

***SOUTH CAROLINA DEPARTMENT OF
CONSUMER AFFAIRS***



Subcommittee Budget Presentation

FISCAL YEAR 2017-2018

SC DEPARTMENT OF CONSUMER AFFAIRS: KEY OFFICIALS

Administrator/ Consumer Advocate

Carri Grube Lybarker

803-734-4297/ 803-734-4233
Clybarker@scconsumer.gov

Deputy Administrator/Director of
Identity Theft Unit

Martha S. Phillips

803-734-4241
Mphillips@scconsumer.gov

Director of Regulatory Enforcement

Kelly Rainsford

803-734-4236
Krainsford@scconsumer.gov

SC DEPARTMENT OF CONSUMER AFFAIRS: AGENCY OVERVIEW

The South Carolina Department of Consumer Affairs (“DCA”/ “Department”) is the state’s consumer protection agency. Established in 1974, DCA has over *forty 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 fifty 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.

The Department accomplishes its mission by: 1.) acting as an effective regulator, 2.) providing complaint mediation services that are unmatched at both state and federal levels, 3.) saving millions for both consumers and small businesses through insurance rate filing intervention, 4.) serving as an educational portal for consumers and businesses alike, and 5.) informing the public on effective ways of preventing and mitigating identity theft situations.

DCA is governed by the **Commission on Consumer Affairs**. The Commission is comprised of nine members, with four being appointed by the General Assembly, four by the Governor and the Secretary of State. This policymaking body has the responsibility of appointing the agency’s **Administrator**, who is responsible for ensuring successful and efficient performance of the agency’s functions and purposes described in the Consumer Protection Code, including advising the Legislature and Governor on consumer issues and state of credit in this State, administering and interpreting the Code and generally overseeing the day to day operations of the agency.

SCDCA is organized into six divisions: Administration, Consumer Services, Consumer Advocacy, Public Information and Education, Legal Division and the Identity Theft Unit.

All of DCA’s functions are supported by the agency’s **Administration Division**. This Division contains the Administrator’s Office, Human Resources and Accounting and Procurement.

The **Consumer Services Division** processes and mediates written consumer complaints, seeking to find equitable solutions for the consumer and the business, including refunds, adjustments and credits to consumer accounts. Staff takes consumer complaints against businesses regulated by the DCA, refers complaints that fall within another agency’s jurisdiction, and mediates those complaints against businesses that are unregulated. The Division provides SC taxpayers with a readily available, experienced, and cost-effective mediation service.

