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February 21, 2023

EMAIL AND  
HAND DELIVERED

South Carolina House of Representatives Legislative Oversight Committee  
ATTN: Chairman Jeffrey E. "Jeff" Johnson  
PO Box 11867  
Columbia, SC 29211

RE: Oversight Review of the South Carolina Department of Consumer Affairs ("SCDCA")

Ladies and Gentlemen:

This letter is in response to the Committee's request for comments as to the above process. I have been a licensed South Carolina attorney since 1975 with most of my practice dedicated to representing entities providing financial services to the citizens of South Carolina. My first legal assignment was to review and participate in matters relating to the South Carolina Consumer Protection Code ("SCCPC"). I worked with the first and second (only ones) SCCPC Reporters, all five of the Administrators of the SCDCA and many of the staff attorneys of SCDCA. I participated in the major SCCPC amendments in 1976 and 1982 and many of the amendments over the years.

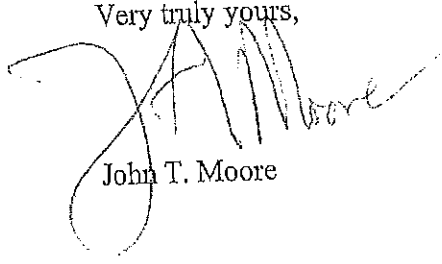
I believe it is important to have an active independent state agency tasked with interpreting/enforcing the SCCPC, especially given the major changes and developments in the financial services (national and state) area since 1975. There are many financial service products and providers that were not in existence in 1975, 1982- or even in 2000. It is critical, for consumers and financial service providers, to have a South Carolina independent consumer protection agency with the authority and resources to address the questions and concerns of consumers and the providers as to existing and new consumer products.

The purpose of this letter is not to address any particular issue that may involve the SCDCA and financial service providers but to voice my appreciation for the existence of an independent SCDCA and the way it has been and is currently operating - whether my clients have liked it at the time or not. Consumers and financial service providers need a process and a place- in addition to the courts and the legislature- that has the specific charge and authority to address questions, interpretations and new financial services.

South Carolina Legislative Oversight Committee  
February 21, 2023  
Page 2

Thank you for requesting comments and for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "John T. Moore". The signature is stylized with a large initial "J" and "M".

John T. Moore

JTM:jc

4878-0106-9649 v.1 000117/01532

From: joannehill9@gmail.com,  
To: dogburn537@aol.com,  
Cc: joannehill9@gmail.com,  
Subject: Motor Club 7-year Fight  
Date: Thu, Feb 23, 2023 9:12 am

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Derial:

The fight over the motor club issue was a seven year battle that first started at the ALC then due to DCA raising jurisdiction issues which took a while to resolve, we had to re-file in the Richland County trial court.

The trial court found that the actions of the SC Department of Consumer Affairs (which was led by Brandy Pinkston at the time and Carri was the General Counsel) were arbitrary and capricious when it repealed on October 30, 2008 a long standing, thirty-two year state law administrative interpretation and declaratory ruling. There was no reason for the agency's change of course after 32 plus years. There had been no change by the South Carolina General Assembly to the underlying statutory code section, S.C. Code Ann. 37-3-202, which supported the way the department implemented and interpreted the statute.

The trial court also found that the October 30, 2008, repeal of a long standing rule and construction in existence since October 1, 1976 (for more than thirty-two years) by the Defendant South Carolina Department of Consumer Affairs was unlawful.

The lower court heard opposing motions for summary judgment presented by both parties to the declaratory judgment action; however, the lower court found on April 30, 2014, for the Plaintiffs and granted summary judgment.

The lower court applied common and statutory law to determine that the Defendant was arbitrary and capricious when it repealed on October 30, 2008, a thirty-two year state law administrative interpretation and declaratory ruling while there has been no change by the South Carolina General Assembly to the underlying statutory code section, S.C. Code Ann. 37-3-202.

The lower court further held that based upon the applicable law and undisputed facts that such action constitutes an abuse of discretion by the Defendant.

The record and the law clearly demonstrate that the Defendant acted arbitrarily to revoke an official state law interpretation and that such arbitrary and capricious action by a state agency that cannot be rescued by the Department claiming "regulatory discretion."

#### PROCEDURAL HISTORY AND FACTS OF CASE

- The Plaintiffs originally filed this action in the Administrative Law Court on January 20, 2009 in accordance with the Administrative Procedures Act and applicable law following their request(s), which were denied by the South Carolina Department of Consumer Affairs ("Department"), for the Department to reconsider its withdrawal and decision to rescind Declaratory Ruling No. 3.202-7608 by letter dated October 30, 2008.
- SCDCA Declaratory Ruling No. 3.202-7608 has been in effect since October 1, 1976, a period of time spanning 37 years.
- The Plaintiffs asserted that the Department failed to follow proper procedures, that Plaintiffs have relied upon this Declaratory Ruling and those opinions of the Department related to this ruling, that the Department by its actions has acted in an arbitrary and capricious manner as there has been no legislative change enacted by the South Carolina Legislature to the underlying code section, S.C. Code §37-3-202, upon which the ruling is based.
- Plaintiffs are corporations organized in the State of Delaware, are in good standing, and they do business in the State of South Carolina. They offer their auto security and home security plans to consumers through lenders through a separate transaction, not in connection with a loan transaction. The consumer has the sole and individual choice to purchase the plan.
- In 2004- 2005, these businesses through its representatives met multiple times with and discussed in detail with officials at the Department regarding the lawful procedures for the sale of its services not in connection with and at the time a supervised loan was made. The Plaintiffs

- worked with the Department to develop specific and lawful procedures to be used for the selling of its services and products at the time of the supervised loan. These procedures were sanctioned and outlined by the Department's detailed informal letter issued on June 2, 2005.
- This June 2, 2005 letter also stated that "[t]here have been a number of changes in the law since 1987, but it is the opinion of the Department that the plans may be sold in offices of supervised lenders if the sale complies with both Declaratory Ruling No. 7608 dated October 1, 1976 and the changes in the law since that time."
  - These Plaintiffs, who were operating in SC since 2005 in reliance with the terms and in accordance with the detailed procedures developed by the Department.
  - Declaratory Ruling No. 3.202-7608 dated October 1, 1976 allows for the sale of non- credit insurance products from the offices of supervised lenders if certain specific conditions are met. The sudden withdrawal and rescinding of this 39-year precedent has the direct effect of terminating the ability of the Plaintiffs to operate or offer their products in the State of South Carolina in accordance with the established and relied upon procedures developed with the Department in 2005.
  - As authorized by the Declaratory Ruling No. 3.202-7608 issued on October 1, 1976, the sudden reversal of a long term statutory construction is arbitrary and eliminates their ability to do business in the State. In addition the Plaintiffs asserted to the trial court (which agreed) that the Department usurped the power of the General Assembly by changing a long term construction of statute which was not changed by the General Assembly. The Declaratory Ruling No. 3.202-7608 dated October 1, 1976 has been in effect for almost 39-years. However, on October 30, 2008 when the Department issued their repeal of this long standing construction of an unchanged statute, the 1976 Declaratory Ruling has been in existing for more than 32-years.
  - Without a hearing or proper notice, on October 30, 2008, the Department issued a letter withdrawing and rescinding this Declaratory Ruling, including any related letters or opinions in connection with such ruling.
  -

The first time that the Plaintiffs became aware of the Department's change of ruling was on November 4, 2008.

- The Plaintiffs and the Department met on November 20, 2008 to discuss their concerns. The Department initially advised that it made the change in the Declaratory Ruling based upon changes in the law/statute; however, there were no changes to the statute by the General Assembly to result any administrative or regulatory implementation of the long-standing statute.
- On November 21, 2008, the Plaintiffs made a formal request for reconsideration to the Department to reconsider its ruling dated October 30, 2008. The Plaintiffs asserted that the impact of the recent ruling change by the Department was severe and has a substantial adverse financial impact to their detriment without the opportunity for a formal hearing or review.
- After the meeting, DCA said no to the businesses. The Department issued a letter refusing or denying the Plaintiffs' request for reconsideration dated December 17, 2008 and received on December 18, 2008.
- The Plaintiffs timely filed this action in the Administrative Law Court on January 20, 2009. However, DCA challenged whether the ALC had jurisdiction. In 2012 the case was re-filed in circuit court.
- An Order staying enforcement and implementation of the Ruling as to Plaintiffs was entered into between the parties on March 25, 2009.
- On June 5, 2012, the parties stated on the record their agreement on certain issues, including jurisdiction, standing and statute of limitations so that the Plaintiffs could timely file or re-file their cause of action in the Court of Common Pleas for Fifth Judicial Circuit in Richland County. See Administrative Law Court Consent Order dated July 31, 2012.
- Following the pretrial discovery, answers and motions, the parties each filed a Motion for Summary Judgment. The parties submitted memorandums in support of their motions, as well as other supporting materials and affidavits.
- On October 15, 2013, the lower court heard these counter motions for summary judgement.
- 
- On April 29, 2014, Judge Benjamin issued an Order granting summary judgment or partial summary judgment in favor of the Plaintiffs.
- The Plaintiffs have been lawfully operating in the State of South Carolina since 2005. The Department has advised that it has not received any complaints about the products sold by the Plaintiffs.
- The Plaintiffs have carefully complied with all guidelines and requirements that the Department developed and addressed in its letter dated June 2, 2005.
- The Plaintiffs have invested substantial funds in training and marketing programs and materials for South Carolina that address the benefits of their products. Currently, there is a stay of any enforcement, finalization, or effective date so that the status quo will be maintained.

- As a result, the prior Declaratory Ruling No. 3.202-7608 remains in effect as applied to the Plaintiffs until such time as a final resolution of these problems can be established.
- The Plaintiffs have asserted and argued that the Department has usurped the authority of the General Assembly despite the fact that they General Assembly has made no change to the underlying statutory provision of the law (statute §37-3-202) used as the support for the 1976 Declaratory Ruling.
- The Plaintiffs further assert that the Department's actions to revoke this long standing rule of law is also contradictory to the federal provisions which the Consumer Protection Code must apply by SC Statute.
- The lower court found using the principles of law and review in the undisputed facts that the Department's repeal of a long standing rule and administrative interpretation after more than 32-years in 2008 was arbitrary, capricious and an abuse of discretion by the Department.
- These private businesses operating in SC had to fight this battle since December 2008. Even after winning in the trial court, the plaintiff businesses had to defend itself when DCA filed an appeal to the appellate court. After the additional legal expense to defend its hard-fought favorable court decision, the battle continued. Initial appellate briefs were filed with the SC Court of Appeals/SC Supreme Court.
- Seven months into the appeal, DCA finally agreed to dismiss its appeal from a lower trial court decision that it acted unlawfully and that its actions were arbitrary and capricious. (length of appeal 3/20/2015 to 10/28/2015)
- The only thing that the lower did not grant to the Plaintiff businesses was the recovery of its legal expenses and attorney's fees against the state agency.

Statements and Request  
House Legislative Oversight Committee

February 23, 2023

Good morning,

I want to 'Thank the House Legislative Oversight Committee for allowing me to speak to you today. I plan to take no longer than the 3-5 minutes I have, BUT by no means – don't think that my subject today isn't essential to myself and other South Carolinians living in an HOA community in our state.

My name is Joseph Cecil, I'm from Beaufort County. I drove here today seeking your help in moving Legislative action forward to help communities across the state that are mismanaged.

From the annual report provided to you by the Department of Consumers Affairs, this Oversight Committee is very aware of the rising numbers of displeasure from people living within these communities throughout the state. The Consumer Affairs Department continues to receive complaints regarding HOAs and the Board of Directors not following Covenants, By-Laws, or the Rules and Regulations in their community.

Those complaint numbers are rising AND are continuing to rise annually. The Legislators of the State should allow this Department to get 'more involved, getting more 'Authoritative Teeth and Backbone,' which will provide more accountability from the areas in the HOAs and the Board of Directors. Just this year, in just four reported areas, the report provided the following statistics:

- Failure to adhere to and enforce covenants and bylaws (15.1%).
- Concerns regarding maintenance and repairs (12.4%).
- Failure to notify residents of board actions (11.5%).
- Then there is also 4% of complaints which were closed as 'unsatisfied' due to the business (HOAs and the Boards) failure to even Respond.
- By the way – the community I live in gets away with everything just mentioned.

If you add these numbers up alone, this equates to 43% of South Carolinians who are Not Happy.

