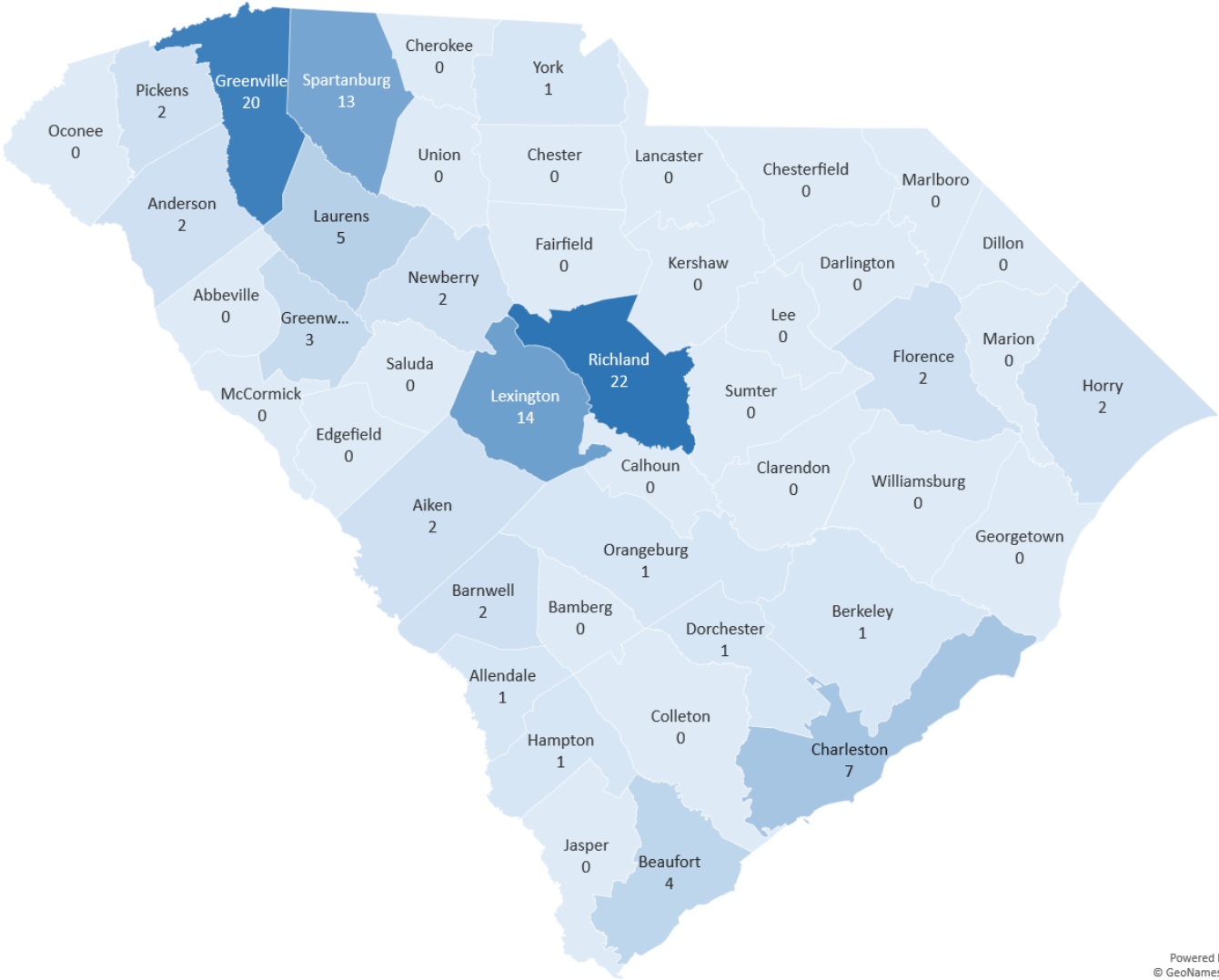
**Recall
Effectiveness
Checks**

**Thrift Store
Inspections**

Investigator Activities (CPSC) FY19-FY23

Recall Effectiveness Checks
79

Thrift Store
29



Powered by © GeoNames,

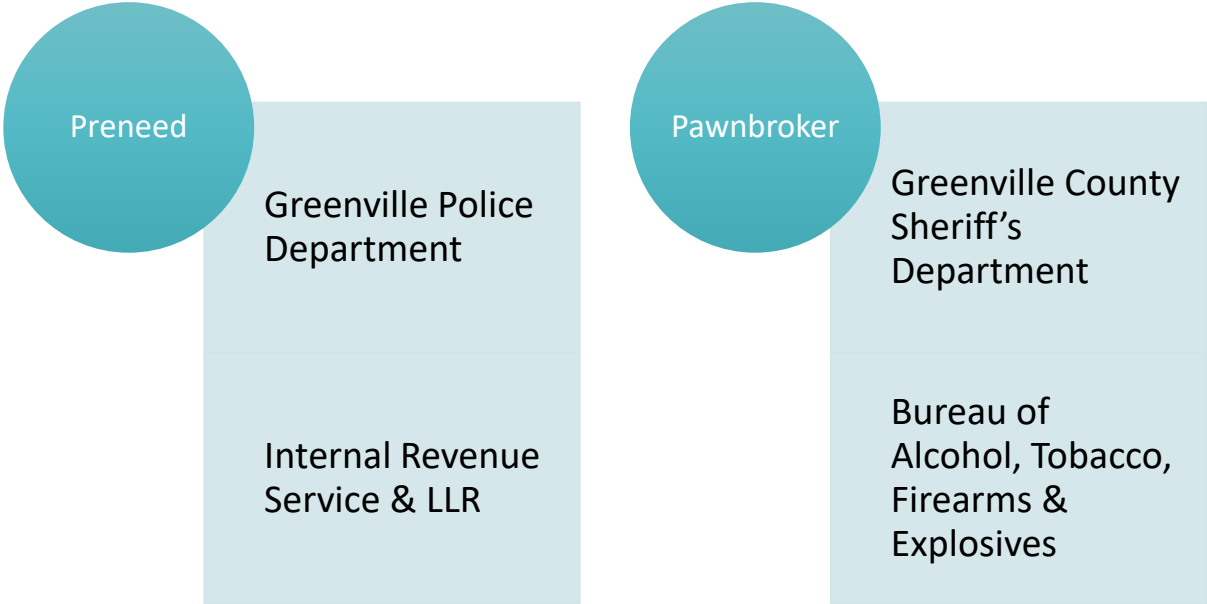
Assisting Other Areas of DCA



- 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

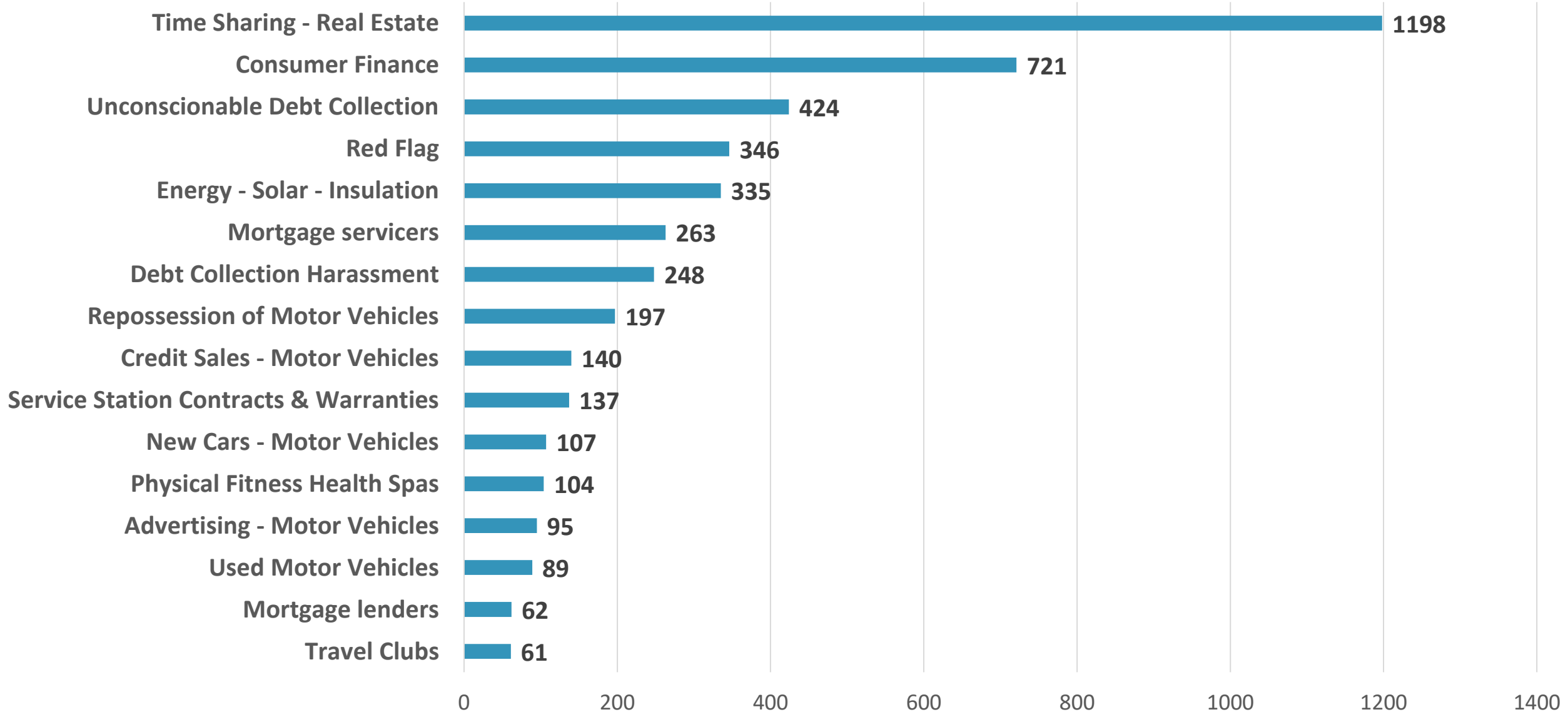
Examples of Types:

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

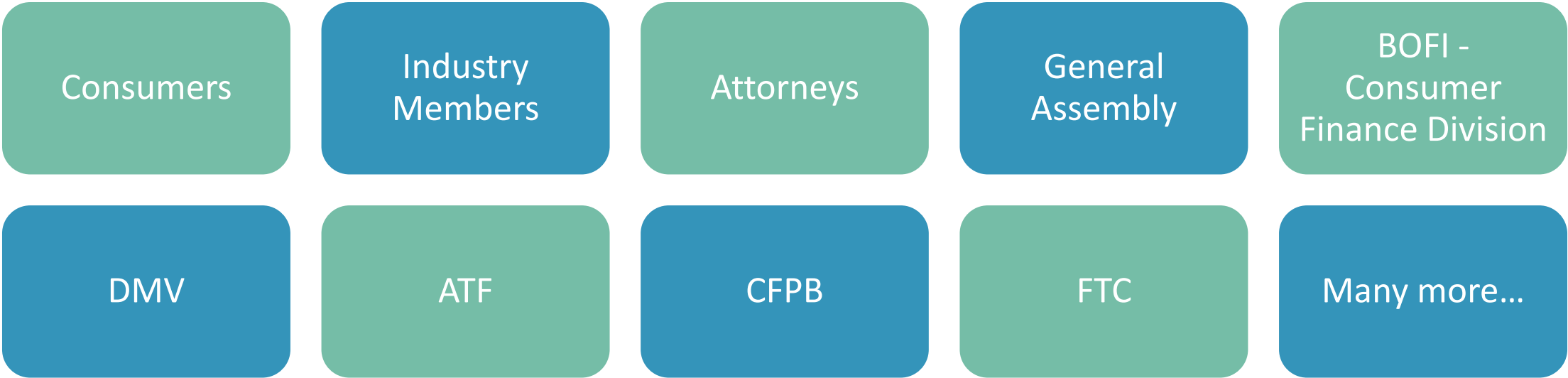
Additional Steps Possible:

- 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

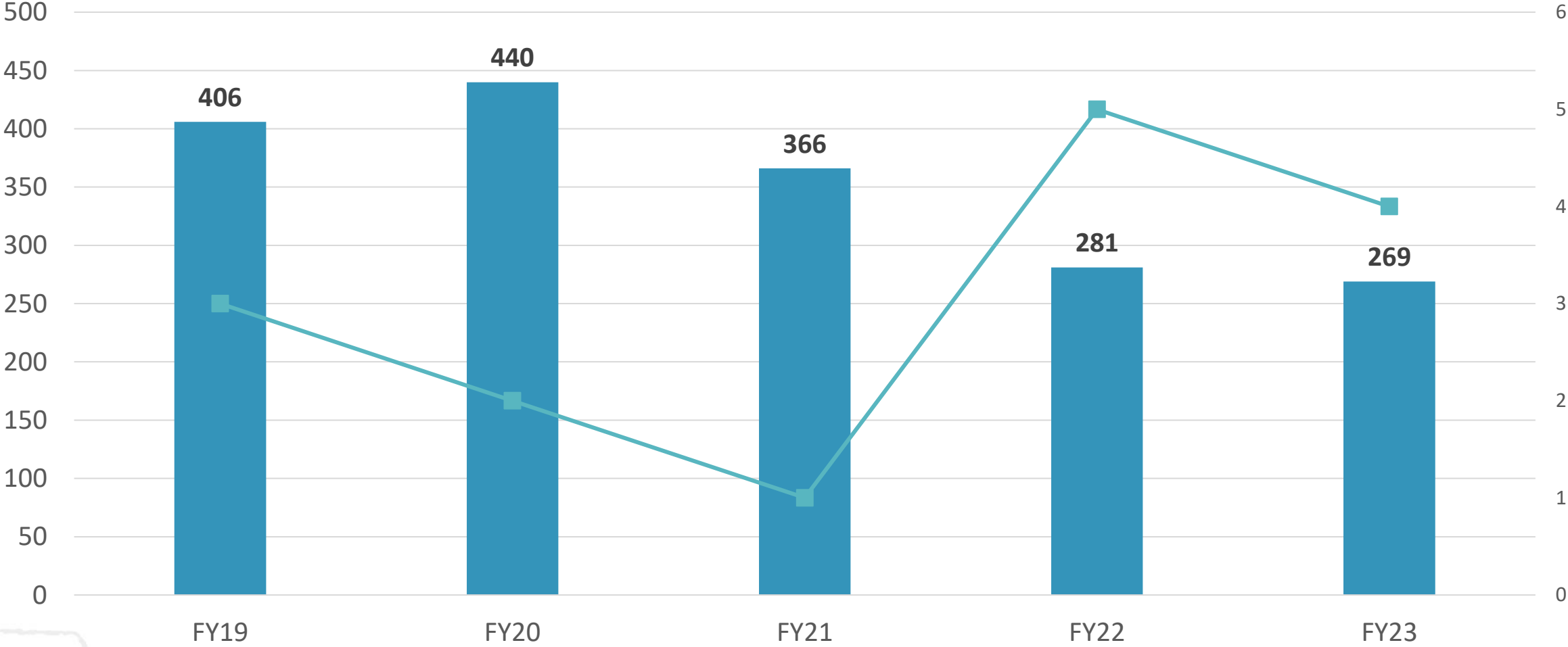
Complaints Assigned to Legal Division



Sources of Enforcement Issues



Enforcement Actions & Cases Initiated



■ Enforcement Actions ■ Cases Initiated



Stages of Enforcement

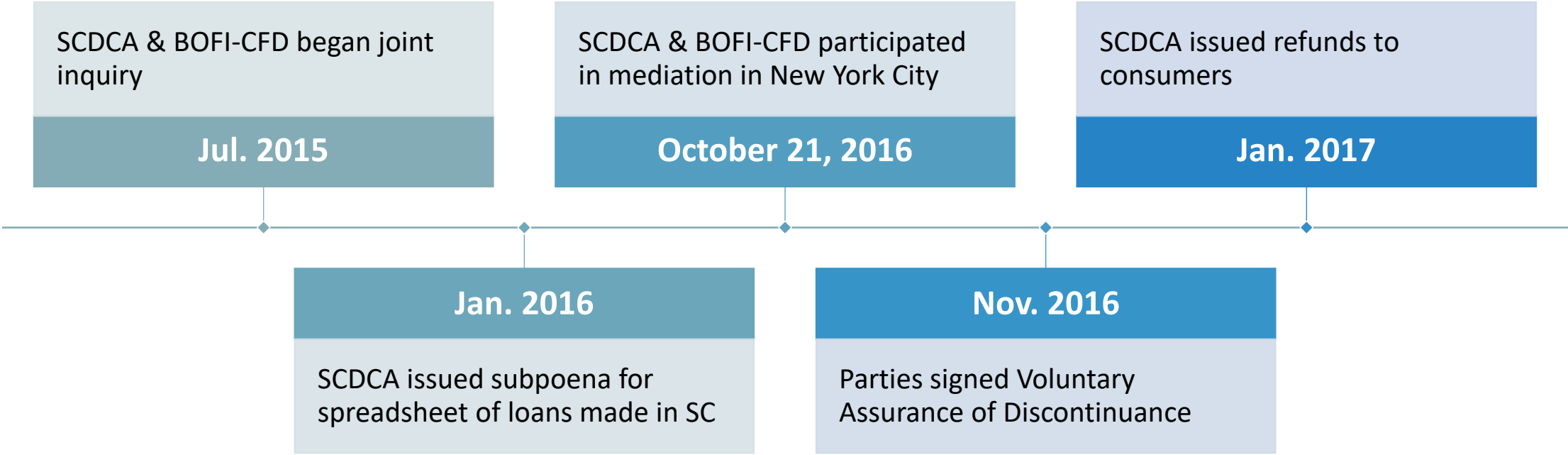


Settlement Possible

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

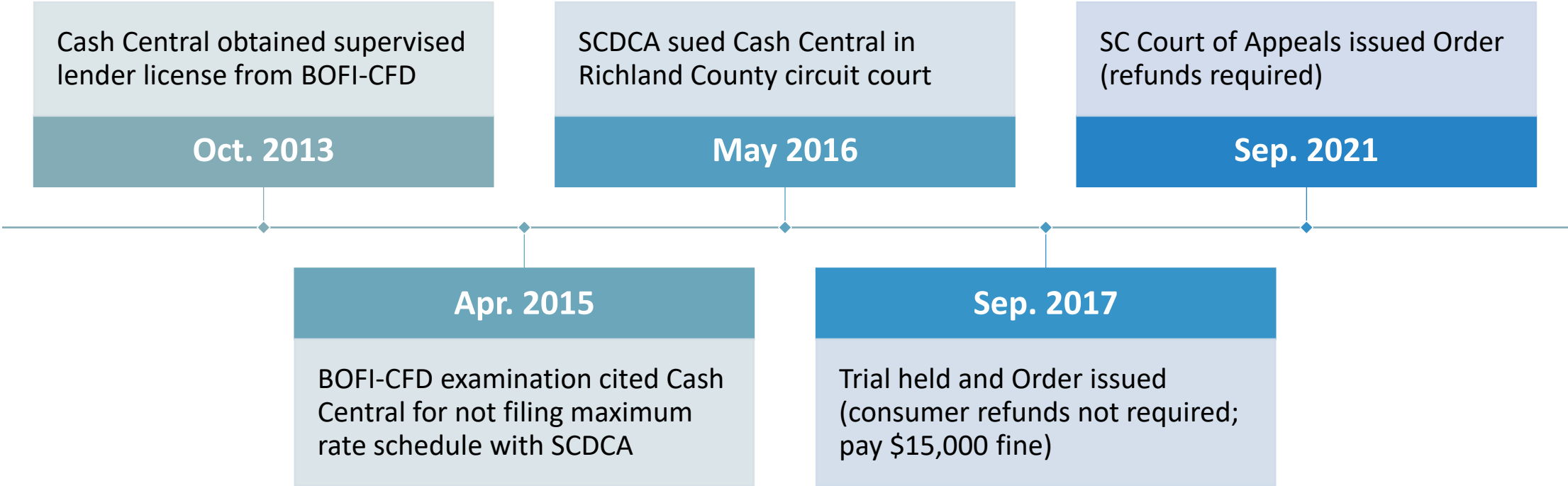
Stop servicing & collecting on outstanding loans; release and adjust to \$0

