

**COMMENTS OF BRANDOLYN THOMAS PINKSTON
BEFORE THE STATE AGENCY RESTRUCTURING STUDY COMMITTEE
WEDNESDAY, OCTOBER 27, 2010-10:30a.m.
ROOM 105 GRESSETTE BUILDING**

Good morning members of the Committee. I am Brandolyn Thomas Pinkston, Administrator of the SC Department of Consumer Affairs and pleased to have been asked to speak on the issue involving state agency restructuring.

In 1974, the S.C. Department of Consumer Affairs (SCDCA) was established by the S.C. Consumer Protection Code, the state law which governs consumer credit transactions and provides for consumer protection in South Carolina. Designated to represent the interests of consumer, SCDCA attempts to resolve complaints and seeks to inform and educate consumers in order to create an atmosphere in which consumers will be more aware of their rights and responsibilities in the marketplace.

The Department assists the S C Attorney General, FBI, US Attorney, CPSC, DOT, and all state and local agencies performing consumer protection functions in carrying out their legal enforcement responsibilities for the protection of consumers. In these challenging economic times, the Department of Consumer Affairs continued to take a leading role in protecting consumers because it is more important now than ever. The economic difficulties that impacted South Carolina consumers in 2008 continued into 2009-2010. The record-high rates of unemployment and foreclosures significantly affected South Carolina consumers of all economic levels.

While the Department is tasked with a big mission, protecting consumers across broad swaths of the economy, the constant challenge is not only to effectively leverage our limited resources, but also to ensure that the quality of our work will not be strained. One of the greatest challenges that many consumers face today is holding on to their homes when they have lost their jobs, seen their working hours cut back, or just can't manage to pay their mortgage. Such financially-distressed consumers are vulnerable to schemes that promise miraculous solutions to their financial problems. These practices include foreclosure —rescue□ and loan modification scams; unfair, deceptive, or otherwise unlawful mortgage lending and credit offers; unlawful practices in servicing mortgages; bogus debt relief and credit —repair□ services; and unlawful debt collection.

The Department heightened the time and attention devoted to assisting consumers by launching even more programs and services to alert them about fraudulent schemes victimizing

struggling homeowners and borrowers in the state. Using traditional methods, along with webinars, *YouTube* and other social media the Department sought to meet challenges head-on by providing faster and easier access to services and ways to inform the public. Moreover, with assistance from the South Carolina Attorney General's Office, SCDCA re-launched the Mortgage Fraud Hotline in April to further identify complaints on the subject.

Focusing on rural areas and preventing financial abuse of the elderly was yet another critical concern. In particular, the risks associated with reverse mortgages, a financial product expected to grow substantially in coming years, because it is offered to seniors who may be vulnerable to misleading marketing techniques. **Additionally, staff handled more than 5,534 complaints during FY10, resulting in a cumulative five-year return of \$5.1 million to consumers in repairs, refunds or adjustments ; refunded \$2,842,573.72 from credit counseling organizations to over 3,100 SC consumers; reviewed 1,029 insurance notices; and added to savings for insurance consumers, bringing the 5-year total to approximately \$258 million.**

On June 16, 2010, the House sustained the Governor's vetoes deleting all general funds from the Administration (\$410,880) and the Consumer Services (\$265,924) Divisions at the Department. The rationale used stated that **"Consumer Affairs does very important work in preventing fraudulent or unfair business practices, but many of those functions are currently performed by Labor, Licensing and Review (LLR), the Attorney General, and several consumer protection entities, like the South Carolina Courts and the Federal Trade Commission."** That rationale was inaccurate. The Attorney General's Office refers complaints approximately 25-50 complaints per month to the Department as does the Governor's Office. The Attorney General's Office does not represent individual consumers, nor do they handle general consumer matters. LLR accepts complaints against their licensed entities only. They do not assist consumers with disputes, nor do they mediate complaints. Regarding recourse available for consumers through the already clogged court system, many of the consumers who file complaints and receive assistance from SCDCA, do not have the wherewithal to handle cases in the court system. Additionally, the Federal Trade Commission **does not take individual complaints.**

WHAT HAS CONSUMER AFFAIRS DONE TO CUT COSTS FOR THE CURRENT YEAR?

- 1) The Department has suspended the following programs to reduce costs—'Buyer Beware' a list of businesses not responding to complaints; Ask Consumers Affairs, an interactive chat line; after-hour services; and outreach locations in Summerville, Gaffney, Laurens, Newberry, Greenwood, and Florence.
- 2) Leased Vehicle Savings \$24,000
- 3) 10 day Staff Furlough Savings \$56,000

- 4) Leased Office Space (moving to new location) \$100,000
- 5) Not Filling Vacant Positions
- 6) Disconnected unused cell phone and landlines
- 7) Utilization of Law Clerks and Interns

WHAT DOES CONSUMER AFFAIRS PLAN TO DO IN REGARDS TO FURTHER CUTS FOR THE NEXT YEAR'S BUDGET ACKNOWLEDGING THERE WILL BE FURTHER CUTS?

Another Voluntary Furlough

WHAT IS THE VIEW OF CONSUMER AFFAIR'S ON THE CONSOLIDATION OF HUMAN AFFAIRS, MINORITY AFFAIRS, AND CONSUMER AFFAIRS INTO ONE AGENCY?

Through leadership, policy direction, data analysis and value-added services, SCDCA, HA and MA can collaborate to improve the efficiency of government by maximizing the effectiveness and efficiency of combined services.

After a review the 2009-2010 Accountability Report of the Human Affairs Commission it was pointed out that their current staffing level is substantially below that legitimately required to continue to deliver the services required by the Legislature at the qualitative and quantitative levels expected of the agency. That reflects the ongoing retirements of a large portion of staff and the inability to fill vacancies. A review Commission on Minority Affairs was also conducted and the following approach could be benefit all if one agency is desired.

- 1) SCDCA has a complaint intake and mediation process which could complement both Human and Minority Affairs agencies
- 2) SCDCA has seven staff attorneys and several law clerks.
- 3) SCDCA's resources and expertise could assist with the Fair Housing program at Human Affairs. The Department also believes its participation in the National Mortgage Licensing System will enhance lending effectiveness and provide a data base that will detect fraudulent and unscrupulous lenders and brokers. Further, the inclusion in the state's 2009 mortgage lending legislation required certain provisions from the Home Mortgage Disclosure Act which will monitor and report fair lending and income disparity issues based on race. SCDCA also regulates SC's credit counseling industry.
- 4) SCDCA could utilize the research arm at Minority Affairs to study the cause and effect of financial products that affect African Americans, Native Americans and Hispanics.
- 5) SCDCA has extensive knowledge of Equal Credit Opportunity Act, which prohibits the denial of credit based on race, age, sex, religion.
- 6) Increase outreach efforts across the state
- 7) SCDCA is considered a leader in promoting, marketing educational activities through its Public Information and Education Division.
- 8) SCDCA has an excellent relationship with SC schools (discuss essay, curriculum, social media, you tube , face book, twitter, webinar)
- 9) SCDCA has a good relationship with SC's business community and the General Assembly.