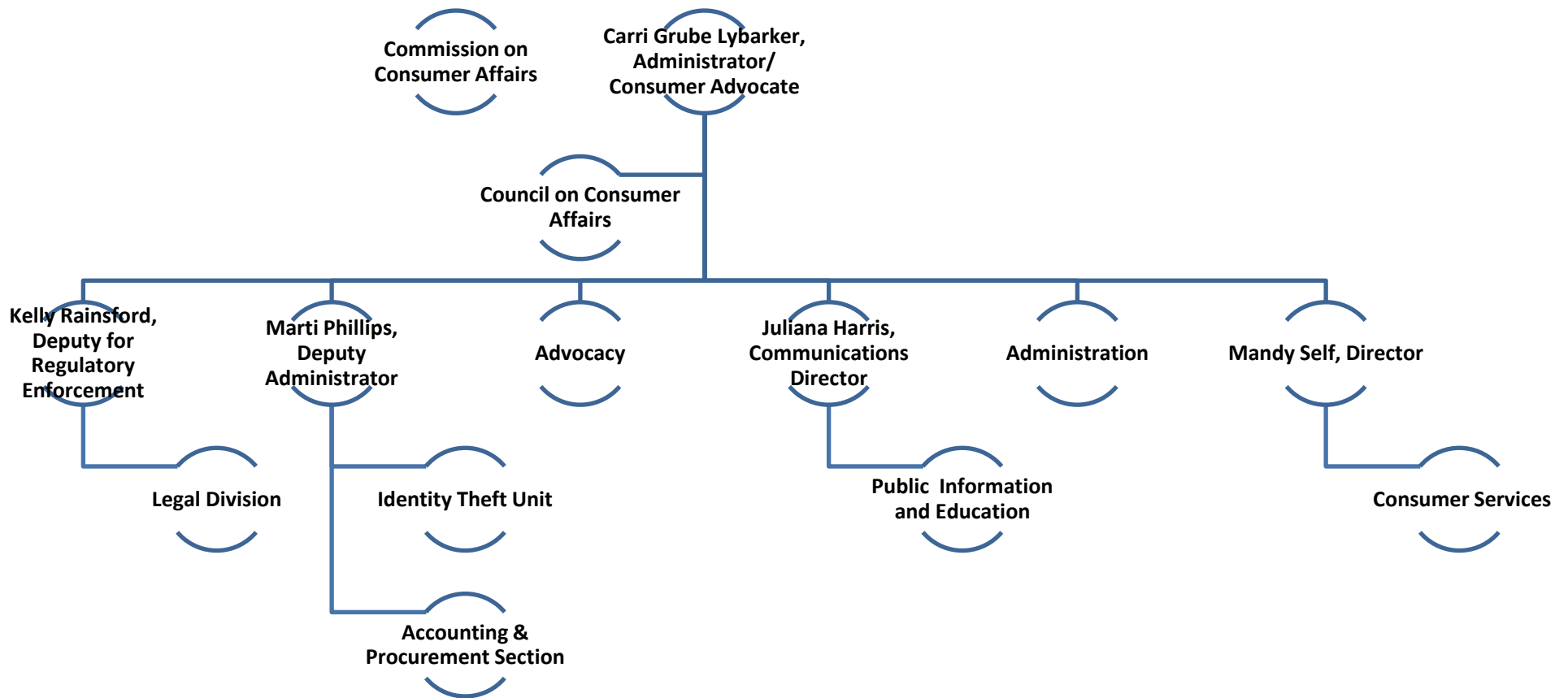
The **Advocacy Division** provides legal representation for the consumer interest in matters involving property and casualty insurance and worker's compensation insurance. As the state agency designated to represent the insurance interests of consumers, the Advocacy Division aims to ensure that increases in homeowner's insurance and worker's compensation insurance rates are justified, working to avoid excessive, inadequate or unwarranted rate increases. When needed, an action is filed and the Division submits evidence in hearings that demonstrate the rate request is not justified and often results in adjudications or settlements that generate savings for consumers and businesses alike. The division also reviews rules and regulations proposed by state and federal agencies pertaining to ratemaking and provides comments as deemed appropriate.

The **Public Information and Education Division** serves as the main consumer education portal for consumers, business 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. 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, allows legitimate business activity to flourish, resulting in the promotion of competition and a healthier economy.

The investigative and legal enforcement activities of the Department are assigned to the **Legal Division**. The Division administers and enforces the Code and other statutes under the Agency's jurisdiction. This includes regulatory functions for mortgage brokers, pawnbrokers, physical fitness centers, motor clubs, credit counseling organizations, prepaid legal services, athlete agents, the sale of preneed funeral contracts, registered consumer credit grantor, maximum rate filing and motor vehicle disclosure programs.

The Department's newest division, the **Identity Theft Unit** provides education and outreach to South Carolina consumers across the state to increase public awareness and knowledge about what identity theft is, the steps consumers can take to protect themselves, and what consumers should do in the event of identity theft. For consumers who are identity theft victims, the Unit provides ongoing guidance throughout the process of mitigating and resolving their particular identity theft situation(s). The Unit also handles administration and enforcement of state identity theft-related consumer protection laws, including receipt of security breach notices to ensure reporting and notification requirements are met.

SC Department of Consumer Affairs: Organizational Chart



FTE Information:

41 FTEs (38 filled, 3 vacant)

SUMMARY: SCDCA FY16 ACCOUNTABILITY REPORT

In FY16, DCA saw numerous improvements in established accountability benchmarks. **Overall, the agency's outcome of credits, refunds and adjustments for FY16 through efforts in complaint mediation, enforcement and intervention in insurance rate filings reached \$9,102,400.**

Consumers continued to file complaints via our online Complaint Filing System at a rate higher than paper in FY16. The System launched in January 2014 and received a Digital Government Achievement Award for best in class in the Government-to-Citizen category in October 2014. This award recognizes agency websites based on innovation, functionality, and efficiency. We believe the ease online filing provides for the agency, consumers and businesses contributed to the Division's return on investment increasing from 176% in FY14 to 270% in FY16, 34% higher than FY15. As the System continues to be in use, and the division of regulated versus unregulated complaints with agency is fine-tuned, we will be able to ascertain realistic target values and will focus on implementing measures to produce improvement in both adoption and resolution areas in coming years.

