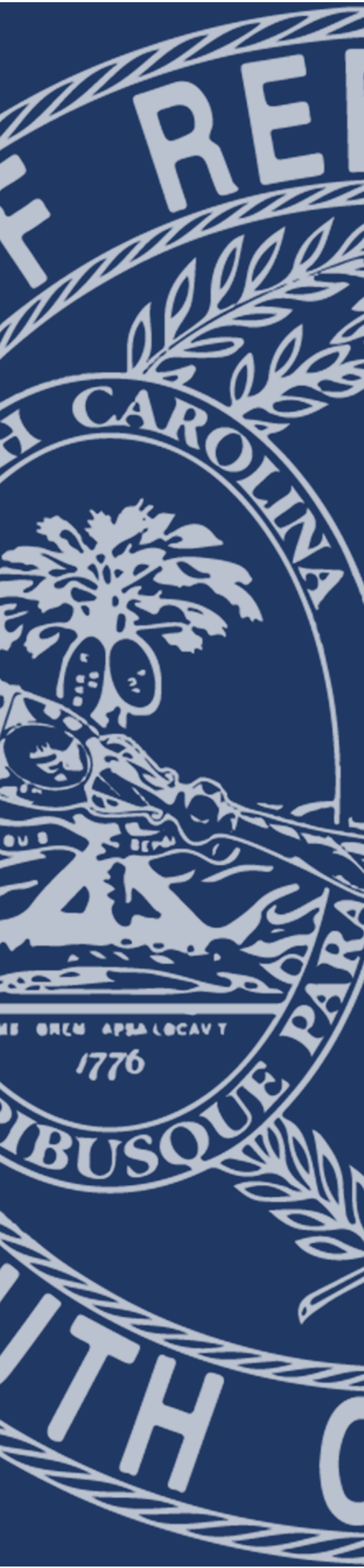




South Carolina  
House of Representatives  
Legislative Oversight Committee

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DEPARTMENT OF  
CONSUMER AFFAIRS  
Executive Summary



# FINDINGS

During the study of the Department of Consumer Affairs (agency or DCA), the Healthcare and Regulatory Subcommittee (Subcommittee) of the House Legislative Oversight Committee (Committee) adopts 15 findings pertaining to organizational structure, Commission on Consumer Affairs (Commission) governance, operations, regulatory actions, consumer protection reports, and consumer issues.

Findings note information a member of the public or General Assembly may seek to know or on which they may desire to act.

## FINDING 1

DCA is uniquely structured relative to consumer protection agencies across the country, as multiple entities may exist in other states to provide similar and like services for consumers.

## FINDING 2

The General Assembly passed Act No. 45 (2023), a bill related to motor vehicle sales contract closing fees to specify the way DCA is to provide enforcement measures. Complaints of government overreach, onerous DCA inspection practices, and hostility towards the motor vehicle industry, prompted legislative action. The bill was signed by the Governor May 16, 2023.

## FINDING 3

DCA's industry specific statutes permit the agency to retain revenue generated by fees and fines (e.g., licensing fees, registration fees, violation fines, etc.). The retainment of these funds is meant to create a self-sustaining finance model for these programs. DCA is not permitted to adjust fees and fines unilaterally; the agency requires approval from the General Assembly.

## FINDING 4

In 2023, the agency's operating expenses totaled \$1,039,276, of which \$263,543, or 25%, was spent on expert witnesses and consultants.

## FINDING 5

From FY2019 to FY2023, DCA staff visited 33 of the state's 46 counties. County visits are largely contingent upon agency resources, consumer requests for presentations, and DCA participation in local events.

## FINDING 6

DCA's partnership with the Department of Corrections has provided inmates scheduled for community reentry access to consumer education opportunities (e.g., credit reports, identity theft remediation, etc.).

## FINDING 7

Most consumer complaints are captured in the following categories: vehicles, real estate, and contractors. In FY2023, the agency received 1,051 vehicle complaints, 772 real estate complaints, and 483 contractor complaints.

## FINDING 8

DCA regulates 12 specific industries and has regulatory authority for Consumer Credit Sellers, Consumer Lenders, Consumer Lessors, and Rent-to-own. Six of these industries are required to provide DCA's name and contact information in contracts or other forms of notification to a consumer.

## FINDING 9

Homeowner associations (HOA) are not required to register with DCA or any other state or local agency. Since there is no registration requirement, the number of HOAs operating in the state is unknown.

## FINDING 10

DCA is governed by a nine-member Commission and currently has four vacancies and four members serving expired terms. Members serving expired terms may continue to serve until they are reappointed or replaced.

## FINDING 11

DCA's Council of Advisors on Consumer Credit has five vacancies and 11 active members serving expired terms. Members serving expired terms may continue to serve until they are reappointed or replaced.

## FINDING 12

DCA employs a risk-based system to determine which licensed businesses to visit. This system is in place due to limited agency resources (e.g., staff, funding, etc.).

### FINDING 13

DCA does not include recommendations or opinions in an executive summary to contextualize data provided in the Mortgage Log Data Report, State of Credit Report, and Homeowners Association Complaint Report.