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

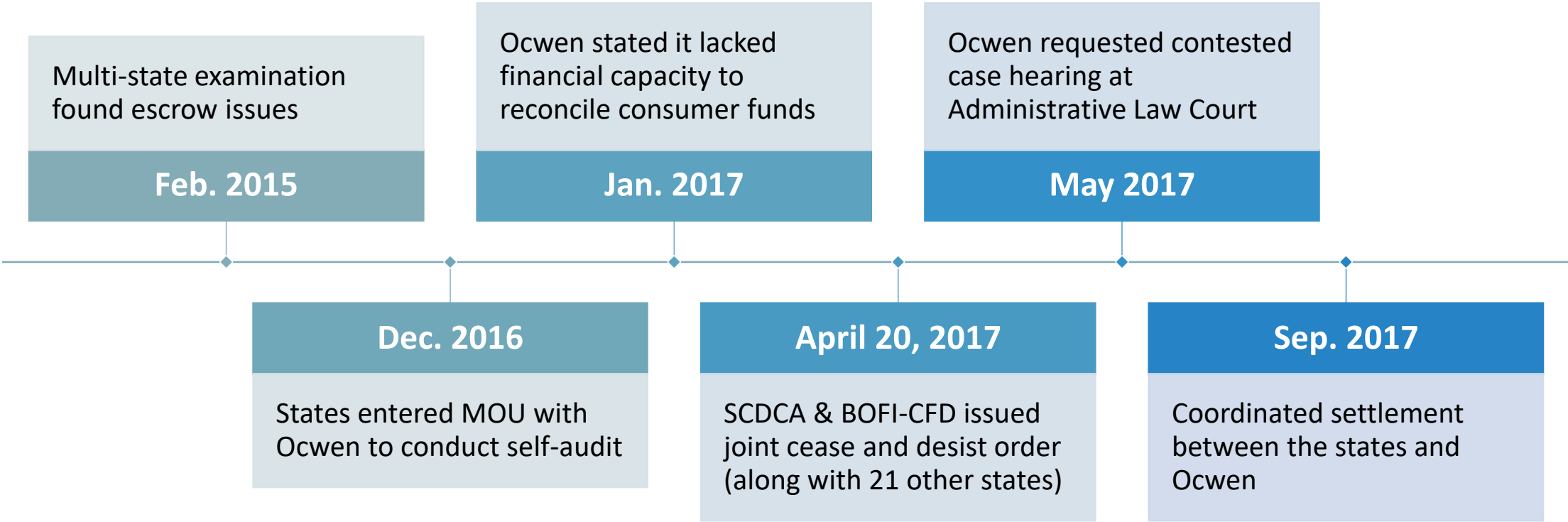
Lenders must strictly comply with statutory requirements before charging over 18% APR

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

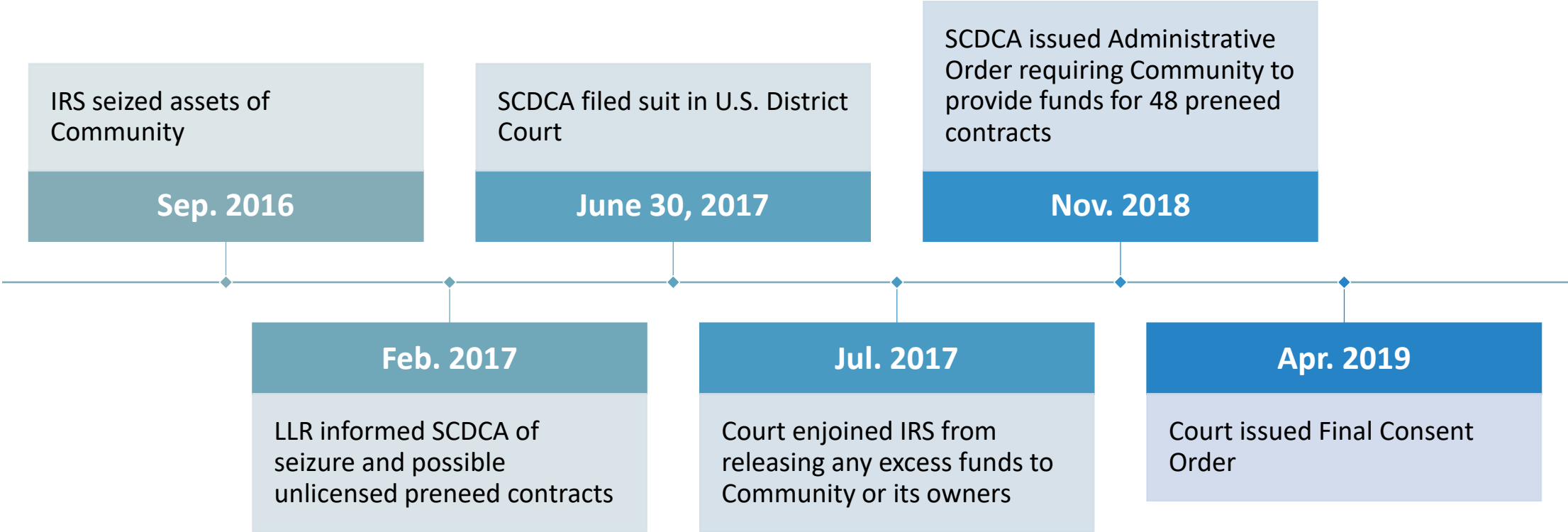
Transition servicing portfolio to servicing platform better able to manage escrow accounts