For the third year in a row, DCA realized stabilized revenue collections from administration and enforcement. While DCA processed slightly fewer regulatory filings than the year prior, numbers are still significantly higher than those seen from 2009-2013. With the steady flow of filings, DCA compliance reviews increased 16%, coming on the heels of a 36% increase in FY15. These reviews have a direct impact on enforcement actions, which increased 31%, bringing the total increase since FY14 to 263%. Consumer refunds, credit and adjustments resulting from enforcement actions, also increased 37%.

DCA continually faces the challenge of ensuring public awareness of the agency and its services/ role. DCA built on outreach efforts employed in FY15 to improve agency recognition during FY16. DCA staff made 104 presentations around the state, to over 3,500 South Carolinians. Presentations have generally targeted consumers, however, in FY17 DCA is developing a robust business outreach program and will track these initiatives as separate measurements in next year's report. New outcome tracking measurements were also added this year, including the percentage of press releases picked up by media outlets, which reached 80% in FY16 and percentage of retweets which reached 129%. Both indicate DCA is issuing compelling content and has established good media relationships.

Looking to general operations, DCA continued to focus on security in FY16. While the agency has diligently worked on developing and implementing policies and procedures to protect sensitive data, the agency also made strides in the area of physical security. In FY16, we enclosed the agency reception area for the security of staff and also installed an access control system.

Several projects which began in FY15 carried forward into FY16 and we anticipate will do so into FY17. DCA will continue to evaluate current processes to ensure they allow the agency to perform its statutory duties in the most comprehensive and efficient manner.

**SC DEPARTMENT OF CONSUMER AFFAIRS:
AUTHORIZED VS. ACTUAL**

Total Appropriations/Authorized		3,344,600	Total Actual Expenditures		2,858,570	Total Carryforward		437,060
2014	Recurring General Funds	1,169,223	2014	Recurring General Funds	1,143,292	2014	General Funds	-
	Non-recurring General Funds	115,711		Non-recurring General Funds	15,710		Consumer Awareness	16,317
	Recurring Earmarked Funds	2,059,666		Recurring Earmarked Funds	1,699,568		Operating Revenue	45,358
							Violations of SCCPC	375,385
Total Appropriations/Authorized		3,460,582	Total Actual Expenditures		3,039,407	Total Carryforward		562,798
2015	Recurring General Funds	1,274,984	2015	Recurring General Funds	1,159,594	2015	General Funds	-
	Non-recurring General Funds	125,932		Non-recurring General Funds	125,932		Consumer Awareness	16,816
	Recurring Earmarked Funds	2,059,666		Recurring Earmarked Funds	1,753,881		Operating Revenue	111,118
							Violations of SCCPC	434,864
Total Appropriations/Authorized		3,498,406	Total Actual Expenditures		3,184,971	Total Carryforward		618,162
2016	Recurring General Funds	1,313,877	2016	Recurring General Funds	1,295,155	2016	General Funds	-
	Non-recurring General Funds	124,863		Non-recurring General Funds	124,863		Consumer Awareness	14,659
	Recurring Earmarked Funds	2,059,666		Recurring Earmarked Funds	1,764,953		Operating Revenue	201,747
							Violations of SCCPC	401,756

SC DEPARTMENT OF CONSUMER AFFAIRS: AGENCY HIGHLIGHTS & BUDGET BACKGROUND

DCA HIGHLIGHTS: FY 16

This
fiscal

year (July-
December

2016),

DCA has
already:

Saved businesses and consumers approximately **\$10 million** as a result of complaint mediation, identity theft mitigation, and statutory enforcement.

Engaged over **121,000 people** through social media efforts, including Facebook, Twitter and YouTube.

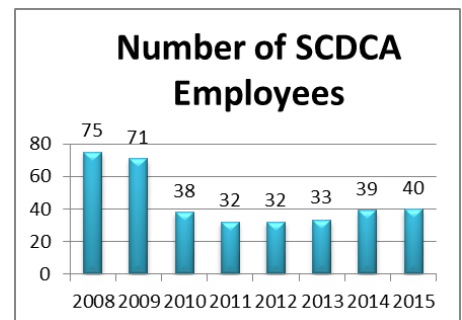
Processed over **7,000 regulatory filings** for industries such as pawnbrokers, mortgage brokers, preneed funeral contracts and credit counseling.

Reached nearly **1,900 consumers, businesses and agencies** through **49** presentations and webinars.