If you view this correctly, it appears the HOAs and Boards are totally ignoring the Department of Consumer Affairs because they see them as 'just paper pushers' between a complainant and their functions - rather than the Department of

Consumer Affairs having the 'Authority required to be an 'Advocate' for the Residents or the People who bring these complaints forward.

Today's travesty of injustice for these Residents or the People who bring complaints forward is:

- Since there are no penalties or enforcement mechanisms in South Carolina's 'non-profit corporation act OR the HOA act, when our HOA or Board refuse to abide by the Covenants, the By-Laws, or these laws, these Residents or Peoples' only recourse is to spend our own money to take them to extremely expensive court, while our own money – which is our own HOA assessments will be used to pay these HOAs legal fees – so, in reality, we have to sue ourselves.

**Isn't it time for this House Legislative Oversight Committee to have proposed any state agency to regulate HOAs and have HOAs Register with the Department of Consumer Affairs?**

When the House Legislators act, the Consumer Affairs Department will become our 'Watchdog' for the people of South Carolina to help protect our Property Values and to provide needed monitoring, reviews, evaluation, and enforcement to those HOAs and Boards of Directors.

Holding those HOAs and the Board of Directors accountable.

Thank you for listening and for any action this House Legislation Oversight Committee WILL provide.

Respectfully,

Joseph Cecil.

I will now be happy to entertain comments or questions.



**Community Choice Financial**  
**Written Testimony for South Carolina House of Representatives, Oversight Committee**  
**February 23, 2023**

**Introduction and Purpose**

This written testimony is presented to this Committee to describe the background of CCF OpCo LLC known as Community Choice Financial (“Community Choice”) and the nature of its subsidiaries’ consumer lending operations in South Carolina, and to advise the Committee of the South Carolina Department of Consumer Affairs’ (“Department”) protracted and punitive litigation against the company’s South Carolina operating subsidiary, Cash Central of South Carolina, LLC. Despite South Carolina statutes and Court rules for interpreting the state’s Consumer Protection Code “in justice and fairness to both the lender and the borrower,” the Department has been engaged in protracted and punitive litigation with Cash Central since June 2016. The Department’s lawsuit seeks to require the forfeiture of millions of dollars in loan interest collected from Cash Central’s borrowers during the period between October 23, 2013, and April 10, 2015. Cash Central’s alleged “wrongdoing” is nothing more than an inadvertent, good-faith failure to timely file two one-page forms with the Department, providing information that was already on file with and fully known to the South Carolina State Board of Financial Institutions – Consumer Finance Division. The Department continues to pursue this vexatious suit, even though no Cash Central borrower was deceived or misled, and every single borrower had unfettered online access to all of the statutorily required information and disclosures and full and complete disclosure of the exact repayment terms and Annual Percentage Rate (APR) for the loan for which they applied.

**Company Background**

Community Choice is a national, neighborhood-based financial services company that helps hard-working but under-served American consumers meet a broad set of financial needs. Community Choice is a holding company with state-licensed operating subsidiaries in each state where it provides services. The Company’s long term goal is to meet its customers’ immediate, temporary financial needs while helping them progress into financial products that allow them to build good credit.

Community Choice’s subsidiaries provide their customers with financial products that are convenient, transparent and lower-cost alternatives to other, more expensive options, such as incurring returned item fees, credit card late fees, overdraft or overdraft protection fees, utility late payments, disconnect, and reconnect fees and other charges imposed by other financing sources, when those customers do not have sufficient funds to cover unexpected expenses or other needs.

**Cash Central of South Carolina, LLC**

Cash Central of South Carolina, LLC applied to become a supervised lender in South Carolina in early 2013 with the South Carolina State Board of Financial Institutions – Consumer Finance Division (the “Board”). After an in-depth and thorough review of Cash Central’s business and financial information, operating experience in other states, and its proposed products and services

for South Carolina consumers, including the interest rates to be charged on all of its loans, Cash Central was first licensed by the Board as a supervised lender in the State of South Carolina on October 2, 2013. Cash Central began making loans to South Carolina consumers on or about October 23, 2013.

Unlike every other state in the United States, South Carolina requires that supervised lenders such as Cash Central make regulatory filings with two different state agencies. In South Carolina, supervised lenders also must file two forms with the South Carolina Department of Consumer Affairs (the "Department"). The first form is the Consumer Credit Grantor Notification, a one page form that merely notifies the Department that the lender is making loans in the State, a fact that is already known to the Board. The second form is a Maximum Rate Schedule, another single page form that advises the Department of the highest rate the lender may charge for each category of loans it provides, another fact that is already known to the Board.

When Cash Central first began its due diligence and legal and regulatory compliance review to apply to become a supervised lender in South Carolina, Cash Central's in-house legal counsel correctly identified the statutes requiring the filing of the two forms with the Department, and included this information in a legal and regulatory compliance outline. On February 1, 2013, Cash Central's legal counsel downloaded and saved a blank copy of the Maximum Rate Schedule and Consumer Credit Grantor Notification forms that were available from the Department's website. On February 4, 2013, Cash Central's legal counsel saved completed and typed versions of the "Initial Consumer Credit Grantor Notification Form" and the "Initial Maximum Rate Filing Schedule – Consumer Loans," on her computer, to be mailed to the Department after Cash Central obtained its supervised lending license from the Board. The Department has no authority or discretion to review or approve these forms, it simply accepts them for filing and then issues certificates to the lender. In the case of the Maximum Rate Schedule, the Department issues a certificate, to be posted in a conspicuous place in the lender's business premises, which discloses only the highest rate that the lender is allowed to charge on any of its loan products to any consumer. The certificate also includes the following consumer disclosure required by S.C. Code Ann. § 37-3-305(3):

Consumers: All supervised and restricted creditors making consumer loans in South Carolina are required by law to post a schedule showing the maximum rate of LOAN FINANCE CHARGES stated as ANNUAL PERCENTAGE RATES that the creditor intends to charge for various types of consumer credit transactions.

The purpose of this requirement is to assist you in comparing the maximum rates that creditors charge, thereby furthering your understanding of the terms of consumer credit transactions and helping you to avoid the uninformed use of credit.

NOTE: Creditors are prohibited only from granting consumer credit at rates higher than those specified above. A creditor may be willing to grant you credit at rates that are lower than those specified, depending on the amount, terms, collateral and your credit worthiness."

Because the State Board of Financial Institutions' review of Cash Central's application was not completed for approximately eight months until October 2, 2013, Cash Central's compliance staff

inadvertently failed to mail the completed Consumer Credit Grantor Notification and Maximum Rate Schedule forms to the Department before Cash Central began making loans in late October 2013.

In late March of 2015, in a routine audit, the State Board of Financial Institutions discovered that Cash Central had inadvertently failed to file the two forms with the Department, and it notified Cash Central management. Cash Central promptly corrected the error, filed the appropriate forms with the Department, including the loan rate schedules that were already on file with the Board, and received the corresponding certificates from the Department on April 10, 2015.

During the time period from early November 2013 to April 10, 2015, all consumers shopping for or applying for a loan at the [www.cashcentral.com](http://www.cashcentral.com) website were directed to state specific website pages, screens, disclosures, and loan information. During each of the five steps in the online loan application process, the consumer was presented with hyperlinks to allow the consumer to view (a) Cash Central's South Carolina loan rate schedules previously filed with the Board, and the above referenced consumer disclosure language, as required by S.C. Code Ann. § 37-3-305(3), and (b) (for steps 1 through 3) Cash Central's South Carolina supervised lending license issued by the Board.

When a consumer clicked on a hyperlink called "rates and terms," the consumer plainly saw a website page entitled "South Carolina Rates and Terms" which included a chart that disclosed the cost of credit for each loan offered by Cash Central in South Carolina. This fee schedule contained the exact same maximum rates, stated as annual percentage rates, that were already on file with the Board and, again but for Cash Central's good faith error, would have been filed with the Department prior to October 24, 2013. The same website page that included the cost of credit for South Carolina borrowers also contained the consumer disclosure language required by S.C. Code § 37-3-305(3).

Most importantly, any consumer who applied for a loan on the Cash Central website between October 23, 2013, and April 10, 2015, was automatically presented with loan rate and loan cost disclosure information that was *specific to the loan for which the consumer applied*. Cash Central's website included an interactive loan disclosure tool that was integrated in the online application process. Once the consumer selected their desired loan amount, first payment date, repayment schedule, and loan duration, the integrated computer algorithm would generate and prominently display the actual loan payment, total cost of credit, and Annual Percentage rate (APR) *based specifically on the consumer's desired loan terms*.

### South Carolina Consumer Protection Code

The purpose of the South Carolina Consumer Protection Code is "to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, *having due regard for the interests of legitimate and scrupulous creditors*." S.C. Code Ann. § 37-1-102 (emphasis added). The Code must be interpreted with respect to its stated purpose. South Carolina's Courts and the General Assembly have also both recognized that 100% perfect compliance with statutory requirements is an unrealistic expectation. By way of example, S.C. Code Ann. § 37-5-202(7) provides that "A creditor may not be held liable in an action brought

under this section for a violation of this title if the creditor shows by a preponderance of evidence that the violation was not intentional and resulted from a *bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error*" (Emphasis added.) This provision is consistent with the S.C. Supreme Court's ruling in *Davis v. NationsCredit Fin. Servs. Corp.*, 326 S.C. 83, 86, 484 S.E.2d 471, 472 (1997), stating that "a lender *substantially complies* with [code requirements] if the borrower receives a clear and prominent disclosure of the statutorily required information. . . . *It would elevate form over substance to hold to the contrary.*" (Emphasis added.)

In an earlier case, the S.C. Supreme Court interpreted the disclosure requirements of the Federal Truth in Lending Act, "the purpose of which is "to assure meaningful disclosure of credit terms so that the consumer can shop for credit on an informed basis." *Id.* In that case, the S.C. Supreme Court found that consumer protection disclosure requirements, such as the Truth in Lending Act, "should be liberally construed to effectuate the congressional purpose of the . . . Act and *applied in a manner which results in justice and fairness to both the lender and the borrower.* *Gen. Motors Acceptance Corp. v. McMinn*, 285 S.C. 67, 69, 328 S.E.2d 472, 477 (1985) (emphasis added). The Court discouraged "arguing technicalities," and stated that it "will strongly construe [consumer protection] provisions against borrowers who were not misled by a lender's disclosure but merely seek a penalty for finding a technical problem with the loan form which could not have conceivably influenced his choice of credit." *Id.* at 70, 328 S.E.2d at 477.

After a two-day circuit court trial in September 2017, Cash Central prevailed on all of its asserted defenses, establishing that its failure to timely file the forms with the Department was both unintentional and bona fide error and that Cash Central had substantially complied with the disclosure requirements of the statute. As the trial judge, the finder of fact, said in his decision:

Cash Central's failure to file the Maximum Rate Schedule during the Relevant Time Period was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error. Final Order at 17. . . . [Furthermore, T]here is no evidence that Cash Central's failure to file the Maximum Rate Schedule form with the Department affected any consumer's choice of credit in any way. The undisputed evidence is that Cash Central's website disclosures better promote the purposes of Section 37-3-305 than the Maximum Rate Schedule issued by the Department. There is no logical or legal reason that the substantial compliance defense should not apply equally to a failure to either file or post information. Thus, the Court finds that Cash Central substantially complied with S.C. Code Ann. §§ 37-3-201 and 37-3-305. *Id.* at 20.

Cash Central prevailed at trial, and the trial court entered judgment against the Department and in favor of Cash Central. Notwithstanding the factual findings of the trial court, the Department pressed on with its suit that, contrary to settled South Carolina Supreme Court law, requires 100% perfect compliance with statutory requirements and initiated appellate review; a move that evidences something far, far short of giving "due regard for the interests of legitimate and scrupulous creditors," as required by S.C. Code Ann. § 37-1-102.

### Summary and Conclusion

In its ongoing and vexatious litigation against Cash Central, the Department continues to improperly elevate the filing of its forms over the substance of Cash's Central actual and robust loan disclosures to its customers, none of whom were misled or deceived in the loan shopping or application process. All of these consumers had unrestricted online access to the rate schedules that were on file with the Board, and but for an inadvertent and good faith failure, would have been filed with the Department. Cash Central substantially complied with all of the substantive statutory requirements for providing full disclosure of "the terms of consumer credit transactions and helping [consumers] to avoid the uninformed use of credit." Cash Central continues to be subject to the Department's persecution for inadvertently failing to file two one-page forms.