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

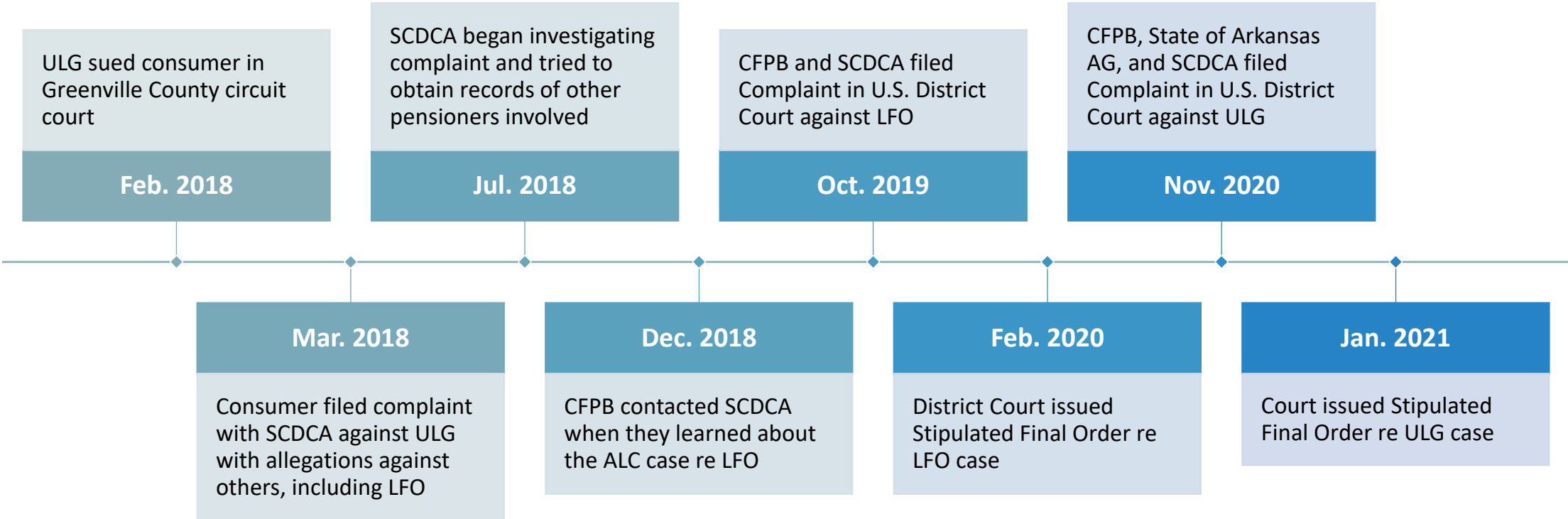
IRS gave the funds to SCDCA

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

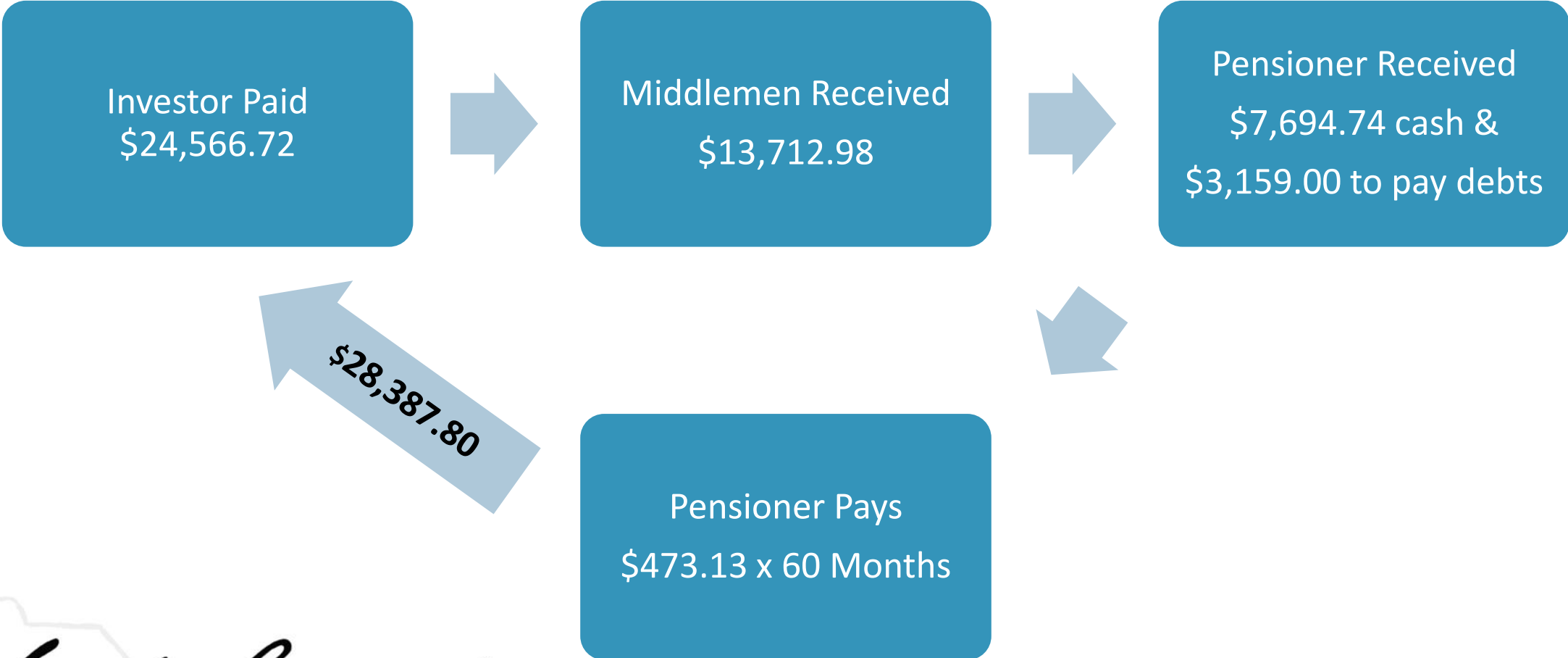
SCDCA applied funds to outstanding preneed contracts

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

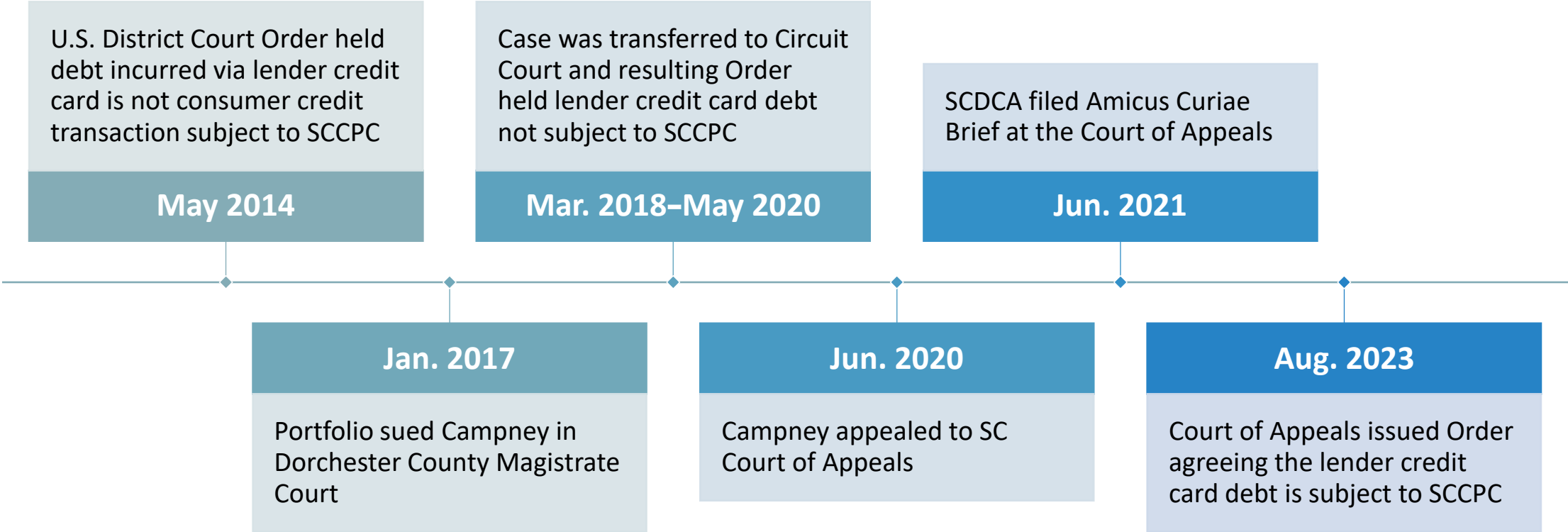
Permanent ban on enforcing or collecting on any contract or debt arising from purported sale or assignment of pension or disability benefits

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

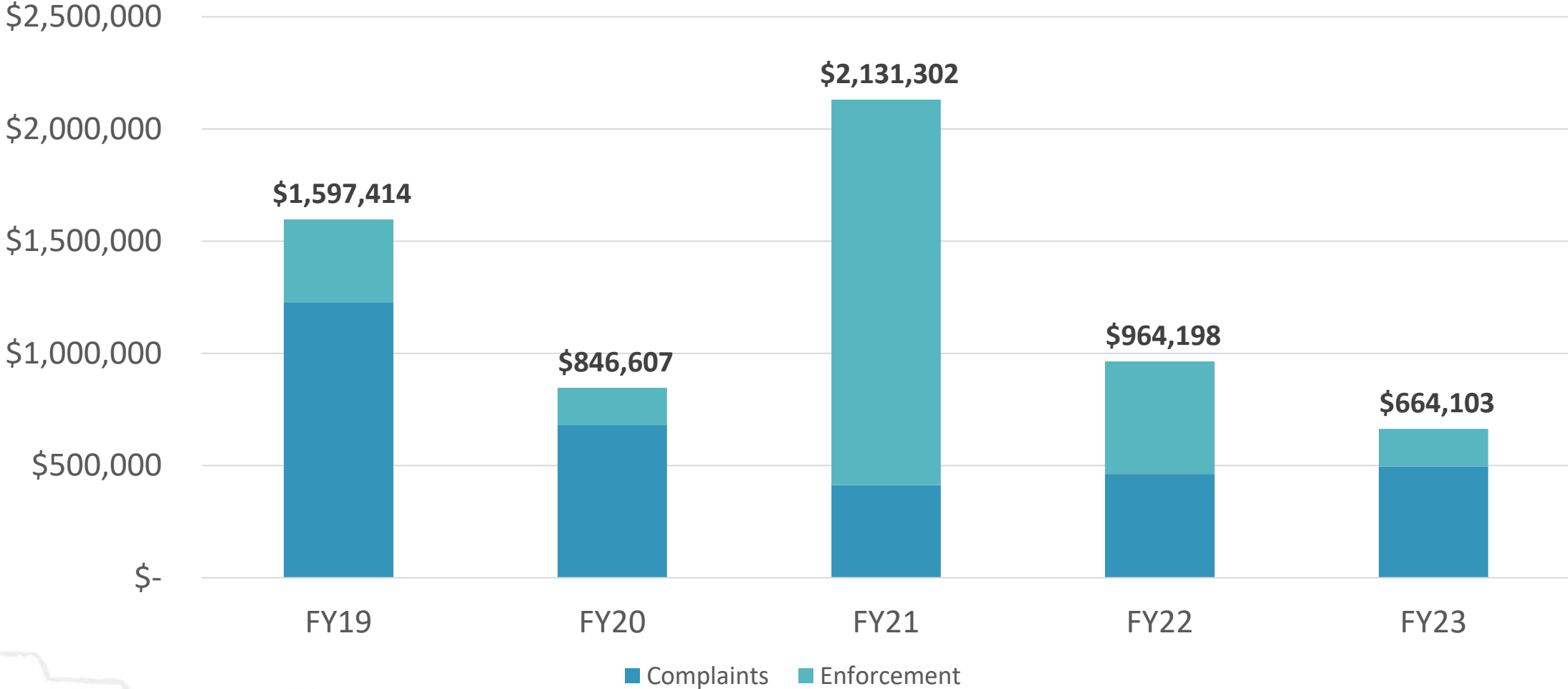
Before filing lawsuit for consumer credit transaction debt, Portfolio was required to send a notice of right to cure to Campney