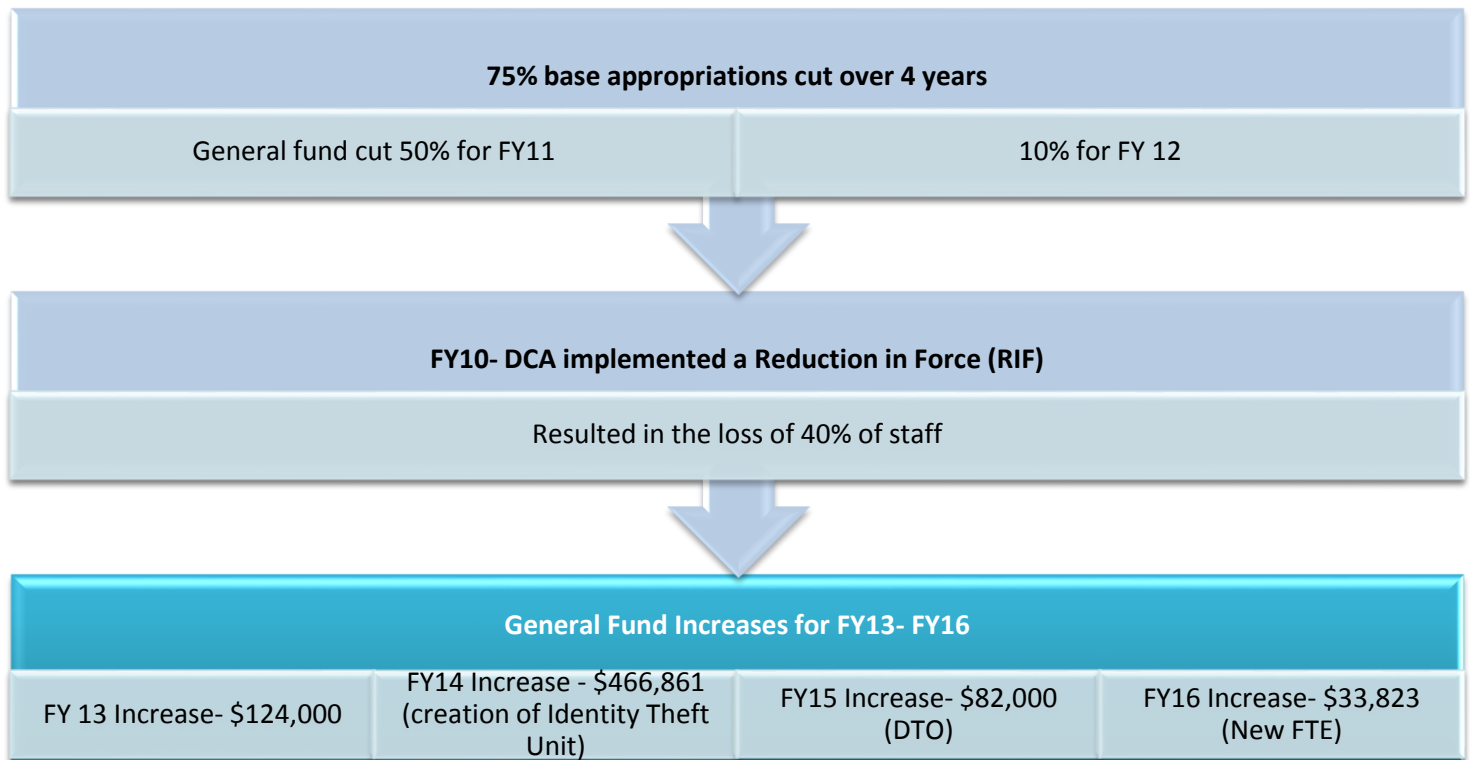
Received **20 security breach notices** affecting more than **120,000** consumers. Since 2008, DCA has received **223 notices** pertaining to more than **7.6 million consumers**.

BUDGET BACKGROUND

Several external factors affect DCA's ability to accomplish its mission and meet set goals. The financial condition of the industries regulated directly affects the number of filings received and processed, thus revenue collected. This decline coupled with general fund budgetary restraints resulted in decreased resources, including overall agency funding, human capital and technological enhancements. The Department experienced severe budget cuts between FY09 and FY12. The budget reductions not only occurred at the General Fund level, with the agency receiving a more than \$1.6 million base appropriations cut from FY09-FY12, but other funds decreased as well. The industries regulated by the Department were affected by the economic downturn; thus certain licensee numbers sharply declined. While the Legislature sets the amount of Other Funds the agency can maintain, there is no guarantee such funds will actually be received. These budgetary constraints contributed to the agency's inability to hire needed staff, retain qualified personnel or appropriately compensate those whose job



responsibilities had grown and who continued to provide superior service. After the implementation of a reduction in force in FY10, DCA went from 68 filled FTE positions to a low of 27 filled FTEs in 2011.