# SCADA + DCA TIMELINE

## 2022



*February 18, 2022* | Carri Lybarker (SCDCA Administrator) sends "Misleading and Deceptive Motor Vehicle Dealer Practices" Memo to Dealers without collaboration with SCADA



*March 2022* | SCADA starts receiving notice of unannounced DCA investigations from Dealer Members



*May 26, 2022* | SCADA (Sims & Dani) & HSB (Jamie Becker) set up a good faith meeting with SCDCA (Carri Lybarker & Kelly Rainsford) at their HQ, where they not only are vague & secretive, but also serve the Association with a subpoena, which SCADA does not accept.



*September 20, 2022* | SCADA files a motion for Declaratory Judgement/Injunction



*December 28 2022* | SCADA files official comments on the Department's Proposed Regulation 5169: Motor Vehicle Closing Fees

## 2023



*January 12, 2023* | Full House Regulations & Admin. Procedures Committee votes unanimously against Proposed Regulation 5169: Motor Vehicle Closing Fees



*February 2, 2023* | CA reform bill introduced in the Senate

*February 14, 2023* | CA reform bill & cabinet agency bill introduced in the House

*February 23, 2023* | House Legislative Oversight Public Input Hearing



**AS OF 02.23.2022**

***The Problem:*** Even after the Consumer Affairs proposed regulation re: motor vehicle closing fees was voted down 12-0 by the House Regulations Committee, franchised Dealers continue to be harassed by Consumer Affairs...

1. For a year now, Consumer Affairs has been sending two attorneys from the Department in a state car to Dealerships unannounced demanding to see 3 to 5 months' worth of car deals.
2. They demand to see sensitive customer information so they can contact the customer about the Dealer.
3. They are also demanding to see profit levels on all financial products sold which has nothing to do with closing fees.
4. They say they are investigating Dealerships in the name of closing fees and yet every Dealership they have visited has already been approved to charge a closing fee by the department following the application period.
5. Why does Consumer Affairs have a budget proviso that allows them to keep all enforcement dollars taken from businesses?
6. Why is a state agency allowed to just show up unannounced at a business without even a cause or complaint presented to the business owner?
7. We need legitimate help. They have cited three Dealerships for not providing all the information that they demanded and are taking them to court. Now those Dealerships are having to pay lawyers to defend themselves and yet they have never been presented not even one cause or complaint from any consumer in the state of South Carolina! One of those Dealerships has spent over \$60,000 on attorneys and the other Dealership has spent over \$40,000. This is an example of a state agency acting as a bully using taxpayer dollars! This is wrong!

***H. 3952 - Consumer Affairs Reform Bill:*** House Bill 3952 was introduced by the Speaker of the House, Murrell Smith, and currently has 35+ cosponsors. S. 483 is the companion bill in the Senate that was introduced by the President of the Senate, Thomas Alexander. The Bill:

- Prioritizes education & mediation in Consumer Affairs' Mission Statement, versus enforcement and punitive action
- Ensures a business receive proper notice of complaint prior to any form of investigation
- Clarifies that a complaint made by a consumer or entity must be substantiated and legitimized before any action against a business is taken
- Outlines reasonable measure requirements that an agency must take before jumping to enforcement action
- Adds a layer of checks & balances by requiring an agency to report to the Legislature of how taxpayer dollars are being spent
- Amends the Closing Fee Statute to make the disclosure of a Closing Fee transparent, provides an easy way for the Department of Consumer Affairs to verify a Dealership is legally charging the fee, and would make SC the exact same for disclosure as in GA, FL, NC, and AL

## South Carolina General Assembly

125th Session, 2023-2024

**H. 3952**

### STATUS INFORMATION

#### General Bill

Sponsors: Reps. G.M. Smith, Bannister, Bradley, Crawford, Herbkersman, W. Newton, Felder, Alexander, Wetmore, Hyde, Sessions, Guffey, Connell, Hager, Atkinson, Moss, Stavrinakis, Yow, Mitchell, Ligon, B. Newton, Williams, T. Moore, Robbins, Brewer, Murphy, Wooten, Cromer, Magnuson, Pope, Hixon, Forrest, M.M. Smith, Davis, Ballentine, Erickson, Guest, Ott and Willis

Companion/Similar bill(s): 483

Document Path: LC-0150DG23.docx

Introduced in the House on February 14, 2023

Currently residing in the House

Summary: Consumer affairs

### HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
2/14/2023	House	Introduced and read first time (House Journal-page 10)
2/14/2023	House	Referred to Committee on <b>Labor, Commerce and Industry</b> (House Journal-page 10)
2/15/2023	House	Member(s) request name added as sponsor: Connell, Hager, Atkinson, Moss, Stavrinakis, Yow, Mitchell, Ligon
2/16/2023	House	Member(s) request name added as sponsor: B. Newton, Williams, T. Moore
2/21/2023	House	Member(s) request name added as sponsor: Robbins, Brewer, Murphy, Wooten, Cromer, Magnuson, Pope, Hixon, Forrest, M.M. Smith, Davis, Ballentine, Erickson, Guest
2/22/2023	House	Member(s) request name added as sponsor: Ott, Willis

View the latest [legislative information](#) at the website



# DEPT. OF CONSUMER AFFAIRS SOCIAL MEDIA VS. CAR DEALERS

SC Department of Consumer Affairs  
September 23

SCDCA thinks car buying junk fees belong in the trash. SCDCA recently provided comment to the Federal Trade Commission on a proposed rule that would "eliminate the tricks and traps" that make it hard for consumers to comparison shop and add on thousands of dollars of unwanted junk charges. More information is available in this press release: <https://consumer.sc.gov/.../scdca-thinks-car-buying-junk>

**THE LATEST NEWS**

**PRESS RELEASE**

**SCDCA submits comments to Federal Trade Commission on how junk fees impact the SC auto marketplace.**  
Highlights include add-on fees, Yo-yo/spot delivery sales and the need for compliance clarity.

CONSUMER.SC.GOV | (800) 922-1594 | #TELLDCA

1 comment 2 shares

SCDCA @SCDCA - Sep 6

Have you seen a price for a car in an advertisement, only to get to the dealer and the price is completely different? That's illegal. SCDCA spoke with @postandcourier about what to watch out for when car shopping.



postandcourier.com

State consumer agency offers a warning to car buyers  
Locally there seems to be a car lot on every corner, as prices for new and used vehicles have gone way up, some sellers are looking for a little ...

SCDCA @SCDCA - Aug 26

SCDCA has heard from consumers who experienced misleading and deceptive sales practices when car shopping. SCDCA provides an overview of issues that have been reported to us during this recording of our Consumer Forum on Car Buying.

youtube.com

Tell Us Story Consumer Forum on Car Buying

Have you seen a price for a car in an advertisement, only to get to the dealer and the price is completel...

SCDCA @SCDCA - Aug 23

SCDCA wants to hear from consumers who have experienced misleading and deceptive sales practices when car shopping. Join us for a free webinar: "Consumer Forum on Car Buying" Wednesday, August 24 at 10:30 a.m. Learn more: [consumer.sc.gov/news/2022-08/...](https://consumer.sc.gov/news/2022-08/...) #DontGetDuped

Did you see an ad for a car and the price was *different* when you went to the lot?

SCDCA @SCDCA - Aug 22

Did you see an ad for a car and the price was different when you went to the lot? We want to hear from you! Join SCDCA Wednesday at 10:30 a.m. for a Consumer Forum on Car Buying. Learn more about this free webinar here: [consumer.sc.gov/news/2022-08/...](https://consumer.sc.gov/news/2022-08/...) #DontGetDuped

Did you see an ad for a car and the price was *different* when you went to the lot?

**WE WANT TO HEAR FROM YOU!**

What: Consumer Forum on Car Buying  
When: August 24, 2022 - 10:30-11:30 a.m.

**WE WANT TO HEAR FROM YOU!**

What: Consumer Forum on Car Buying  
When: August 24, 2022 - 10:30-11:30 a.m.

consumer.sc.gov | (800) 922-1594 | #telldca #dontgetduped

consumer.sc.gov | (800) 922-1594 | #telldca #dontgetduped

Wed, 08/17/2022

## DON'T GET DUPED BY THE DEALER WHEN BUYING A CAR

COLUMBIA, S.C. – Have you seen a price for a car in an advertisement, only to get to the dealer and the price is completely different? *That's illegal.* The South Carolina...

[Read More](#)



SCDCA @SCDCA · Aug 12

During 2021, SCDCA fielded 622 vehicle related complaints recorded, a 10.7% increase from the year prior. SCDCA data is featured in @ConsumerFed's annual Consumer Complaint Survey Report. [consumerfed.org/reports/2021-c...](https://consumerfed.org/reports/2021-c...) #TellDCA

Consumer Federation of America @ConsumerFed · Aug 8

Auto sales and repairs are the number one category of complaints made to local and state consumer agencies in 2021, according to CFA's annual survey.

[Show this thread](#)

### Top Ten Complaint Categories

- 1 Auto Sales and Repair.** Complaints about the sale of new<sup>+</sup> and used automobiles (pricing, advertisements, mechanical defects, etc.) as well as issues related to the repair of vehicles.
- 2 Landlord Tenant.** Complaints about rental housing conditions, security deposit disputes, and rent increases.
- 3 Home Improvement Repairs and Contractors.** Complaints about home improvement contractors or repairmen, including quality and completion of work and licensure status.
- 4 Retail Purchase Issues.** Complaints about purchase of merchandise (both over the internet and from a brick-and-mortar store), such as goods arriving late, receiving the wrong product or a defective product, and refund and exchange policies.
- 5 Consumer Debt and Credit.** Complaints about lending issues (including mortgages), banking, debt collection, credit reporting, and other financial services.
- 6 Frauds and Scams.** Complaints about various scams ("charge pending" scams, fraudulent lotteries/sweepstakes, IRS calls, etc.), elder fraud, and identity theft.
- 7 Utilities.** Complaints about utility providers, including gas, electric, cable, telephone and internet providers.
- 8 (TIE) Healthcare and Wellness/Robocalls and Telemarketing.**  
**Healthcare and Wellness:** Complaints about quality of services of healthcare providers, billing practices, fitness and wellness centers.  
**Robocalls and Telemarketing:** Complaints about robocalls to consumers' homes and cell phones.
- 9 Professional Services.** Complaints about services provided by licensed and unlicensed professionals, such as carpet cleaning, photographers, DJ's, etc.
- 10 Travel and Recreation.** Complaints about hotels, travel cancellations and refunds, moving and storage company complaints.

SC Department of Consumer Affairs  
August 17 at 3:00 PM · 🌐

Don't get duped by the dealer. Have you seen a price for a car in an advertisement, only to get to the dealer and the price is completely different? That's illegal. The South Carolina Department of Consumer Affairs wants to hear from consumers who have experienced misleading and deceptive sales practices when car shopping. Join us Wednesday, August 24 at 10:30-11:30 a.m. for a free webinar "Consumer Forum on Car Buying." Consumers will have an opportunity to share their car b... See more

Buying a car?

**DON'T GET DUPED BY THE DEALER.**



If you go to a dealership to look at a car and the price is different than what was advertised, that's **ILLEGAL.**

Has this happened to you?  
**Report it to SCDCA.**

[consumer.sc.gov](https://consumer.sc.gov) | (800) 922-1594 | #teldca #dontgetduped

1 Comment 2 Shares

SC Department of Consumer Affairs  
August 10 · 🌐

Purchasing a car? Check out our resources before you buy. At [consumer.sc.gov](https://consumer.sc.gov) you can check for complaints against a dealership, compare closing fees and look up the maximum interest rate charged (above 18% APR).

7

3 Comments 5 Shares

Like Comment Share

Most relevant

Write a comment...

Author  
SC Department of Consumer Affairs  
File or search complaints: [https://consumer.sc.gov/consumer-\\_/consumer-complaints/](https://consumer.sc.gov/consumer-_/consumer-complaints/)

**SCDCA** @SCDCA · Aug 10  
 In 2021 SCDCA fielded 622 vehicle related complaints, a 10.7% increase from the year prior.

**WCBD News 2** @WCBD · Aug 9  
 From car problems to canceled travel plans, South Carolinians filed nearly 4,000 consumer complaints last year  
[trib.al/7y90XFD](http://trib.al/7y90XFD)

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Mon, 08/08/2022  
**VEHICLE COMPLAINTS  
 TOP COMPLAINT LIST  
 FIFTH YEAR IN A ROW**

COLUMBIA, S.C. – The numbers are in. For the calendar year of 2021, the South Carolina Department of Consumer Affairs (SCDCA) received **3,977** complaints and saved/refunded...