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

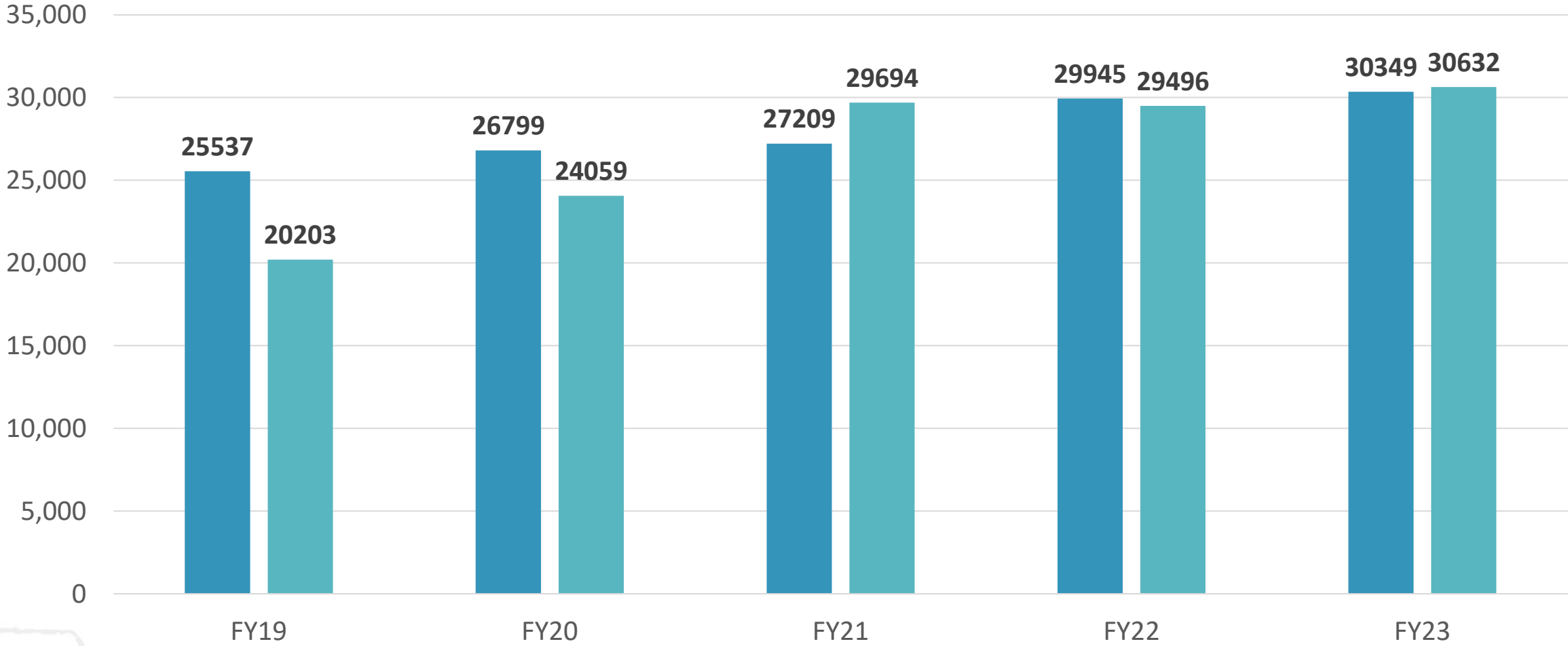
Portfolio Recovery Associates – Resolution

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?



DEPARTMENT OF CONSUMER AFFAIRS: LEGISLATIVE RECOMMENDATIONS & WRAP-UP

Carri Grube Lybarker
Administrator/ Consumer Advocate



LEGISLATIVE RECOMMENDATIONS



Dispensing Cosmetic Contact Lenses



Vacation Time Sharing Plans



Homeowners Associations



Data Breach Notification Requirements: Public Bodies & Businesses

Subject Areas

1

Limitations on Dispensing of an Ophthalmic Contact Lens or Lenses

Section 37-25-10 et seq. ; June 14, 2005

Current Law	Sets standard for contact lens fitting, prescription contents & expiration; Makes it illegal to sell or dispense contact lenses without a valid contact lens prescription from a licensed optometrist or ophthalmologist.
Recommendation	Remove from Title 37 and Delete DCA as enforcer.
Basis	DCA does not regulate optometrists or ophthalmologists, nor regularly visits or has jurisdiction over businesses that sell these items.

CHAPTER 25

Limitations on Dispensing of an Ophthalmic Contact Lens or Lenses

SECTION ~~37-25-10~~. Definitions.

As used in this section:

(1) "Contact lens prescription" means a written order bearing the original signature of a licensed optometrist or ophthalmologist or an oral order issued directly to a dispenser by a licensed optometrist or ophthalmologist which authorizes dispensing ophthalmic contact lenses to a patient, including contact lenses with or without power sold for any purpose.

(2) "Person" means an individual, corporation, trust, partnership, incorporated or unincorporated association, and other legal entity.

(3) "Department" means the ~~South Carolina Department of Consumer Affairs~~ (insert new agency).

SECTION ~~37-25-70~~. Penalties; contested case hearing; order for enforcement.

(A) A person who offers to dispense or dispenses contact lenses in violation of this chapter, in addition to another penalty provided by law, is subject to a civil penalty imposed by the ~~D~~epartment ~~of Consumer Affairs~~ in an amount not to exceed five thousand dollars for each violation.



Vacation Time Sharing Plans

Section 27-32- 10 through 27-32-250; 1978/ May 16, 2019

Current Law	Sets parameters for marketing and sale of timeshares, including contract terms, right to cancel within five days, resale requirements, escrow requirements, prohibited practices.
Recommendation	Increase the buyer’s right of rescission for the purchase of a vacation time sharing plans from 5 days to 10 days .
Basis	Consumers are often still on vacation when the 5 day right to cancel expires.

SECTION 27-32-40. Furnishing copy of contract to purchaser; terms thereof.

(A) It is a violation of this chapter for the seller of a vacation time sharing plan to fail to utilize and furnish the purchaser a fully completed copy of a contract pertaining to the sale at the time of its execution. The contract must include the:

- (1) actual date the contract is executed by all parties;
- (2) name and address of the seller;
- (3) total financial obligation of the purchaser, including the initial purchase price and additional charges to which the purchaser may be subject;
- (4) specific term of the contract; and
- (5)(a) following statement in immediate proximity to the space reserved in the contract for the signature of the purchaser and in bold type:

"YOU MAY CANCEL THIS CONTRACT WITHOUT PENALTY OR OBLIGATION WITHIN **FIVE TEN** DAYS AFTER THE DATE YOU SIGN THIS CONTRACT, NOT INCLUDING SUNDAY IF THAT IS THE **FIFTH TENTH** DAY, OR THE DATE YOU RECEIVE THE DISCLOSURE STATEMENT PURSUANT TO SECTION 27-32-100, WHICHEVER OCCURS LATER. IF YOU DECIDE TO CANCEL, YOU MUST NOTIFY THE SELLER IN WRITING OF YOUR INTENT TO CANCEL BY SENDING NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY ANOTHER VERIFIABLE MEANS, TO (NAME OF SELLER) AT (SELLER'S ADDRESS)."

(b) in the case of a vacation time sharing lease plan the following statement also must be included:

"YOU ALSO MAY CANCEL THIS CONTRACT AT ANY TIME IN CASE THE ACCOMMODATIONS OR FACILITIES PROVIDED IN THE CONTRACT OR COMPARABLE ACCOMMODATIONS OR FACILITIES ARE NO LONGER AVAILABLE."

(B) Notice of cancellation pursuant to this section is considered given on the date postmarked if mailed, or when transmitted from the place of origin if telegraphed, so long as the notice is actually received by the seller. If given by means of a writing transmitted other than by mail or telegraph, the notice is considered given at the time of delivery at the seller's address as identified on the contract.

SECTION 27-32-60. Refund upon cancellation; escrow account.

It is a violation of this chapter for a seller of vacation time sharing plans to:

(1) fail to refund payments made by the purchaser pursuant to the contract and return a negotiable instrument, other than a check, executed by the purchaser in connection with the contract or services within twenty days after receipt of notice of cancellation made pursuant to Section 27-32-40, if the purchaser has not received benefits pursuant to the contract;

(2) if the purchaser has received benefits pursuant to the contract, fail to refund within thirty days after receipt of notification of cancellation made pursuant to Section 27-32-40 or 27-32-50 payments made by the purchaser to the seller which exceed a pro rata portion of the total price, taking into consideration the cost and use of the time share facilities at an average rental rate, representing the proportion of contract benefits actually received by the purchaser during the time preceding cancellation;

(3) fail to place in a real estate broker's trust account, or another escrow arrangement approved by the commission, one hundred percent of the funds received from the purchasers of the plans, which trust account must provide that:

(a) its purpose is to protect the purchaser's right to refund during the ~~five~~ten-day right to cancellation period as provided in Section 27-32-40 or 27-32-50; and

(b) funds may be withdrawn by the seller pursuant to Section 27-32-90.

SECTION 27-32-405. Purpose.

The General Assembly declares that the purposes of this article are to recognize that:

(H) purchasers of interests in a vacation time sharing plan have an unqualified fiveten-day pre-closing right of rescission;

(I) each developer of a vacation time sharing plan must place all purchaser funds in escrow, or otherwise secure such funds, prior to the expiration of the fiveten-day rescission period and before the timeshare closing can occur;

SECTION 27-32-410. Timeshare closing; time; representation; notice to purchaser; contents

(B) Notwithstanding any other provision of law, the documents conveying rights and interests in timeshare real property must be accompanied by a conspicuous notice delivered to the purchaser at or before the time of the execution of the purchase contract for an interest in a vacation time sharing plan, which notice may be included in the purchase contract or in a separate document, substantially in the following form and in conspicuous type (meaning bold type in upper and lower case letters [but in no event in all upper case letters] two point sizes larger than the largest nonconspicuous type, exclusive of headings, on the page on which it appears but in at least 10-point type):

"The South Carolina licensed attorney under whose supervision the form of the transaction documents were reviewed and prepared on behalf of seller is: [insert name, address, and telephone number]. Before the closing, you will review, approve, and sign important documents. What those documents say is important to you. They can affect any rights you might have. They can affect what you will have to do during this transaction. South Carolina's Vacation and Time Sharing Act gives you that right. You have an absolute right to consult an attorney of your choosing, at your own expense, if you have any questions or concerns about this purchase or about what those documents say. If you choose to have an attorney represent you, you must notify seller of the name of that attorney.