### FINDING 14

DCA is statutorily required to collect HOA consumer complaint data and report this information to the public, Governor, and General Assembly on an annual basis. DCA does not regulate HOAs, administer the South Carolina Homeowners Association Act (HOA Act), nor enforce the HOA Act, but does provide voluntary mediation to assist with dispute resolution.

### FINDING 15

In 1982, the General Assembly passed the Consumer Protection Code Revision Act, which requires creditors charging an Annual Percentage Rate greater than 18% to file a Maximum Rate Schedule with DCA. In some cases, this reporting requirement has not prevented creditors from setting interest rates as high as 850%, a rate considered predatory by DCA.

# RECOMMENDATIONS

During the study of the Department of Consumer Affairs, the Healthcare and Regulatory Subcommittee (Subcommittee) of the House Legislative Oversight Committee (Committee) adopts 14 recommendations.

With any study, the Committee recognizes these recommendations (e.g., continue, curtail, improve areas potentially, and/or eliminate agency programs, etc.) will not satisfy everyone nor address every issue or potential area of improvement at the agency. Recommendations are based on the agency's self-analysis requested by the Committee, discussions with agency personnel during multiple meetings, and analysis of the information obtained by the Committee. This information, including, but not limited to, the Initial Request for Information, Accountability Report, Restructuring Report, and videos of meetings with agency personnel, is available on the Committee's website.

## RECOMMENDATION 1

DCA should include an executive summary in the following reports: Mortgage Log Data Report, State of Credit Report, and Homeowners Association Complaint Report. The executive summary should state the report's purpose, summarize and highlight the central points, give context to the data elements provided in the report, and include policy recommendations for the General Assembly to consider when consumer protection issues are identified.

## RECOMMENDATION 2

The agency should develop metrics and targets to evaluate performance at the division level (e.g., Legal, Public Information & Education, etc.). These metrics should support the agency's broader goals and objectives (e.g., inspections by licensed industry type, online and in-person trainings, etc.).

## RECOMMENDATION 3

DCA should develop a comprehensive marketing strategy designed to increase agency visibility and consumer awareness; promote agency programs and services within the state (e.g., licensing, identity theft reporting, etc.); enhance awareness of consumer protection issues (e.g., scams, fraud, etc.); and promote services provided to regulated industries, businesses, and consumers. The department should use any and all mediums, including social media, to promote awareness of the complaint process. The department should refrain from messaging which unfairly targets specific businesses. Agency leadership should seek technical expertise from the South Carolina Department of Parks, Recreation, and Tourism (PRT) as internal resources may not be sufficient for plan development. PRT leadership has agreed to assist DCA with the development of its strategy.

## RECOMMENDATION 4

DCA should update the SCDCA Divisions page on its website to include names, position titles, and pictures of current agency leadership.

## RECOMMENDATION 5

DCA should study the efficacy of state law requiring mortgage brokers to annually submit a mortgage log to the agency. The agency's study should include an analysis of the mortgage environment during the time the law was enacted; the purpose, intent, and effect of S.C. Code Section 40-58-65 since enactment; and evaluation of the industry's perceived value of submitting mortgage log data. Agency staff shall submit this report to the Committee within one year of approval of the study report.

## RECOMMENDATION 6

DCA should post conspicuously on its website a statement to inform entities licensed and registered by the agency of the right to contest an administrative order pursuant to applicable state law.

## RECOMMENDATION 7

DCA should post minutes from Commission meetings on its website and archive agendas and minutes for public access.

## RECOMMENDATION 8

DCA should host annual meetings with trade associations, businesses, and regulated industries licensed or registered by the agency. Agency staff may use these meetings to provide updates regarding consumer protection issues specific to each industry, to seek feedback regarding agency communication and services, and to give updates regarding statutory or regulatory changes. When feasible, these meetings should be held in person with the option to participate

via web conferencing technologies (e.g., Zoom, Webex, conference calls, etc.).

#### **RECOMMENDATION 9**

The Committee recommends the General Assembly consider requiring regulated industries licensed or registered by DCA to provide a disclosure notice (i.e., agency's contact information) to consumers who are engaged in official business with the licensed or registered entity.

#### **RECOMMENDATION 10**

The Committee recommends the General Assembly consider deleting statutes requiring the Department of Consumer Affairs to enforce laws specific to dispensing of an ophthalmic contact lens or lenses.

#### **RECOMMENDATION 11**

The Committee recommends the General Assembly consider amending code sections specific to vacation timesharing plans by changing the right to cancel from five days to 10 days.

#### **RECOMMENDATION 12**

The Committee recommends the General Assembly consider amending state law to require HOAs have internal dispute resolution processes, comply with certain voting provisions of the Nonprofit Corporations Act, submit certain documents when responding to a complaint filed with DCA, and permit magistrates to hear all HOA disputes, regardless of the amount in controversy.

#### **RECOMMENDATION 13**

The Committee recommends the General Assembly consider amending code sections to require the inclusion of DCA's contact information and certain data elements in notifications of a security breach and to remove safe harbor and sync business and agency requirements for breach notifications.

#### **RECOMMENDATION 14**

The Committee recommends the General Assembly consider changes to the Consumer Protection Code to address issues specific to predatory lending in the consumer lending market.