[Read More](#)

**SCDCA** @SCDCA · Aug 8  
 Vehicle related complaints were the top complaint category in South Carolina during 2021. SCDCA data is featured in the @ConsumerFed's annual Consumer Complaint Survey Report which was released today. Read the report here:  
[consumerfed.org/reports/2021-c...](https://consumerfed.org/reports/2021-c...) #TellDCA



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**SCDCA** @SCDCA · Aug 8  
 File a complaint with SCDCA by going to [consumer.sc.gov/consumer-resou...](https://consumer.sc.gov/consumer-resou...)

🗨️ 🔄 🇸🇨 📌

**SCDCA** @SCDCA · May 9  
 Looking to buy a new car? We discuss common auto purchase complaints and several useful consumer tools with @WJCLNews

**WJCL News** @WJCLNews · May 5  
 Ask Asa: Some car dealers are taking advantage of low supply  
[wjcl.com/article/ask-as...](http://wjcl.com/article/ask-as...)

🗨️ 🔄 🇸🇨 📌

**SCDCA** @SCDCA · May 3  
 SCDCA strongly encourages consumers who have experienced misleading and deceptive sales tactics while purchasing a car to file a complaint with our office at [consumer.sc.gov/consumer-resou...](https://consumer.sc.gov/consumer-resou...) #TellDCA

**WSPA 7NEWS** @WSPA7 · May 3  
 As if buying a car right now wasn't hard enough with low inventory and high prices, the South Carolina Department of Consumer Affairs said many buyers are also facing deceptive selling practices. [trib.al/bWmcJel](http://trib.al/bWmcJel)

🗨️ 🔄 🇸🇨 📌

**SC Department of Consumer Affairs**  
 July 7 · 🌐

Buying a car? Beware of these misleading and deceptive motor vehicle dealer practices: inflating official fees in the contract, extra fees added onto the advertised price and using MSRP for used cars. Consumers who run into any of these issues may file a complaint with SCDCA. Learn more: <https://consumer.sc.gov/.../buying-car-scdca-warns...>

## BUYING A CAR?

BEWARE OF THESE MISLEADING AND DECEPTIVE PRACTICES

- Inflating Official Fees in the Contract
- Extra Fees Added onto the Advertised Price
- Using MSRP for Used Cars

**CONSUMER.SC.GOV | (800) 922-1594 | #TELIDCA**

👍 9    🗨️ 9 Share

👍 Like    🗨️ Comment    ➦ Share



SCDCA @SCDCA · Feb 25

We have received messages from consumers detailing misleading and deceptive motor vehicle dealer practices. We strongly encourage consumers to file a complaint at [consumer.sc.gov/consumer-resou...](https://consumer.sc.gov/consumer-resou...). If you do not wish to file an official complaint, you can email us.

**BAD EXPERIENCE WITH A CAR DEALERSHIP?**  
Report misleading or deceptive practices.



- File a complaint at [consumer.sc.gov](https://consumer.sc.gov)
- Email [scdca@scconsumer.gov](mailto:scdca@scconsumer.gov)
- Include name of dealership, advertised price, price offered, photos if possible.

**CONSUMER.SC.GOV | (800) 922-1594 | #TELLOCA**



SCDCA @SCDCA · Feb 24

SCDCA is sounding the alarm on several misleading and deceptive motor vehicle dealer practices. The concerns are covered in a memo sent to all auto dealers in SC. Read the details in this press release: [consumer.sc.gov/news/2022-02/b...](https://consumer.sc.gov/news/2022-02/b...)

**BUYING A CAR?**  
BEWARE OF THESE MISLEADING AND DECEPTIVE PRACTICES

- Inflating Official Fees in the Contract
- Extra Fees Added onto the Advertised Price
- Using MSRP for Used Cars



**CONSUMER.SC.GOV | (800) 922-1594 | #TELLOCA**



Thu, 02/24/2022

## BUYING A CAR? SCDCA WARNS CONSUMERS ABOUT MISLEADING AND DECEPTIVE PRACTICES

COLUMBIA, S.C. - After receiving consumer tips, investigating complaints and conducting standard compliance reviews related to motor vehicle dealers, the South Carolina Department of Consumer...

[Read More](#)



*South Carolina*  
**DEPARTMENT OF CONSUMER AFFAIRS**  
 293 GREYSTONE BOULEVARD, STE. 400  
 P. O. BOX 5757  
 COLUMBIA, SC 29250-5757

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 Summerville

**Carri Grube Lybarker**  
 Administrator/  
 Consumer Advocate

**PROTECTING CONSUMERS SINCE 1975**

February 22, 2023

The Honorable John R. McCravy , III  
 Post Office Box 11867  
 Columbia, South Carolina 29211

RE: S. 483 and H. 3952

Dear The Honorable John R. McCravy , III:

I understand the industry has expressed concerns to the legislature about the activities of the Department of Consumer Affairs (DCA) during the past year related to motor vehicle dealers. We believe this has created confusion and misunderstanding regarding DCA and has resulted in companion bills in the Senate and the House (S. 483 and H. 3952, respectively). DCA believes these bills would severely limit our ability to help consumers not only with the businesses DCA regulates but also with the businesses that are not governed by any regulatory or enforcement agency. The purpose of this letter is to address the misinformation that has been provided to the legislature regarding the Department’s actions and provide information to consider when discussing these bills.

For almost fifty years, DCA’s mission has been to protect consumers from inequities in the marketplace through advocacy, mediation, enforcement, and education. As shown on pages 10-11 of this packet, over the past six years, DCA has averaged over \$1.6 million per year in complaint refunds/savings for consumers. Much of these refunds stem from our ability to review business documents when complaints are received. We are concerned that the language in the bills requiring a complaint to “be verified to be substantial and legitimate before” DCA may “require the production of any information which may be relevant to the investigation” will have a drastic impact on our ability to obtain similar refunds and savings for consumers in the future.

In addressing complaints regarding automobile dealers, our agency believed we were administering and enforcing the Consumer Protection Code—and the closing fee statute in particular—as the General Assembly intended. Because the statute requires dealers to provide DCA “access to a motor vehicle dealer’s books, accounts, and records to determine if the dealer is complying with the provisions of [the closing fee statute],” DCA began compliance reviews—

<b>ADMINISTRATOR</b> Tel.: (803) 734-4233	<b>PUBLIC INFORMATION</b> Tel.: (803) 734-4296	<b>CONSUMER ADVOCACY</b> Tel.: (803) 734-4200	<b>LEGAL/ LICENSING</b> Tel.: (803) 734-0046	<b>CONSUMER COMPLAINTS</b> Tel.: (803) 734-4200	<b>ID THEFT UNIT</b> Tel.: (803) 434-4200	<b>PROCUREMENT &amp; ACCOUNTING</b> Tel.: (803) 734-4264
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WEBSITE: WWW.CONSUMER.SC.GOV E-MAIL: SCDCA@SCCONSUMER.GOV TOLL FREE IN SC: (800) 922-1594 TDD/TTY: (800) 735-2905



as we would have done with any other industry we regulate—after becoming aware of alleged violations. See § 37-2-307(E)(1).

We have created the enclosed documents in an effort to address the issues of which we are aware related to our compliance reviews of motor vehicle dealers. The documents also will illustrate that our activities related to motor vehicle dealers are only a small portion of what we do at DCA. In this packet, you will find information related to the following topics: Industry Misinformation, Education and Social Media, Complaints, and Investigator/Enforcement related activities. Below is a summary of the information provided for each topic.

### **Industry Misinformation (Pages 1–2)**

In the attached document, DCA has addressed five specific issues we understand have been discussed with legislators. As noted in the document, DCA believes we implemented the closing fee statute as the legislature intended by:

- Conducting Reasonableness Reviews for any dealers wishing to charge a closing fee higher than \$225.
- Proposing a regulation to streamline that review process (Document 5169).
- Providing education for consumers and businesses on the car buying process, including what is allowed and what is not:
  - Updated Guide for Auto Dealers (Feb. 2022)<sup>1</sup>.
  - Directed consumers to SCDCA’s Auto Guide for Consumers.
  - Held multiple webinars for consumers and motor vehicle dealers during 2022.
- Responding to consumer complaints by seeking refunds for consumers who were charged unlawfully.

The following sections and associated documents further elaborate on these issues and activities.

### **Education and Social Media (Pages 3–8)**

Education is a central part of DCA’s mission. Cultivating a marketplace comprised of well-informed consumers and businesses prevents deceptive and unfair business practices and allows legitimate business activity to flourish, resulting in the promotion of competition and a healthier economy. DCA’s Public Information and Education Division serves as the main education portal for consumers, businesses, and the media. The Division informs consumers and businesses on their rights and responsibilities in the marketplace through traditional and alternative media distribution, including social media, presentations, media coverage, and publications.

---

<sup>1</sup> DCA created the first Guide for Auto Dealers in 2012. In 2021, DCA gathered comments from a group of auto dealers to update the Guide. In November 2021, DCA reached out to the head of SCADA and CIADA to request input from their membership on the proposed updates. DCA ultimately issued the updated Guide for Auto Dealers in February 2022.



Our education and outreach efforts are coordinated on a calendar basis and reflect certain topics that are relevant at various times throughout the year. For example, during January, we often post about tax-related scams and during February, we often post about romance scams. See page 8 for DCA’s social media calendar.

Additionally, when we recognize a trend in complaints related to the same topic, we will focus on that topic in order to educate the public. That is the case with our motor vehicle dealer related posts. From the beginning of the COVID pandemic and continuing throughout 2021 and 2022, we saw an uptick in complaints related to motor vehicles and began posting more often on this topic. Please note this was not an issue unique to South Carolina and has been cited by many other states as well as federal consumer protection agencies.<sup>2</sup>

As illustrated in the chart on page 3, vehicle related posts comprised only a small fraction of our overall social media efforts:



Further, these posts were primarily related to general education information (see page 3). **More than half (55.6%)** of the vehicle-related social media posts in 2021 and 2022 provided general information and education to consumers who might be interested in shopping for a car. For example, DCA often referred consumers to DCA’s Auto Guide for Consumers. We have included the text of every vehicle-related social media post for your reference on pages 4–7.

### Complaints (Pages 9–11)

Complaints related to motor vehicle dealers and repair businesses have topped DCA’s list of complaints filed for at least the last six years. See pages 10–11. Again, this is not just a South Carolina issue.<sup>3</sup> As shown in the graph on page 9, beginning in 2020, DCA started to receive an increasing number of monthly vehicle-related complaints, peaking at 75 in July 2021, and again at 77 in October 2022.

From July 2016 through January 2023, South Carolina consumers filed 25,666 formal complaints with DCA. Of these, 3,381 were specifically related to motor vehicles, representing

<sup>2</sup> “Consumer complaints about auto lending and leasing have increased dramatically during the COVID-19 pandemic. From March through July 2020, consumers submitted more than 2,800 auto loan and lease complaints – more than any other five-month period in the history of the Consumer Complaint Database.” [https://pirg.org/edfund/wp-content/uploads/2022/07/WEB\\_USP\\_CFPB-Auto-Loan\\_Report\\_1020\\_v1-1.pdf](https://pirg.org/edfund/wp-content/uploads/2022/07/WEB_USP_CFPB-Auto-Loan_Report_1020_v1-1.pdf)

<sup>3</sup> “For the sixth year in a row, the number one consumer complaint to agencies involves deceptive conduct in the sale of new and used cars as well as complaints about auto repair shops,” said Erin Witte, Director of Consumer Protection. “It is clear that auto sales and repairs are a longstanding problem and that consumers rely heavily on these agencies for assistance when they have suffered harm.” [https://consumerfed.org/press\\_release/nations-top-ten-consumer-complaints-5/](https://consumerfed.org/press_release/nations-top-ten-consumer-complaints-5/)



**13.2% of all complaints** filed during that time. A subset of complaint categories (advertising, credit sales, new cars, and used cars) represent 6% of all complaints filed during that time. See page 9. Please note that the formally filed complaints do not include consumers DCA attempts to help when referred from other state agencies or legislators' offices because those consumers often do not end up filing a formal complaint.

In addition to the complaints received, DCA answers numerous monthly calls related to various vehicle-related issues, including advertising issues and deceptive practices. Not all calls are logged with the same detail, but a chart of vehicle-related calls that were logged is available on page 9.