You have **five**ten days to cancel this contract. The details of your cancellation rights are provided for in your purchase contract.

You have the ability to waive your right to have an attorney represent you in all phases of this transaction. You can withdraw this waiver at any time prior to closing and indicate to the seller that you are withdrawing your waiver and provide the name of the attorney representing you. Your waiver must be in writing. You may indicate your waiver by signing the statement below:

I/We _____ having been provided this notice of my/our right to have an independent South Carolina attorney represent me/us during all aspects of this transaction, knowingly and voluntarily waive such right this ___ day of _____, 20 ____."

(C) By providing the disclosure set forth above, the transaction is exempt from the requirements of Section 37-10-102.

(D) The provisions of this section apply only to the purchase and sale of an interest in a vacation time sharing plan and the timeshare closing related to it.

3

Homeowners Associations

Section 27-30-110 et seq; May 17, 2018

Current Law	Sets out requirements for HOAs, including to file governing documents, rules, regs and amendments with county, give homeowner access to rules, regulations and amendments; annual budget & membership lists (Nonprofit Cor. Act), certain notice and disclosure requirements; permits Magistrates to hear monetary disputes; requires DCA take complaints and report annually.
Recommendation	Require HOAs to have internal dispute process detailed on governing documents and communicated to homeowners ; Permit magistrate to hear HOA disputes, regardless of monetary value; Require HOA to provide support for actions directly relating to the complaint content (i.e., governing documents).
Basis	Addresses common complaints reported and recommendations made therein since the law passed.

CHAPTER 30
Homeowners Associations

ARTICLE 1
South Carolina Homeowners Association Act

SECTION 27-30-110. Short title.

This article may be cited as the "South Carolina Homeowners Association Act".

HISTORY: 2018 Act No. 245 (H.3886), Section 1, eff May 17, 2018.

SECTION 27-30-120. Definitions.

As used in this article:

(8) "Internal Dispute Resolution Process" means a fair, reasonable and expeditious procedure within a homeowners association for resolving a dispute between the homeowners association and homeowners involving rights, duties or liabilities under the homeowners association's governing documents, covenants, conditions and restrictions.

(89) "Unit" means an apartment in a horizontal property regime, or a lot in a subdivision.

SECTION 27-30-140. Annual budget increases; notice requirements.

(1) Before a homeowners association may take action to increase an annual budget in any single year; or hold a regular or special meeting, the homeowners association must provide notice to homeowners at least forty-eight hours in advance of the meeting ~~in which a decision to raise the annual budget is made~~. Notice of the meeting may be through posting notice:

- (a) in a conspicuous place in a common area in the community;
- (b) on an Internet website maintained by the homeowners association;
- (c) by electronic mail; or
- (d) through methods provided in the association's bylaws that ensure actual notice.

(2) The provisions of this section do not apply to a homeowners association that is incorporated under the South Carolina Nonprofit Corporation Act found in Chapter 31, Title 33.

SECTION 27-30-150. Application of ~~access to documents~~ certain South Carolina Nonprofit Corporation Act provisions. LOC Page 113

(A) The following provisions apply to all homeowners associations not subject to the South Carolina Nonprofit Corporation Act:

(1) ~~The~~ the access to documents provisions of Sections 33-31-1602, 33-31-1603, 33-31-1604, and 33-31-1605 ~~apply to all homeowners associations not subject to the South Carolina Nonprofit Corporation Act~~ for the purposes of allowing homeowners access to inspect and copy a homeowners association's annual budget and homeowners membership lists.

(2) the voting provisions of Sections 33-31-708, 33-31-721, 33-31-722, 33-31-723, and 33-31-724.

SECTION 27-30-155. Internal dispute resolution process requirement and notice.

(A) A homeowners association shall establish an internal dispute resolution process that, at a minimum includes the following:

(1) a written request must be received to begin the internal dispute resolution process,

(2) if the process is initiated by a homeowner, the association must participate,

(3) any resolution of the dispute agreed to by the homeowner and the homeowners association must be in writing and signed by both parties,

(4) a member may not be charged a fee to participate in the internal dispute resolution process.

(B) A homeowners association must provide a description of the association's internal dispute resolution process to homeowners annually. The description may be provided through mail, on an Internet website maintained by the homeowners association, by electronic mail, or through methods provided in the association's bylaws.

SECTION 27-30-160. Jurisdiction of magistrates court.

~~Pursuant to Notwithstanding Section 22-3-10, the magistrates court shall have concurrent jurisdiction to adjudicate all matters between a homeowner and a homeowners association monetary disputes arising under this article, provided the dispute meets the jurisdictional requirements of Section 22-3-10.~~

ARTICLE 3

Department of Consumer Affairs Services for Homeowners and Homeowners Associations

SECTION 27-30-340. Calls or written complaints from homeowners or homeowners associations.

(C)(1) Upon receiving a homeowner's or homeowners association's complaint, the department shall provide the complaint to the homeowners association or the homeowner complained against in a manner that verifies receipt of such complaint by the homeowners association or homeowner, so the homeowner, board, or homeowners association may determine if the homeowner, board, or homeowners association desires to make a response to the complaint.

(2) A homeowners association or homeowner filing a response to a complaint involving a dispute related to governing documents, covenants, conditions or restrictions, shall include copies of the relevant portions of such documents that support the response to the Department.



Data Breach Notification Requirements: Businesses

Section 39-1-90(A) ; July 1, 2009

<p>Current Law</p>	<p>Sets out process for business notifications of security breaches including timing of notices, definitions of PII, notice to DCA if affecting more than 1,000 residents.</p>
<p>Recommendation</p>	<p>Require DCA contact info be included in breach notices and certain details in the notices to affected residents; Remove safe harbor for compliance with the section.</p>
<p>Basis</p>	<p>Providing DCA contact information will give resource to help mitigate the breach and prevent identity theft; Sync business and state agency duties; Affected residents need details to alleviate confusion and determine their breach response; Safe harbor defeats the purpose of the law.</p>

SECTION 39-1-90. Business data, breach of security; notifications, definitions, penalties, and exceptions.

(A) A person conducting business in this State, and owning or licensing computerized data or other data that includes personal identifying information, shall disclose ~~a~~ any breach of the security of the system following discovery or notification of the breach in the security of the data to ~~a~~ any resident of this State whose personal identifying information ~~that was not rendered unusable through encryption, redaction, or other methods~~ was, or is reasonably believed to have been, acquired by an unauthorized person ~~when the illegal use of the information has occurred or is reasonably likely to occur or use of the information creates a material risk of harm to the resident. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (C), or with measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, the business may consider the following factors, among others:~~

- (1) indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information;
- (2) indications that the information has been viewed, downloaded, or copied; or
- (3) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of reported identity theft.

Cont.....

(C) The disclosure requirements of subsections (A) and (B) must be made in the most expedient time possible and without unreasonable delay; however, the ~~The~~ notification required by this section may be delayed if a law enforcement agency determines that the notification impedes a criminal investigation. The notification required by this section must be made after the law enforcement agency determines that it no longer compromises the investigation.

(D) For purposes of this section:

(2) “Consumer reporting agency” means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. A list of consumer reporting agencies shall be compiled by the Department of Consumer Affairs and furnished upon request to the agency required to make a notification under this section.

(32) "Person" has the same meaning as in Section 37-20-110(10).

(34) "Personal identifying information" means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of this State, when the data elements are neither encrypted nor redacted:

Cont.....

(E) The notice must include the Department of Consumer Affairs' telephone number, website address and street address and the following statement in at least twelve point font, "Contact the Department of Consumer Affairs for tips to avoid identity theft and for help if you are a victim. The notice required by this section may be provided by:

(1) written notice;

(2) electronic notice, if the person's primary method of communication with the individual is by electronic means, the person to whom notice is required has expressly consented to receiving said notice in electronic form or is consistent with the provisions regarding electronic records and signatures in Section 7001 of Title 15 U.S.C. and Chapter 6, Title 11 of the 1976 Code;

(3) telephonic notice; or

(4) substitute notice, if the person demonstrates that the cost of providing notice exceeds two hundred fifty thousand dollars or that the affected class of subject persons to be notified exceeds five hundred thousand or the person has insufficient contact information. Substitute notice consists of:

(a) e-mail notice when the person has an e-mail address for the subject persons;

(b) conspicuous posting of the notice on the web site page of the person, if the person maintains one; or

(c) notification to major statewide media.

SECTION 39-1-90. Business data, breach of security; notifications, definitions, penalties, and exceptions.

Cont.....

(F) ~~Notwithstanding subsection (E), an agency that maintains its own notification procedures as part of an information security policy for the treatment of personal identifying information and is otherwise consistent with the timing requirements of this section is considered to be in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system. Regardless of the method by which notice is provided, such notice shall include contact information for the person making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, so acquired.~~

(K) If a business provides notice to more than one thousand persons at one time pursuant to this section, the business shall notify, without unreasonable delay, ~~the Consumer Protection Division~~ of the Department of Consumer Affairs and all consumer reporting agencies that compile and maintain files on a nationwide basis, as defined in 15 U.S.C. Section 1681a(p), of the timing, distribution, and content of the notice.

5

Data Breach Notification Requirements: State Agencies

Section 1-11-490 ; July 1, 2009 & *H.4300, Prov. 117.98* July 1, 2023 (10th year)

<p>Current Law</p>	<p>Sets out process for state agency notifications of security breaches including timing of notices, definitions of PII, notice to DCA if affecting more than 1,000 residents. Proviso introduced every year since 2013 that supplement its provisions.</p>
<p>Recommendation</p>	<p>Amend to include the section as written in the provisos; Require DCA contact info be included in breach notices and certain details in the notices to affected residents; Remove safe harbor for compliance with the section.</p>
<p>Basis</p>	<p>Alleviate confusion regarding state agency duties by having law in statute as opposed to proviso; Providing DCA contact information will give resource to help mitigate the breach and prevent identity theft; Affected residents need details to alleviate confusion and determine their breach response; Safe harbor defeats the purpose of the law.</p>

Department of Administration

SECTION 1-11-490. Breach of security of state agency data; notification; rights and remedies of injured parties; penalties; notification of Consumer Protection Division.