While we have seen improvement on budgetary fronts, personnel challenges continued. DCA is an agency with historically above par staff retention rates. However, due to hiring fluctuations over the years, several staffers became eligible for retirement in FY15 resulting in fifteen percent (15%) of agency staff retiring. In FY16, the challenge turned to retention of newly hired staff. During this fiscal year, seven staff members, constituting seventeen percent (17%) of agency staff, who were with the agency for three years or less left DCA for higher paying jobs with other agencies or in the private sector. The majority of exits arose from our Legal Division, where immense time and funds are expended on training as DCA administers and enforces complex statutes, including those related to the mortgage industry.

Providing adequate compensation is an area DCA has struggled with for many years and what we believe is a leading cause in our declining staff retention rate. As stated above, the majority of the agency's funding (64%) comes from fines and fees. While we have requested salary increases, with the 2016 Classification and Compensation Study as our guide, we are in the process of reviewing regulatory fee structures to identify areas of funding underperformance so the appropriate statutory changes can be requested and identified salary gaps filled. This review is being incorporated into our overall regulatory review which began in FY13 and resulted in several regulations being deleted or updated and this year, updates to several sections

of the Consumer Protection Code that remained untouched since the late 1970s and the Pawnbroker statute which had not been updated since its inception in 1988.

Additionally, DCA is processing a similar amount of filings as compared to FY 2008 when the agency employed 45% more staff. Further, we are providing services to a larger population. While we have harnessed technology to assist in the performance of our duties, it is clear staff have taken on additional responsibilities and should be compensated accordingly.

Transportation, Regulatory & Cultural Subcommittee						
Proviso Request Summary						
FY16-17 Proviso #	Renumbered FY17-18 Proviso #	Proviso Title	Short Summary	FY of Proviso Introduction/ # of years in budget	Recommended Action	Proviso Language
80.1	80.1	Consumer Protection Code Violations Revenue	Authorizes DCA to retain all funds paid in the settlement of cases involving statutes enforced by the department and to use the retained funds to offset costs.	over 20 years	CODIFY	Funds, paid to the department in settlement of cases involving violations of the South Carolina Consumer Protection Code and other statutes enforced by the department be retained and expended within the agency's budget to help offset the costs of investigating, prosecuting, and the administrative costs associated with these violations, may be carried forward and expended for the same purposes in the current fiscal year.
80.2	80.2	Student Athlete/ Agents Registration	Authorizes DCA to retain funds paid under Chapter 102, Title 59 (Uniform Athlete Agents Act) for enforcement of the chapter.	over 20 years	CODIFY	Funds received by the department of Consumer Affairs pursuant to registrations under Chapter 102, Title 59 of the 1976 Code may be retained by the department for its enforcement duties relating to athlete agents and student athletes under that chapter.
80.3	80.3	Expert Witness/ Assistance Carry Forward	Authorizes DCA to carry forward unexpended funds appropriated for the expert witness/assistance program.	over 20 years	CODIFY	Unexpended encumbered appropriated funds for the Consumer Advocacy expert witness/assistance program (under Section 37-6-603) may be carried forward into the next fiscal year to meet contractual obligations existing at June thirtieth and not paid by July thirty-first.
80.4	80.4	Registered Credit Grantor Notification and Maximum Rate Filing Fees Retention	Authorizes DCA to retain funds collected under Chapters 2, 3 and 6 of Title 37 to cover operational costs and to carry forward such funds.	This Proviso was first adopted in 2009-2010 Appropriations Act as a revision to a similar Proviso that had been in effect since 2004-2005.	CODIFY	Consumer Credit Grantor Notification filing fees collected under Section 37-6-203 and all Maximum Rate Schedules filing fees collected under Section 37-2-305 and Section 37-3-305. These fees shall be used to offset the cost of administering and enforcing Chapters 2 and 3, Title 37 of the 1976 Code and may be applied to the cost of operations. Unexpended balances may be carried forward for the prior fiscal year into the current fiscal year and be utilized for the same purposes.