### **Investigator Activities and Enforcement (Pages 12–15)**

For decades, DCA has sent letters to motor vehicle dealers regarding advertising violations. In 2011, the General Assembly enacted Section 37-2-308 to specifically establish advertising requirements and prohibitions related to motor vehicle sales and leases and create specific penalties for motor vehicle dealers who violate Section 37-2-308. See S.C. Code Ann. § 37-6-108(F); 2010 Act 172.

DCA conducts advertising reviews as complaints are received and resources permit. Historically, if violations were noted, DCA would send a letter to the dealer identifying any violations contained in the advertisement. See chart on page 12 for number of letters sent 2017 to 2023. These violations fall in several categories, for example:

- Violating Federal Truth In Lending Act by failing to include all required terms for buying/financing the purchase (e.g., amount of required down payment, amount of regular payments, number of payments or repayment period, amount of finance charge).
- Advertising a product as “free” when a purchase or other consideration is required to get the “free” product.

From 2017 to 2023, **19%** of the vehicle-related advertising violations occurred because the dealer specifically stated in the advertisement that the advertised price *excluded* the closing fee, which violates the statutory requirement to include the closing fee in the advertised price (see “Closing Fee Excluded” in the pie chart on page 12).

Over time, DCA’s notices to dealers prompted the dealers to correct their website language to reflect that the advertised price includes the closing fee. However, during the pandemic, DCA received formal complaints and informal reports<sup>4</sup> from consumers that dealers were refusing to honor the statement that the advertised price includes the closing fee. See email on pages 14–15.

---

<sup>4</sup> Consumers who refused to buy the vehicle from that particular dealer often call and report the dealer to DCA to make us aware of the issue. These consumers don’t file a formal complaint, however, because they had walked away from the deal.





Due to an uptick in reports and complaints related to vehicle-related advertising, instead of sending additional letters, DCA began conducting compliance reviews of motor vehicle dealers. However, as indicated on page 13 in the attached documents, motor vehicle dealers comprised only a small portion of DCA’s overall investigator activities (20.8% from March 2022 to January 2023 compared to 12.9% from 2016 to 2023). These activities have a broad range and are categorized by DCA as:

	Type	Description	MV Dealers	Preneed
Resources Used ↑	Compliance Review	In-depth review (varies for each type of business)	20	974
	Inspection	High-level review	398	0
	Advisory	Usually within 6 months of opening, visit business and advise how to comply	6	40
	Contact	Visit businesses that don’t yet have a license or a bond and advise what activities would trigger the requirement to get a license or bond	1	38

This chart includes a comparison between the number of activities related to motor vehicle dealers and the number related to preneed funeral providers (i.e., funeral homes who collect money for preplanned services before the consumer dies). Notably, while motor vehicle dealers account for a larger number of Inspections (64.6% from July 2016 to January 2023), they comprise only a small portion of our more intensive Compliance Reviews (less than 1% during the same timeframe). See charts on page 13. For more information on the number and breakdown of the Investigator Activities and advertising violations, please refer to the charts on pages 12–13.

**Conclusion**

We appreciate your time in reviewing these issues. We hope this will assist in your consideration of the impacts S. 483 and H. 3952, as written, will have on DCA’s ability to help consumers not only with the businesses DCA regulates but also with the businesses that are not governed by any regulatory or enforcement agency. We are eager to meet with Senate and/or House leadership and members, as well as other parties involved, to further address the industry concerns and clarify any confusion. In the meantime, please feel free to reach out to me with any questions or concerns you may have by calling (803) 734-4240 or emailing [RHall@seconsumer.gov](mailto:RHall@seconsumer.gov).

Best regards,

Roger Hall, Esq.  
Acting Administrator/Deputy Consumer Advocate

Encl. as stated

# SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS (“DCA”): MOTOR VEHICLE CLOSING FEES

## What DCA Has Been Doing

As a result of the pandemic and inventory shortage, consumers started paying more than the advertised price for vehicles. Based on information provided by consumers and the industry, it became clear that some dealers were adding additional fees, including closing fees, to the advertised price.

DCA issued a memorandum on 2/18/2022 to alert and educate the industry and consumers of these issues and explain the application of state and federal laws. DCA then started conducting compliance reviews as mandated by the statute (the chart below explains three types of reviews DCA does related to closing fees).

### Key Notes:

- **95%** of the dealers had at least one sale reflecting a violation of the closing fee statute during 20 compliance reviews since March 2022.
- Prior to March 2022, DCA did not experience resistance from the industry to its inspections. In March 2022, DCA began experiencing resistance to inspections and compliance reviews from a few dealers.

**Closing Fee Refunds & Adjustments**  
7/1/17 to 6/30/22

**\$727,978 to 3,775**  
**South Carolina consumers**

Review Type	When	Completed
<b>Reasonableness Review</b> § 37-2-307(C)(1), (C)(3), (E) (2)	At time of filing over \$225	<b>88</b> since 11/2021 (18.6% of filings to charge over \$225)
	<i>Dealer has burden of showing reasonableness; DCA attempted to streamline the process via regulation (Document 5169)</i>	
<b>Inspections</b> (a high-level Compliance Review) § 37-2-307(E)(1)	After dealer has been charging the permitted closing fee (any amount)	<b>398</b> since 7/2016
	<i>8 to 10 buyer's orders (randomly selected); DCA receives 1 to 2 sheets of paper for each sale; if over \$225, may obtain verification of some info provided in filing, too</i>	
<b>Compliance Reviews</b> (a deeper dive) § 37-2-307(E)(1)	After dealer has been charging the permitted closing fee (any amount)	<b>20</b> since 3/2022
	<i>DCA requests list of sales for 3 months, randomly selects 10 sales from each month; DCA receives 3 to 5 sheets of paper for each sale</i>	

## Responses to False Statements Being Told to Legislators about DCA Activities

**1** DCA is conducting fishing expeditions.

**TRUTH:** The law says DCA **shall** administer and enforce the closing fee statute and **requires** dealers to make their books, accounts, and records available to DCA to review for compliance. The closing fee statute currently does not require DCA to have a formal complaint before conducting a compliance review.

**2** DCA is asking for full deal jackets and/or 3 to 6 months of records.

**TRUTH:** DCA does **not** request full deal jackets or more than 3 months of records during an inspection or compliance review. For an initial compliance review, the maximum scope is 3 months. DCA first requests a spreadsheet of sales for that timeframe. DCA then randomly selects 10 sales from each month and requests specific documents for each sale, typically 3 to 5 sheets of paper. If violations are found, the scope may be expanded.

**3** DCA is sending attorneys into dealerships.

**TRUTH:** DCA has **never** sent an attorney to a dealership to conduct an inspection or compliance review.

## Responses to False Statements Being Told to Legislators about DCA Activities Continued

- 4 DCA is doing closing fee compliance reviews to collect fines.

**TRUTH:** DCA is only seeking consumer refunds of excess charges (i.e., any amounts that the dealer was not legally allowed to collect from the consumer are returned to the consumer).

- 5 The South Carolina Automobile and Truck Dealers Association (“SCADA”) hasn’t had any input on DCA’s motor vehicle closing fee regulation (Document 5169).

**TRUTH:** DCA began the regulation process on 9/9/2022 and SCADA sued DCA on 9/20/2022 (three days before the Notice of Drafting was published). Absent the lawsuit—which is in part about the very issues DCA was seeking to resolve with the proposed regulation—it is likely DCA would have reached out earlier to SCADA. During a meeting between counsel on 12/15/2022, DCA offered to have a meeting with SCADA seeking common ground on the proposed regulation and the possibility of doing a withdraw-and-resubmit with agreed-to changes. DCA is still willing to meet.

## Explanation of 3 Cease and Desist Orders: Stop Charging Closing Fees Due to Violations of the Statute

- DCA scheduled an onsite visit with each dealership
- The same industry attorney advised all three dealerships to refuse DCA’s request to access books, accounts, and records when DCA arrived at the scheduled date and time
- In all three cases, the dealer filed at the Administrative Law Court but ultimately gave DCA the records it had requested **at the time of the onsite visit.**

## Recommendations regarding the Closing Fee Statute

- 1 Delete it. Dealers showed during the pandemic that they can set the price of a vehicle even in excess of MSRP. Simply require an all-inclusive advertised price that consumers and competitors can rely on. Or:
- 2 Amend it to reflect a maximum safe harbor amount and remove the reasonableness standard.

## Reasons for Conducting Inspections and Compliance Reviews

- 1 The General Assembly mandates that DCA ensures motor vehicle dealers comply with the closing fee statute and requires dealers to provide DCA access to books, accounts, and records to determine compliance. S.C. Code Ann. § 37-2-307(E)(1).
- 2 When non-compliant practices are corrected, not only are consumers protected (refunds to the consumer for past violations, increased compliance going forward) but also it levels the playing field and promotes fair competition for all businesses.

## History of the Motor Vehicle Closing Fee Statute

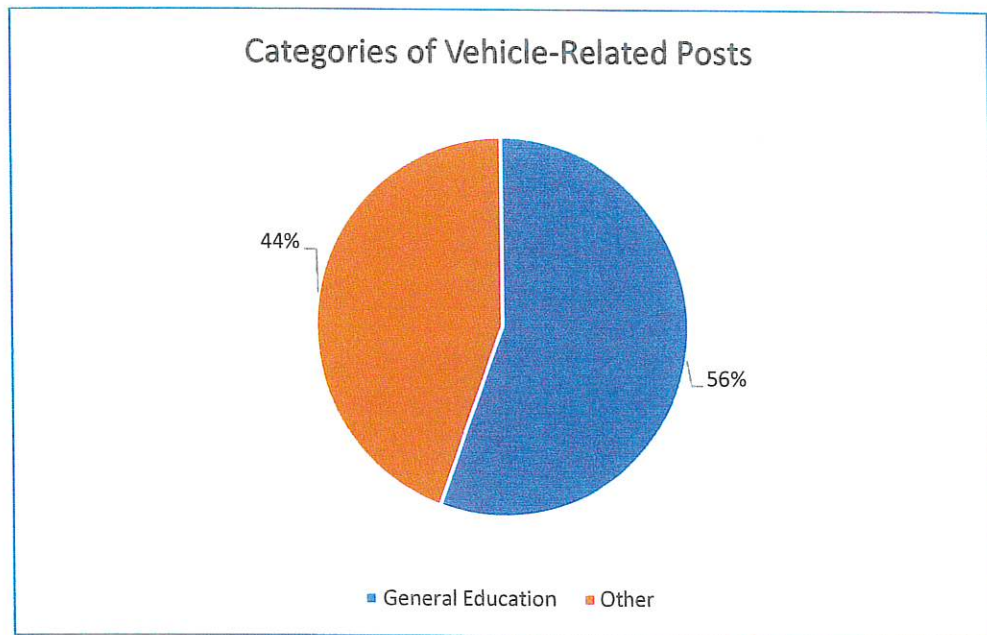
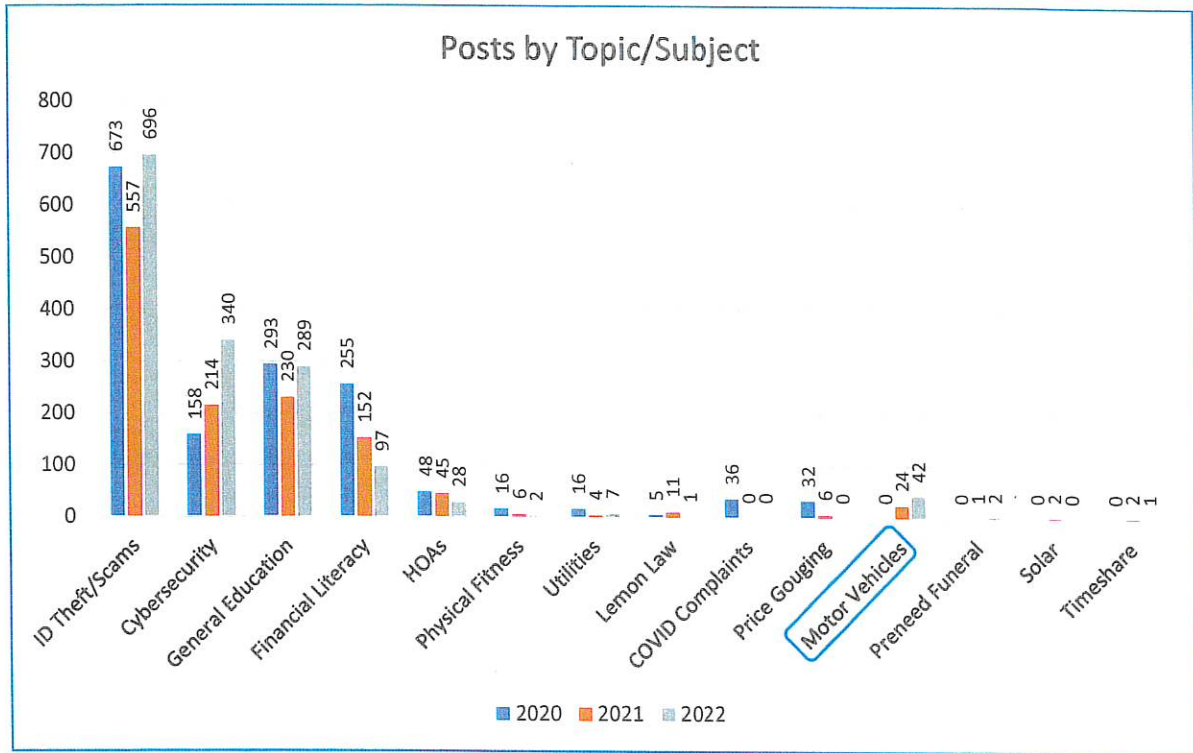
The Motor Vehicle Closing Fee Statute (§ 37-2-307) became law in 2000. From 2002–2006, South Carolina consumers sued motor vehicle dealers alleging they were charging for items unrelated to the closing of the vehicle. The South Carolina Supreme Court ruled in favor of consumers in November 2015. The dealers industry sought to address the ruling via legislation. The statute was amended effective July 3, 2016.