(A) An agency of this State owning or licensing computerized data or other data that includes personal identifying information shall disclose **a any** breach of the security of the system following discovery or notification of the breach in the security of the data to **a any** resident of this State whose ~~unencrypted and unredacted~~ personal identifying information was, or is reasonably believed to have been, acquired by an unauthorized person ~~when the illegal use of the information has occurred or is reasonably likely to occur or use of the information creates a material risk of harm to the resident. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (C), or with measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.~~ In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, the agency may consider the following factors, among others:

- (1) indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information;
- (2) indications that the information has been viewed, downloaded, or copied; or
- (3) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of reported identity theft.

SECTION 1-11-490. Breach of security of state agency data; notification; rights and remedies of injured parties; penalties; notification of Consumer Protection Division.

Cont....

(C) The disclosure requirements of subsections (A) and (B) must be made in the most expedient time possible and without unreasonable delay; however, the ~~The~~ notification required by this section may be delayed if a law enforcement agency determines that the notification impedes a criminal investigation. A delay in notification shall not exceed seventy-two hours after discovery, unless the agency requests and the attorney general grants, in writing, additional delays of up to seventy-two hours each upon a determination that such notification impedes a criminal investigation. ~~The notification required by this section must be made after the law enforcement agency determines that it no longer compromises the investigation.~~

SECTION 1-11-490. Breach of security of state agency data; notification; rights and remedies of injured parties; penalties; notification of Consumer Protection Division.

Cont...

(D) For purposes of this section:

(3) "Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. A list of consumer reporting agencies shall be compiled by the Department of Consumer Affairs and furnished upon request to the agency required to make a notification under this section.

(4) "Personal identifying information" has the same meaning as "personal identifying information" in Section 16-13-510(D). means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of this State, when the data elements are neither encrypted nor redacted:

(a) social security number;

(b) driver's license number or state identification card number issued instead of a driver's license;

(c) financial account number, or credit card or debit card number in combination with any required security code, access code, or password that would permit access to a resident's financial account; or

(d) other numbers or information which may be used to access a person's financial accounts or numbers or information issued by a governmental or regulatory entity that uniquely will identify an individual.

The term does not include information that is lawfully obtained from publicly available information, or from federal, state, or local governmental records lawfully made available to the general public.

SECTION 1-11-490. Breach of security of state agency data; notification; rights and remedies of injured parties; penalties; notification of Consumer Protection Division.

Cont...

(E) The notice required by this section must include the Department of Consumer Affairs' telephone number, website address and street address and the following statement in at least twelve point font, "Contact the Department of Consumer Affairs for tips to avoid identity theft and for help if you are a victim. The notice may be provided by:

(1) written notice;

(2) electronic notice, if the person's agency's primary method of communication with the individual is by electronic means, the person to whom notice is required has expressly consented to receiving said notice in electronic form, or is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 USC and Chapter 6, Title 26 of the 1976 Code;

(3) telephonic notice; or

(4) substitute notice, if the agency demonstrates that the cost of providing notice exceeds two hundred fifty thousand dollars or that the affected class of subject persons to be notified exceeds five hundred thousand or the agency has insufficient contact information. Substitute notice consists of:

(a) e-mail notice when the agency has an e-mail address for the subject persons;

(b) conspicuous posting of the notice on the agency's web site page, ~~if the agency maintains one~~; or

(c) notification to major statewide media.

SECTION 1-11-490. Breach of security of state agency data; notification; rights and remedies of injured parties; penalties; notification of Consumer Protection Division.

Cont...

~~(F) Notwithstanding subsection (E), an agency that maintains its own notification procedures as part of an information security policy for the treatment of personal identifying information and is otherwise consistent with the timing requirements of this section is considered to be in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system. Regardless of the method by which notice is provided, such notice shall include contact information for the agency making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, so acquired.~~

(I) If the agency provides notice to more than one thousand persons at one time pursuant to this section, the business agency shall notify, without unreasonable delay, ~~the Consumer Protection Division of~~ the Department of Consumer Affairs and all consumer reporting agencies that compile and maintain files on a nationwide basis, as defined in 15 USC Section 1681a(p), of the timing, distribution, and content of the notice.



WRAP-UP

CONSUMER PROTECTION CODE – PURPOSES

§37-1-102

01

Simplify, clarify and modernize consumer credit law

02

Provide rate ceilings to assure an adequate supply of credit to consumers

03

Educate consumers and foster competition among businesses so that consumers may obtain credit at reasonable cost

04

Protect consumers against unfair practices, while having due regard for the interests of legitimate and scrupulous creditors

05

Permit and encourage the development of fair and economically sound consumer credit practices

06

Conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act

07

Make the law uniform among the various jurisdictions

CONSUMER PROTECTION CODE – KEY DEFINITIONS

Consumer

§ 37-1-301(10) - “the buyer, lessee or debtor to whom credit is extended in a consumer credit transaction.”

Creditor

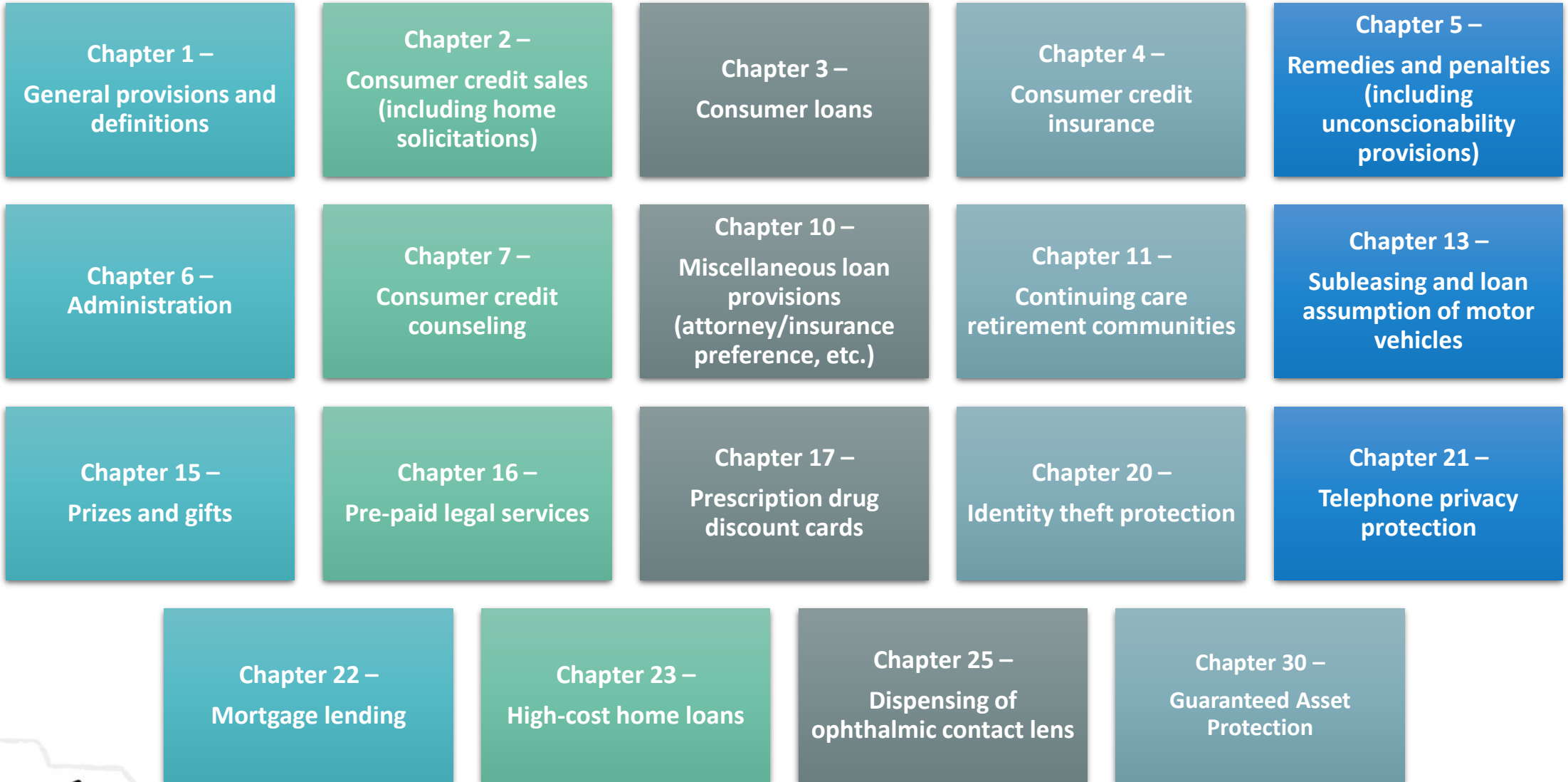
§ 37-1-301(13) - person who grants credit in a credit transaction, or an assignee of a creditor's right to payment

Transaction

§ 37-1-301(11) - a consumer credit sale (§ 37-2-104), consumer loan (§ 37-3-104), consumer lease (§ 37-2-106), or consumer rental-purchase agreement (§ 37-2-701)

Must be entered into for a consumer purpose (personal, family or household use)

SCCPC – CHAPTER BREAKDOWN



OTHER LAWS

Athlete Agents

Loan Brokers

Mortgage Brokers

Motor Club
Services

Security Breaches
(Businesses &
Public Bodies)