The amendments did not change the requirements that a dealer choosing to charge a closing fee must file the fee with DCA, display it in the dealership, include it in an advertised price, and show it on the consumer’s contract. New items included a definition of a closing fee, a reasonableness standard, DCA review of closing fees greater than \$225, a safe harbor for dealers complying with the statute, and requirements for DCA to: administer and enforce the statute, promulgate regulations, and have access to a dealer’s books, accounts, and records to determine compliance.

## Additional Resources

- DCA Guide for Auto Dealers (Updated 2/2022) available at <https://consumer.sc.gov/business-resourceslaws/business-education-tools>
- Memorandum regarding Misleading and Deceptive Motor Vehicle Dealer Practices (Issued 2/18/2022) available at <https://consumer.sc.gov/business-resourceslaws/business-education-tools>
- S.C. Automobile and Truck Dealers Association v. S.C. Department of Consumer Affairs, 2022-CP-40-05552 (Filed 9/20/2022) available at <https://publicindex.sccourts.org/richland/publicindex/>

## All Social Media Posts 2020-2022



## All Vehicle-Related Tweets<sup>1</sup> 2021–2022<sup>2</sup>

**April 16, 2021** - <https://t.co/EmR5hGn04A>

We've got some exciting news!

We just updated our Auto Guide for Consumers! It will help you make the best possible decision when buying a car.

Head over and read the press release and get a link to the auto guide: <https://t.co/7bdbvWTcFp>  
#FinancialLiteracyMonth #SCDCA

**May 6, 2021** - <https://t.co/a9MS0cGVir>

Buying a car? Guaranteed Asset Protection (GAP) coverage can be helpful when you are upside down in your car loan, meaning you owe more on the car than it is worth.

Check out our updated Consumer Auto Guide for more help when buying a car:  
<https://t.co/MOpXq9Z6lc> #TellDCA #SCDCA

**May 13, 2021** – <https://t.co/uJiXF3i2ib>

Buying a car is one of the most expensive decisions you can make so make sure you do your research before driving off the lot! Here are five tips for every situation.

Check out our updated Consumer Auto Guide for help when buying a car: <https://t.co/MOpXq9Z6lc>  
#TellDCA #SCDCA

**May 18, 2021** – <https://t.co/ZLrDTNZOY6>

We recently updated our Auto Guide for Consumers. It has even more information about what you need to know before driving your new car off the lot.

Download it for FREE here: <https://t.co/nwb54u5kde> #TellDCA #SCDCA

**June 26, 2021** – <https://t.co/8wCk8UPjng>

Cars can be expensive, but there's more than just the price tag to consider. Join us Wednesday to learn more! Register here: <https://t.co/Eh243V8pqS>

**June 30, 2021** – <https://t.co/wrbgD8jJ7X>

Did you miss today's webinar? No worries! Take a look at our Auto Guide for Consumers so you know what to look out for when shopping for a new car.

Check it out here <https://t.co/EJrDj1don2>

**July 14, 2021** – <https://t.co/7DAOF4VXbj>

Buying a car is expensive, so do your research first! Get more tips here: <https://t.co/Xjy5adUeE1>

**September 22, 2021** - <https://t.co/KdCERLZZHy>

A lot of consumers are looking to buy cars and inventory is LOW. You might have a salesperson trying to get you to sign up for what they call "GAP Insurance." Know your rights and what you're getting into before you sign anything. #TellDCA

<sup>1</sup> The same content was posted on Facebook.

<sup>2</sup> SCDCA did not issue any vehicle-related posts/tweets in 2020 or 2023.

**December 20, 2021** - <https://t.co/M076nkX7t3>

Before you buy a car check out the SCDCA Consumer Auto Guide. You'll find everything from details on the SC Lemon Law to what you need to know if you're car shopping online. <https://t.co/7OHfNhbYoa>

**February 24, 2022** - <https://t.co/zgfWI4SVFK>

SCDCA is sounding the alarm on several misleading and deceptive motor vehicle dealer practices. The concerns are covered in a memo sent to all auto dealers in SC. Read the details in this press release: <https://t.co/wWNMY15XIU>

**February 25, 2022** – <https://t.co/JGzSj8bvWA>

We have received messages from consumers detailing misleading and deceptive motor vehicle dealer practices. We strongly encourage consumers to file a complaint at <https://t.co/pAnA7QYPtI>. If you do not wish to file an official complaint, you can email us.

**February 25, 2022** – <https://t.co/AXRUD9UHHm>

The SCDCA auto guide has information you may find helpful if you are in the market to buy a new car. <https://t.co/wkaOzwomUA> Consumers can also look up and compare dealer closing fees by going to <https://t.co/dQGOcZOY5O> #TellDCA

**March 1, 2022** - <https://t.co/6YoRD8wUh1>

We have received messages from consumers detailing misleading and deceptive motor vehicle dealer practices. We strongly encourage consumers to file a complaint at <https://t.co/pAnA7QYPtI> If you do not wish to file an official complaint, you can email us. <https://t.co/AXRUD9UHHm>

**April 22, 2022** - <https://t.co/ZTtud97dNS>

Before you buy a car, check out the dealer. Read reviews and check for complaints. Shop around. Get promises in writing and make sure you understand the agreement. SCDCA's Auto Guide for Consumers has tips for every situation. <https://t.co/5792FkWAke>

**April 28, 2022** - <https://t.co/wzF8iv6MgU>

Purchasing a new car can be one of the most expensive decisions you'll make. From financing to fees to scams, the process can be overwhelming. The SCDCA Consumer Auto Guide provides a road map for getting your new set of wheels. <https://t.co/5792FkWAke>

**May 3, 2022** – <https://t.co/aCoOEiZhcN>

SCDCA strongly encourages consumers who have experienced misleading and deceptive sales tactics while purchasing a car to file a complaint with our office at <https://t.co/pAnA7QYPtI> #TellDCA

**May 9, 2022** - <https://t.co/tVYzpDAApV>

Looking to buy a new car? We discuss common auto purchase complaints and several useful consumer tools with @WJCLNews

**May 17, 2022** - <https://t.co/ActG2jSgow>

Purchasing a new car can be overwhelming. SCDCA has the info you need to know before you buy in our Consumer Auto Guide. <https://t.co/5792FkWAke>

**June 10, 2022 – <https://t.co/30VJ4yzOk3>**

Buying a car can be one of the most expensive decisions a consumer will ever make. SCDCA is hosting a joint webinar with @FTC geared toward helping consumers know their rights when buying a car. Join us Thursday, June 16 from 2 pm to 3 pm. Learn more: <https://t.co/TPaMSsnn4d>

**June 14, 2022 – <https://t.co/4Kry6hooeg>**

SCDCA is hosting a joint webinar with @FTC to offer tips for buying a car. Learn what selling practices to beware of and your rights when buying a car. Join us Thursday, June 16 from 2 p.m. to 3 p.m. Find more information here: <https://t.co/TPaMSsnn4d>

**July 7, 2022 – <https://t.co/xcysGl6r2l>**

Buying a car? Beware of these misleading practices: inflating official fees in the contract, extra fees added onto the advertised price and using MSRP for used cars. Consumers who run into any of these issues may file a complaint with SCDCA. Learn more: <https://t.co/wWNMY15XIU>

**July 27, 2022 – (Linked to the Webinar Registration Link)**

SCDCA wants to hear from consumers about their car buying experience. A live public forum will be held for consumers to share their stories and listen to others. Click below to register. #tellDCA #dontgetduped

**July 27, 2022 - <https://t.co/PkrlcFK6lD>**

Auto dealers are not required to charge a closing fee, but some do. They must be included in the advertised price and shown on the contract and they must be displayed in the dealership. You can compare closing fees in this Excel sheet on our website: <https://t.co/mr9eIN1vY9>

**August 3, 2022 – <https://t.co/Y6dcjdDhQc>**

Guaranteed Asset Protection may be sold in SC as a debt cancellation contract. GAP is not insurance. The purchase of a GAP waiver is optional. You have at least 30 days to cancel without penalty. The SCDCA Guide for Auto Dealers has more info. <https://t.co/r8ZSWAYAjR>

**August 10, 2022 - <https://t.co/uDmUGRHqXb>**

In 2021 SCDCA fielded 622 vehicle related complaints, a 10.7% increase from the year prior.

**August 10, 2022 – <https://t.co/2dwfTdYDWr>**

Purchasing a car? Check out our resources before you buy. At <https://t.co/ruukhrEWzH> you can check for complaints against a dealership, compare closing fees and look up the maximum interest rate charged (above 18% APR).

**August 17, 2022 –**

Buying a car? #DontGetDuped by the dealer. SCDCA wants to hear from consumers who have experienced misleading and deceptive sales practices when car shopping. Join us August 24 at 10:30 a.m. for a free webinar "Consumer Forum on Car Buying." Learn more: <https://t.co/GVwU7o5aCh>

**August 22, 2022 – <https://t.co/sbDwsCoxBO>**

Did you see an ad for a car and the price was different when you went to the lot? We want to hear from you! Join SCDCA Wednesday at 10:30 a.m. for a Consumer Forum on Car Buying. Learn more about this free webinar here: <https://t.co/GVwU7o5aCh> #DontGetDuped

**August 23, 2022** - <https://t.co/rBSSRpvGJM>

SCDCA wants to hear from consumers who have experienced misleading and deceptive sales practices when car shopping. Join us for a free webinar: "Consumer Forum on Car Buying" Wednesday, August 24 at 10:30 a.m. Learn more: <https://t.co/GVwU7o5aCh> #TellDCA #DontGetDuped

**August 26, 2022** - <https://t.co/3h2jPM2sZB>

SCDCA has heard from consumers who experienced misleading and deceptive sales practices when car shopping. SCDCA provides an overview of issues that have been reported to us during this recording of our Consumer Forum on Car Buying.

**September 6, 2022** - <https://t.co/AkaZoLQYZy>

Concerned about deceptive ads and sales of autos? The @FTC is considering changes to the law that aim to better protect consumers and honest dealerships. Submit your comment by September 12. Learn more at <https://t.co/G83DCbesYP>

**September 6, 2022** - <https://t.co/euCeOXurXF>

Have you seen a price for a car in an advertisement, only to get to the dealer and the price is completely different? That's illegal. SCDCA spoke with @postandcourier about what to watch out for when car shopping.