Pawnbrokers

Physical Fitness
Services

Preneed Funeral
Contracts

Professional
Employer
Organizations

Complaints:
Homeowners
Association &
Cable

Calls, Website Visits FY2019-FY 2023



Front Desk Calls: 113,155 ^{+4.32%}

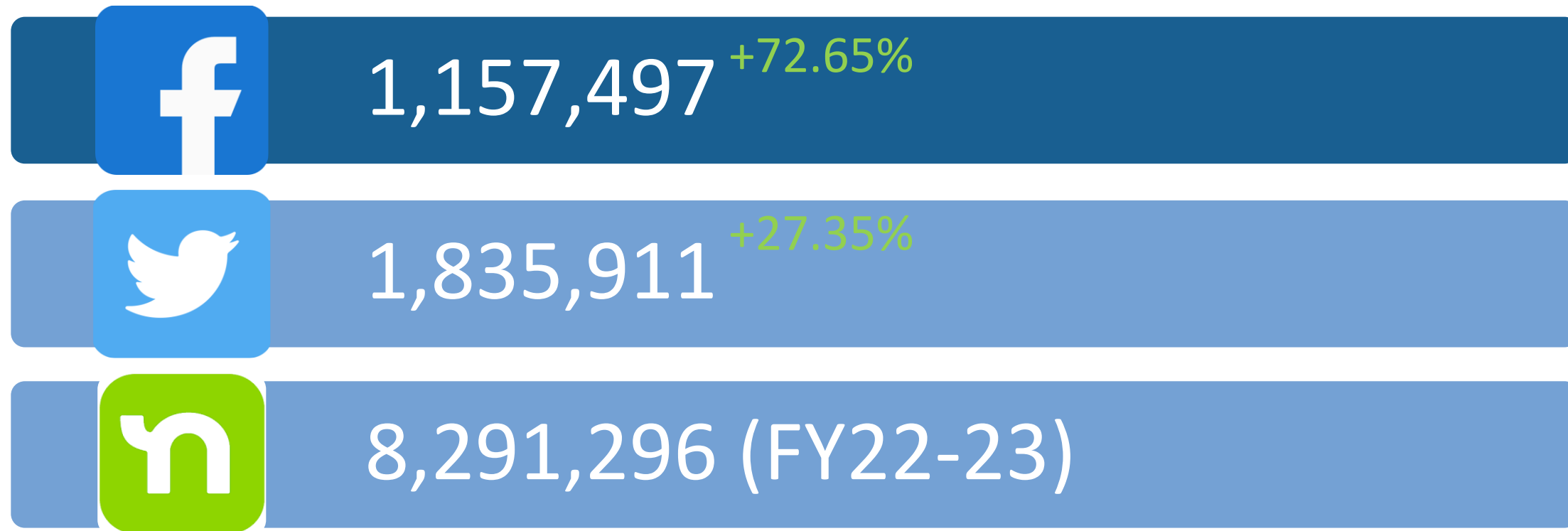


Website Visits: 792,221 ^{+201%}



YouTube Views: 30,288 ^{+80%}
Hours Watched: 1,410.65 ^{+849%}

Social Media Reach FY2019-FY 2023



Consumers & Businesses Reached FY2019-FY 2023



Presentations Given: 683 ^{+73.56%}



Attendees: 29,222 ^{+196.52%}



4.77/5 stars average rating

Complaints & Reports Filed FY2019-FY 2023



Complaints: 20,166 ^{+58.40%}



ID Theft Reports: 2,012 ^{-75.30%}



Scam Reports: 4,106 ^{-63.52%}

Applications & Preneed FY2019-FY2023



Applications Processed: 134,084 ^{+51.62%}



Preneed Processed: 40,781 ^{+314.57%}

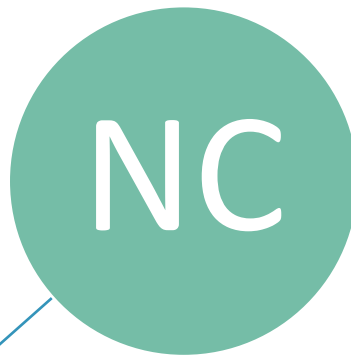
Credits, Refunds & Adjustments FY2019-FY 2023



Nearly \$25 million



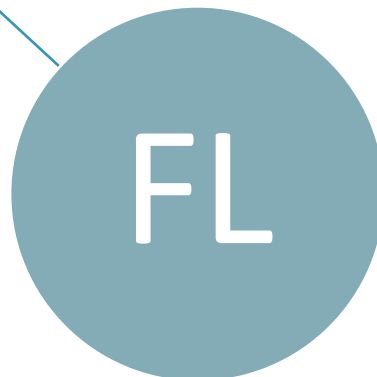
Comparison



- Secretary of State
- Board of Funeral Services
- Dept. of Insurance
- Commissioner of Banks
- Attorney General
- City/County Government



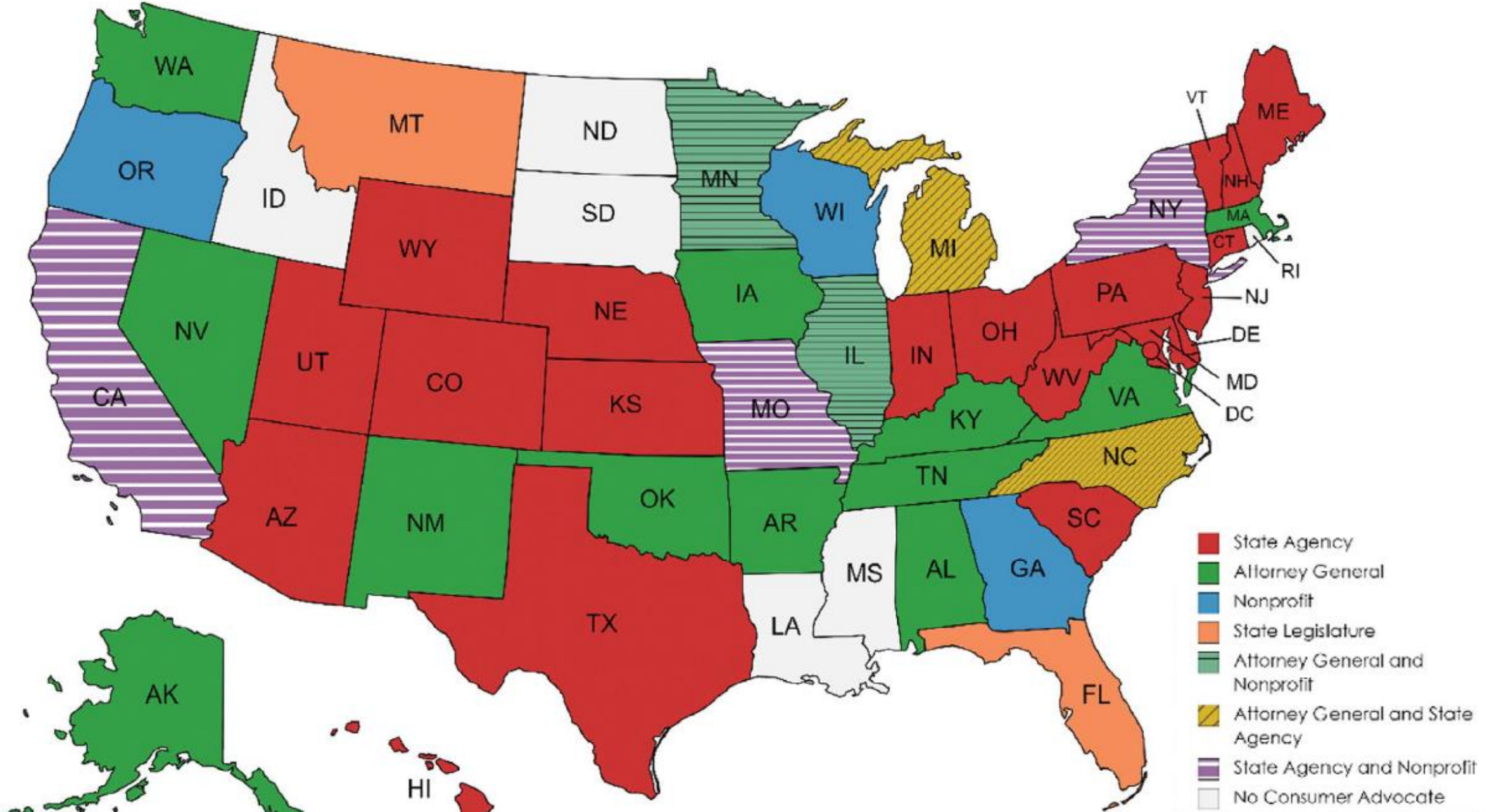
- Secretary of State
- Dept. of Banking & Finance
- Attorney General



- Dept. of Business and Professional Regulation
- Dept. of Financial Services
- Office of Financial Regulation
- Attorney General
- Dept. of Agriculture & Consumer Services



Figure 1: Map of Consumer Advocate Offices by State and Organizational Structure^{2,3,4}



NOTE: This map is showing consumer advocates for utility rate intervention purposes only.

Attorneys General

- Unfair trade practices
- Antitrust matters
- Broad authority
- Generally, an enforcer as opposed to a regulator.

Dept. of Consumer Affairs

- Consumer credit focused
- Narrow authority
- Regulates 15 different industries
 - *Consumer contract at core*

AGENCY SERVICES

§ 37-6-117

Process	Process consumer complaints (intake, mediate, refer)
Cooperate	Cooperate with/assist SC Attorney General and other federal, state and local agencies dealing with consumer protection
Educate	Educate consumers
Encourage	Encourage honest, fair business practices, and public responsibility
Recommend	Recommend new laws and amendments to protect consumers
Initiate	Initiate actions or otherwise represent the consumer interest
Develop	Develop specified educational material

QUESTIONS?