**September 21, 2022** - <https://t.co/qcR72Qe1DN>

Purchasing a car can be one of the most expensive decisions you make. Before you buy, check out the SCDCA Consumer Auto Guide. It has info you need to know on financing, fees and scams. <https://t.co/5792FkWAKE>

**September 22, 2022** - <https://t.co/YnqzCNsKcB>

Buying a car? #DontGetDuped by the dealer. SCDCA is sounding the alarm on several misleading and deceptive motor vehicle dealer practices. Learn what to look for at <https://t.co/UH9XNobB9v>

**September 23, 2022** - <https://t.co/s5bUD1er3h>

SCDCA recently provided comment to @FTC on how junk fees impact the South Carolina auto marketplace. More information is available in this press release: <https://t.co/j5NMDAf9u4>

**December 12, 2022** - <https://t.co/8o50Gge6pc>

SCDCA is proposing legislation<sup>3</sup> regarding the proper disclosure of a motor vehicle closing fee to consumers and the closing fee filing process. A free webinar on Wednesday will discuss the proposal. To sign up or learn more about the proposal go to <https://t.co/o3nbc5v0hO>

<sup>3</sup> This was referring to the regulation rather than any legislation.

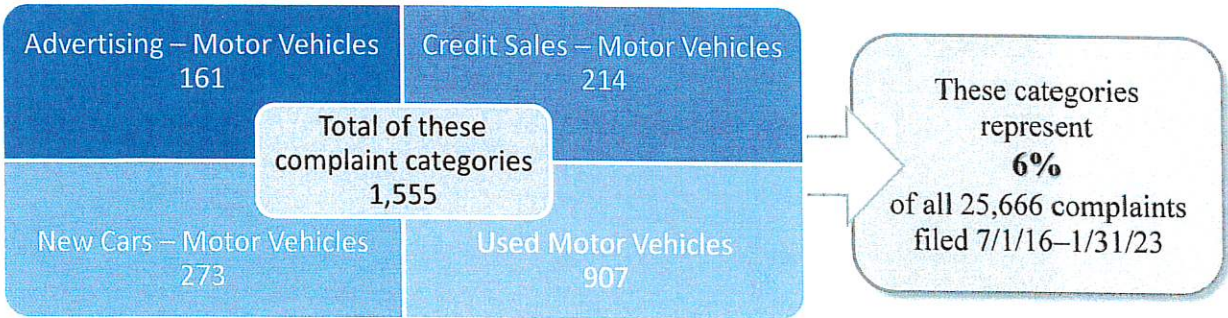
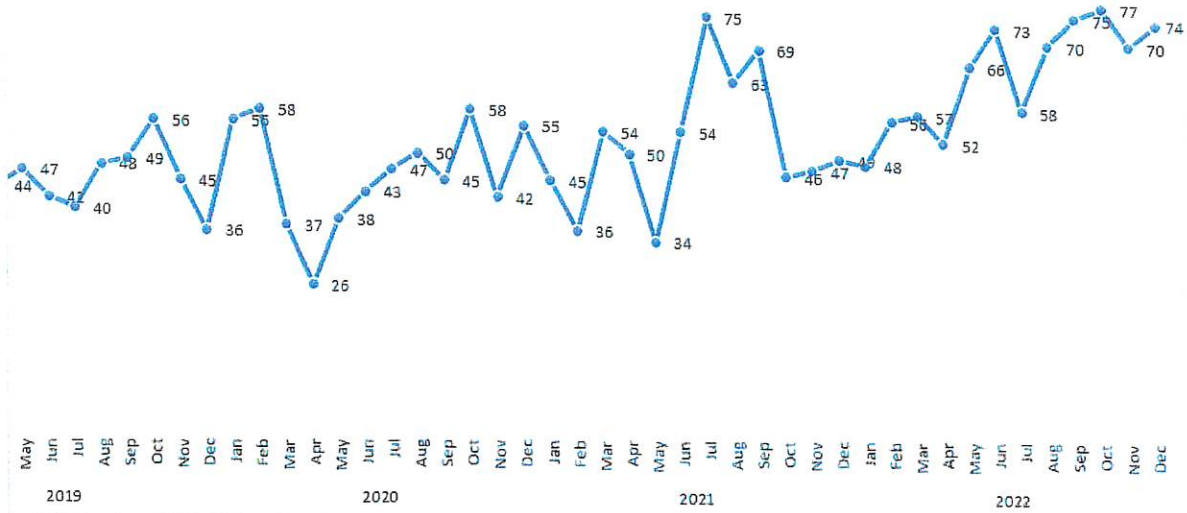


## Public Information Annual Calendar

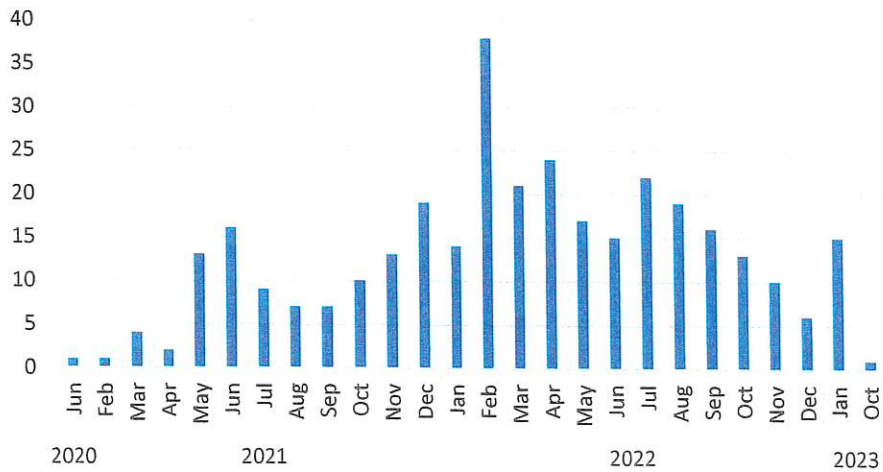
JULY	AUGUST	SEPTEMBER
<p><b>Topics of Interest:</b> Scholarship scams/ Student Loans Work-at-Home Investment scams Military Consumer Protection Day</p> <p><b>Materials for Issue:</b> <a href="#">PR ON LEGISLATIVE CHANGES</a> <a href="#">SUPERVISORY HIGHLIGHTS</a> <a href="#">BIANNUAL SCAM REPORT</a> #workfromhome #itsascam</p>	<p><b>Topics of Interest:</b> Contractor fraud Apt./House hunting Tax Free Weekend Vehicles: Lemon Law, flood-damaged, warranties, repossession</p> <p><b>Materials for Issue:</b> <a href="#">BACK-TO-SCHOOL/TAX-FREE PR</a> <a href="#">BIANNUAL COMPLAINTS REPORT</a> #taxfree #lemonlaw #repo</p>	<p><b>Topics of Interest:</b> Job Hunting Government grant scams LifeSmarts National Preparedness Month</p> <p><b>Materials for Issue:</b> <a href="#">ACCOUNTABILITY REPORT</a> <a href="#">FY PR</a> #lifesmarts #findajob #itsascam</p>
OCTOBER	NOVEMBER	DECEMBER
<p><b>Topics of Interest:</b> Contact Lenses Discount Medical Plans Cyber Security Awareness Month Domestic Violence Awareness Month International Charity Fraud Awareness Week</p> <p><b>Materials for Issue:</b> <a href="#">ANNIVERSARY REPORT IDTU (EVERY 5 YEARS)</a> #cyberaware</p>	<p><b>Topics of Interest:</b> Black Friday Budgeting International Fraud Awareness Week Military Financial Literacy Child Safety Protection Month Utility Scam Awareness Day (Usually in the third week)</p> <p><b>Materials for Issue:</b> #blackfriday #movember</p>	<p><b>Topics of Interest:</b> Cyber Monday/Online shopping Toy Safety (CPSC) Gift Cards National Tax Security Awareness Week (First week of December) ID Theft Awareness Month</p> <p><b>Materials for Issue:</b> <a href="#">HOLIDAY SHOPPING PR</a> <a href="#">SECURITY BREACH REPORT &amp; PR</a> #cybermonday #IDtheft</p>
JANUARY	FEBRUARY	MARCH
<p><b>Topics of Interest:</b> Returns/refunds/exchanges Refund Anticipation Loans Tax Scams Tax ID Theft Awareness Week Physical Fitness</p> <p>January 28 – Data Privacy Day</p> <p><b>Materials for Issue:</b> <a href="#">SUPERVISORY HIGHLIGHTS</a> <a href="#">HOA REPORT</a> #taxes #scamreport</p>	<p><b>Topics of Interest:</b> Debt collection Credit repair/counseling Vacation Scams America(/Military) Saves Week Vulnerable Adults Month Romance Scams</p> <p><b>Materials for Issue:</b> <a href="#">STATE OF CREDIT PR</a> #debt #itsascam</p>	<p><b>Topics of Interest:</b> NCPW Veteran Information Real estate Foreclosure/Bankruptcy Disabilities Awareness Month</p> <p><b>Materials for Issue:</b> <a href="#">ID THEFT/SCAMS REPORT</a> #NCPW #NCPW2018 #realestate</p>
APRIL	MAY	JUNE
<p><b>Topics of Interest:</b> Fair Housing Month PAHF Financial Literacy Month Autism Awareness Month</p> <p><b>Materials for Issue:</b> #finlit #housing</p>	<p><b>Topics of Interest:</b> Hurricane Preparedness Home safety, Children’s Products Fuel efficiency Older American’s Month</p> <p>May 5 – World Password Day</p> <p><b>Materials for Issue:</b> #stormaware #staysafe</p>	<p><b>Topics of Interest:</b> Home Ownership Month Mortgage fraud Credit report/repair/counseling Weight loss/fitness Alzheimer’s/Brain Awareness Month, Elder Abuse Awareness Month Safety Month</p> <p><b>Materials for Issue:</b> <a href="#">MORTGAGE LOG REPORT &amp; PR</a> #mortgage #home</p>

# Vehicle-Related Complaints and Calls

## Total Vehicle-Related Complaints by Year/Month



## Calls Logged Re All Vehicle-Related Issues



## TOP 5 COMPLAINTS OF 2022

Total Complaints: 4,521

- 01 Vehicles (776)
- 02 Real Estate Transactions (622)
- 03 Contractors (475)
- 04 Utilities (346)
- 05 Landlord/Tenant (298)

Total Money Recovered/Saved: \$1,289,027

CONSUMER SC GOV | 800.422.7504 | #FOLLOW

## TOP 5 COMPLAINTS OF 2021

Total Complaints: 3,977

- 01 Vehicles (622)
- 02 Real Estate Transactions (597)
- 03 Contractors (331)
- 04 Utilities (295)
- 05 Landlord/Tenant (260)

Total Money Recovered/Saved: \$1,844,612

CONSUMER SC GOV | 800.422.7504 | #FOLLOW

## TOP 5 COMPLAINTS OF 2020

Total Complaints: 3,735

- 01 Vehicles (555)
- 02 Real Estate Transactions (483)
- 03 Contractors (287)
- 04 Utilities (280)
- 05 Travel (274)

Total Money Recovered/Saved: \$809,955

CONSUMER SC GOV | 800.422.7504 | #FOLLOW

## TOP 5 COMPLAINTS OF 2019

Total Complaints: 3,274

- 01 Vehicles (542)
- 02 Real Estate Transactions (466)
- 03 Utilities (357)
- 04 Contractors (248)
- 05 Finance (228)

Total Money Recovered/Saved: \$1,392,608

CONSUMER.SC.GOV | (800) 922-1594 | #TELLDCR

## TOP 5 COMPLAINTS OF 2018

Total Complaints: 3,748

- 01 Vehicles (595)
- 02 Utilities (398)
- 03 Real Estate Transactions (388)
- 04 Contractors (297)
- 05 Landlord/Tenant (233)

Total Money Recovered/Saved: \$2,018,695

CONSUMER.SC.GOV | (800) 922-1594 | #TELLDCR

## TOP 5 COMPLAINTS OF 2017

Total Complaints: 4,004

- 01 Vehicles (720)
- 02 Utilities (480)
- 03 Real Estate/Timeshare (300)
- 04 Contractors (280)
- 05 Debt Collection (260)

Total Money Recovered/Saved: \$2,511,240

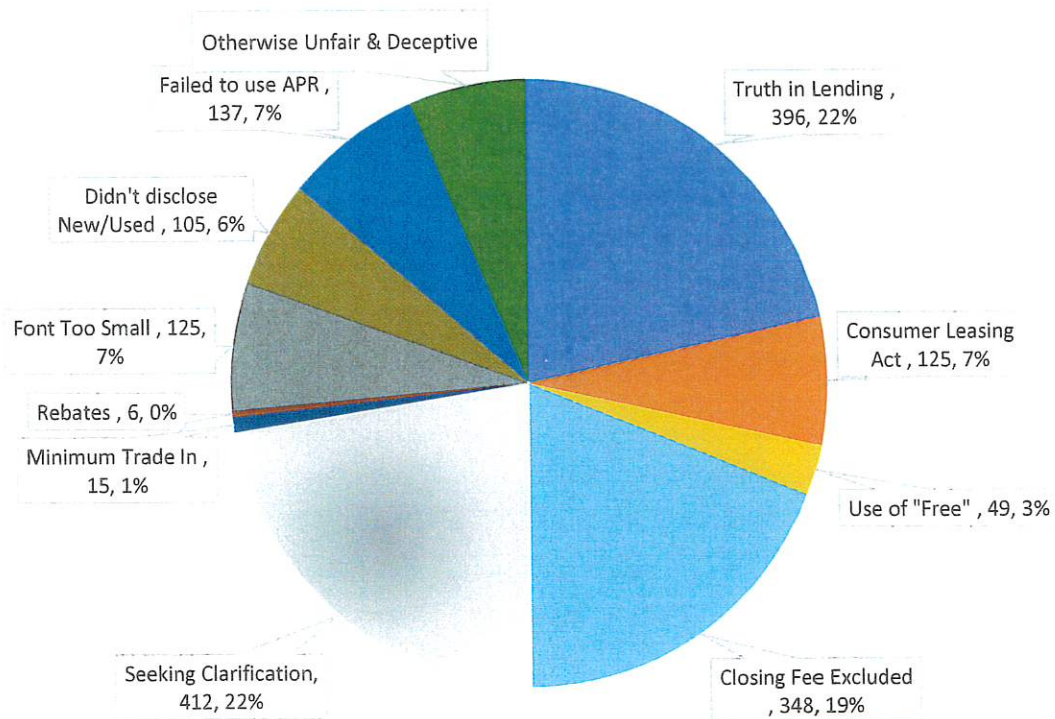
CONSUMER.SC.GOV | (800) 922-1594 | #TELLDCR

## Vehicle-Related Advertising Letters 2017-2023

**1,424**  
Violations  
Cited

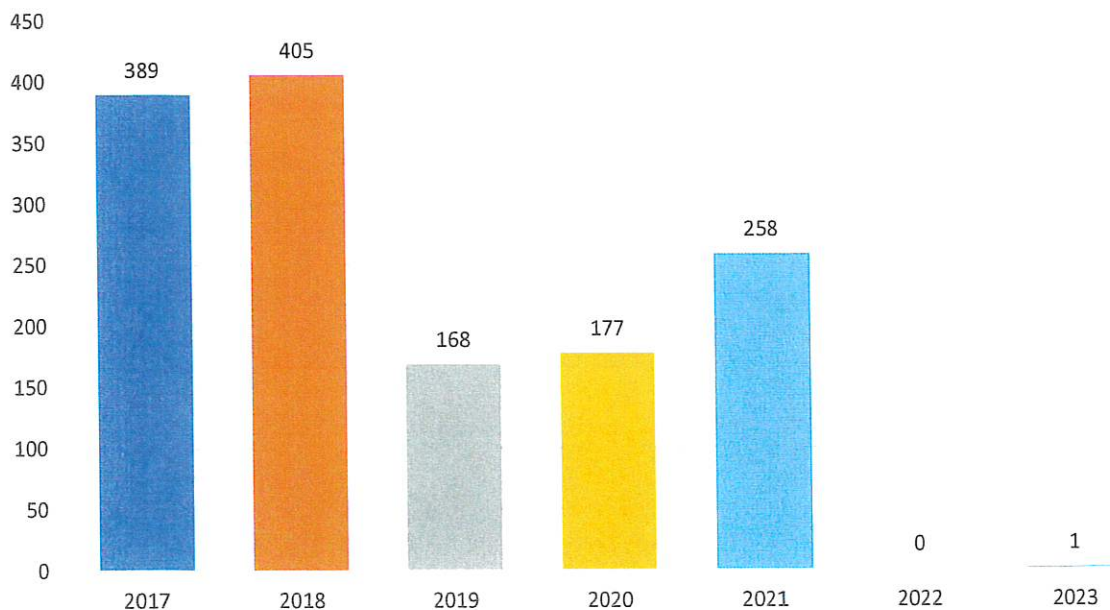
**412**  
Requests for  
Clarification\*

Some letters  
contain  
multiple  
violations  
and/or  
requests



\* "Seeking Clarification" is the only category not considered a violation under § 37-2-308. Instead DCA is seeking clarification related to confusing or vague language that doesn't necessarily rise to the level of a violation. Clarification letters are predominantly closing fee related (e.g., dealer's website does not state whether closing fee is included or excluded so letter asks dealer to "please confirm it is included").

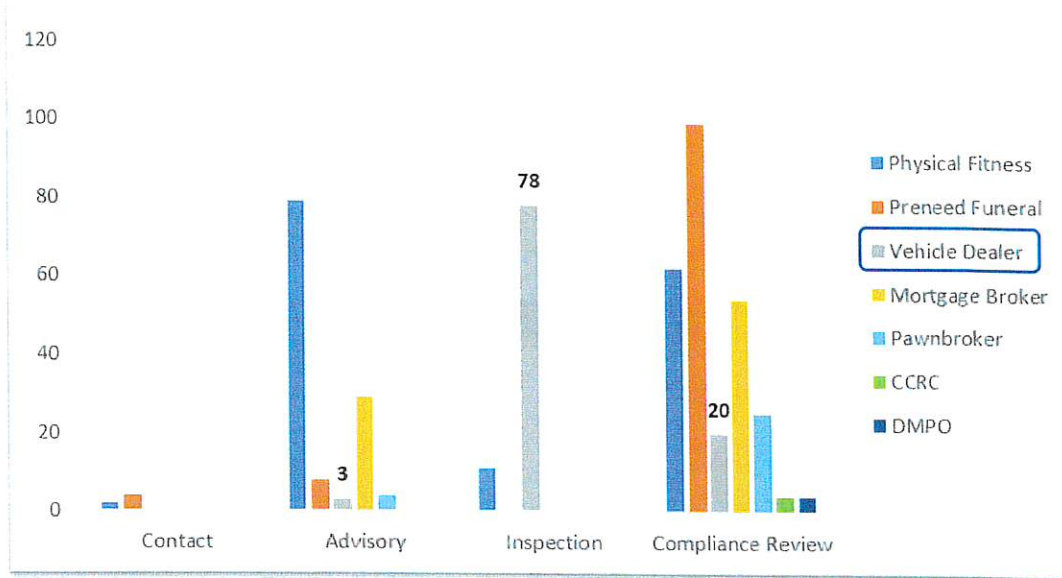
### Total Vehicle-Related Advertising Letters Sent By Year



## Investigator Activities (All Industries)

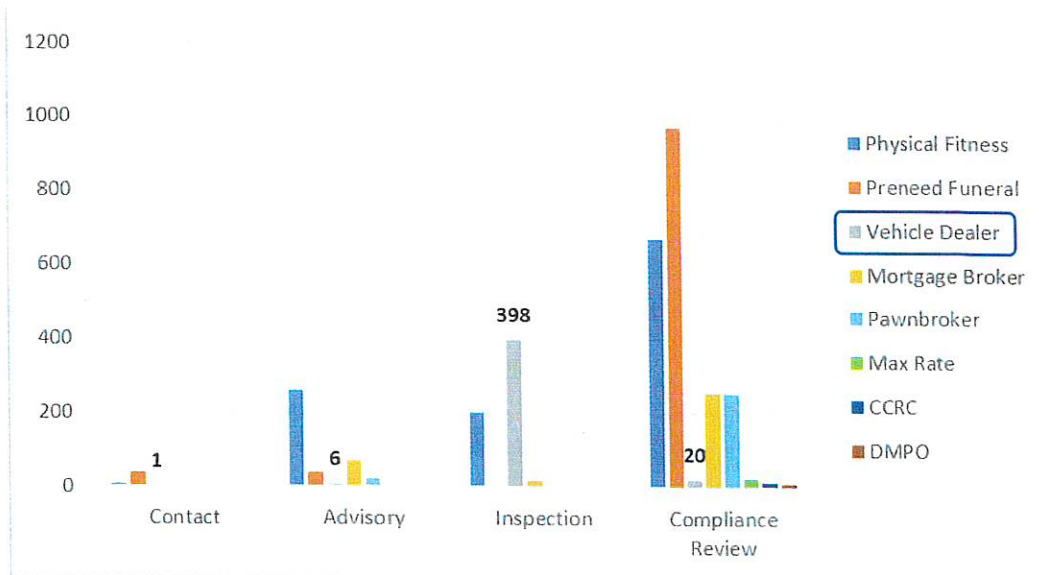
March 2022–January 2023: Vehicle Dealer activities were 20.8% of total activities

Activity Type	Physical Fitness	Preneed Funeral	Vehicle Dealer	Mortgage Broker	Pawnbroker	CCRC	DMPO	Grand Total
Contact	2	4						6
Advisory	79	8	3				29	123
Inspection	11		78					89
Compliance Review	62	99	20	54	25	4	4	268
<b>Grand Total</b>	<b>154</b>	<b>111</b>	<b>101</b>	<b>83</b>	<b>29</b>	<b>4</b>	<b>4</b>	<b>486</b>



July 2016–January 2023: Vehicle Dealer activities were 12.9% of total activities

Activity Type	Physical Fitness	Preneed Funeral	Vehicle Dealer	Mortgage Broker	Pawnbroker	Max Rate	CCRC	DMPO	Grand Total
Contact	7	38	1						46
Advisory	259	40	6					21	397
Inspection	201		398						616
Compliance Review	671	974	20	256	254	24	14	10	2223
<b>Grand Total</b>	<b>1138</b>	<b>1052</b>	<b>425</b>	<b>344</b>	<b>275</b>	<b>24</b>	<b>14</b>	<b>10</b>	<b>3282</b>





TELL US HOW  
WE'RE DOING

From: [REDACTED] >  
Sent: Thursday, August 27, 2020 11:42 AM  
To: Watlington, Melvin <[MWatlington@scconsumer.gov](mailto:MWatlington@scconsumer.gov)>  
Subject: [External]

Good morning Mr. Watlington,

I have come across what seems to be an issue while shopping for a used car online with a dealership in Columbia.

On the webpage where the car is showcased individually, there is listed a sales price for the vehicle. In addition the below disclaimer is found which addresses the closing fee. I have put in bold and underlined the pertinent language. The below Disclaimer can be found here:

**Disclaimer:**

**Sale prices** include all factory to dealer incentives and may not be combined with special apr offers. We have made our best attempt to insure the information above is accurate, but we do not warrant or guarantee such accuracy. The prices shown above are subject to change. Vehicle information is based off standard equipment and may vary from vehicle to vehicle. Stop by, call, or email for complete vehicle specific information. **Excludes tax, title, license, registration & includes \$489 closing fee.**

When conversing with the dealer, we agreed upon a purchase/sales price for the vehicle. When I made them aware of their Disclaimer and that I am under the impression based on the plain language of the last sentence in the Disclaimer that the Closing/Doc fee is included, they didn't agree. What is of particular interest to me is the last sentence begins with what the sales price excludes. Based off their quotes, their application of the word excludes is consistent with the plain meaning of the word. However the word includes doesn't follow this same logic.

Given the particular vehicle referenced above, the listed sales price is \$6,988. Based off their Disclaimer would a Buyer not rightfully interpret the following:      Vehicle: \$6,499

Closing:    489

Sales Price: \$6,988

Another point of interest: I was told that because they have charged customers a Closing Fee in the past, they must by law charge everyone else. Is that a true statement based off the word 'arbitrary' found in the below statute?

**SECTION 56-15-40.** Specific acts deemed unfair methods of competition and unfair or deceptive acts or practices; Office of Administrator; appointment of personnel; enforcement; financial services company.

(1) It shall be deemed a violation of paragraph (a) of Section **56-15-30** for any manufacturer, factory branch, factory representative, distributor, or wholesaler, distributor branch, distributor representative or motor vehicle dealer to engage in any action which is **arbitrary**, in bad faith, or unconscionable and which causes damage to any of the parties or to the public.

Lastly, the purchase I plan to make will be a Cash Sale. I read on your site that one of the five factors that make up a reasonable fee are the administrative costs associated with financing a vehicle. With a Cash Sale can a Dealer deduct that portion of their cost and still be in compliance with the law?

Thank you,

