South Carolina
DEPARTMENT OF CONSUMER AFFAIRS

2025

STATE OF CREDIT REPORT

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Introduction

The South Carolina Department of Consumer Affairs (SCDCA/Department) has been protecting consumers from inequities in the marketplace since 1975. For over fifty years, SCDCA has taken on new duties as the consumer landscape has evolved. Today, SCDCA administers, interprets, and enforces over 120 laws, including the Consumer Protection Code (Code).

The Code is the state law that provides consumer protection in consumer credit and other consumer transactions. It governs, among other things, the rates and charges that creditors may impose on consumers, requires disclosures and notices, describes improper acts and practices of creditors when making and enforcing consumer contracts and imposes licensing requirements for certain creditors. See S.C. Code Ann. § 37-1-102; Title 37, SC Code of laws. The Code became law in 1975 and received major amendments in 1976, 1978 and 1980 to add provisions on consumer loans, intervention in rate proceedings and additional consumer protections.

In its original rendition, the Code set forth a tiered interest rate structure for credit transactions, with 36% being the maximum rate for smaller amounts of credit and then the permitted APR decreased as the credit amount increased. But in 1982, the National Prime Rate was 20% and the maximum blended rate for creditors operating in South Carolina was 18%. As a result of these pressures, the General Assembly decided to deregulate as a state, eliminating interest rate caps so as to not dry up the availability of credit. Outside of a general code prohibition on unconscionability, the law does not limit the APR the lender may charge, the rate is self-imposed. Prior to charging in excess of 18% APR, however, the creditor must file its rates with the Department and clearly post the maximum rate it intends to charge in its place of business.

Soon after deregulation, the Department started to see interest rates rise. In 1986, approximately 83% of creditors in South Carolina intended to assess 36.99% APR and below. Over time, that number started to shrink. In 1996, 75% intended to assess 36.99% APR and below and in 2006 the number decreased to 53%. The number of creditors intending to charge this amount has hovered around the mid-fifties since that time. As expected with the decrease in the 36.99% or below category, corresponding increases in other categories occurred, including in the triple digit filings category. In 1986, approximately 5% of filers intended to impose charges of 100% or greater. That number increased in 1996, but more than quadrupled in 2006 with 23.7% of filers indicating triple digit rates, 10.4% of those being 300% APR or greater. By 2015, this overall number was cut in half; however, 7% of filings still indicated rates of 300% APR or greater. In 2024, 10.47% of maximum rate filers indicated APRs of 300% or greater.

Unlike specific violations of the Code whereby the Department can issue administrative orders, unconscionability is determined by the courts. In the past few years, the Department reached out to supervised lenders filing 850% APR as the gap in interest rates between it and the next highest filed is so large (approx. 300%) that we believe a court could deem it unconscionable. The Department requested the companies consider lowering the rate or exiting the state. In discussions with several of these lenders, they indicated the 850% rate was needed to stay in business as they do not expect everyone to pay the loan back.

Introduction (continued)

Ability to repay is a topic referenced in the comments and preparatory notes to the Uniform Consumer Credit Code. South Carolina's Consumer Protection Code consists of a combination of the 1968 Uniform Consumer Credit Code and the 1974 version. The 1974 version contains a preparatory note where the conference committee stated:

"A basic issue in any regulation in this area is the price of credit. In simplest terms, consumers want credit at the lowest possible prices, and creditors want to supply credit but can and will do so only if they may reasonably expect repayment of principal plus an adequate return on credit extended."

This statement was made at a point in time where the lending market consisted just of traditional installment lending. Markets and market participants have certainly changed since the imposition of the Code and deregulation in 1982. At its inception, the category of "supervised lender," or all persons making a consumer loan in which the APR exceeds 12%, consisted of traditional installment lenders with a storefront. In the 1990s, forms of non-standard lending emerged such as auto title lending and in the 2000s, online lenders came into the space. As such, the supervised lending definition encompasses several business models.

Deferred presentment, commonly referred to as "payday lending," also came about in the 1990s. Deferred presentment providers are not subject to the Code but have their own license type and regulatory structure. In 2009, the General Assembly enacted amendments to the Deferred Presentment Services Act which, among other provisions, limits and tracks transactions via a required database. Since its inception, transactions have steadily declined and a migration of companies holding a deferred presentment license to a supervised lending one has occurred.

The State of Credit Report (SOCR) was created during deregulation and includes data on supervised lending and deferred presentment transactions as well as pawnbrokers, state-chartered banks and credit unions, mortgage brokers and lenders and credit counselors. Pursuant to S.C. Code Ann. section 37-6-104(5), the Administrator of SCDCA is required to report on the state of credit in South Carolina and agency enforcement operations. In pertinent part, SCDCA must report on "the use of consumer credit in the State, and on the problems of persons of small means obtaining credit from persons regularly engaged in extending sales or loan credit."

Some items delineated in 37-6-104(5) are reported to the Governor and General Assembly through various reporting requirements, including the Annual Accountability Report. Some of this information is not duplicated herein. It is also important to note that numbers may change over time due to the timing of pulling data for the report and when a business submits data or otherwise makes corrections or amendments to previously filed information. As a result, the total numbers in certain categories may change and totals from previous years may differ from prior State of Credit Reports.

Executive Summary

The SOCR is a comprehensive look at various consumer credit industries, consumer credit products, and the rates consumers are charged across industries, as well as across South Carolina counties. The purpose of the SOCR is to provide information and analysis of existing and emerging trends in the consumer credit marketplace in South Carolina. The data comes from filings and reports received by SCDCA and reports compiled by the South Carolina Board of Financial Institution's Consumer Finance Division (BOFI-CFD). The most recent available data elements for a particular section contained herein may cover calendar year 2023 or 2024 and are delineated as such.

The data provides insights into the number of creditors doing business in South Carolina, the rates intended to be charged, rates charged to consumers, volume of credit being extended, and consumer debt. It is informed by filings of over 4,400 persons granting credit in South Carolina; account agreements and data covering the advance of nearly $2.4 billion through over 1.5 million transactions by consumer lenders, pawnbrokers and deferred presentment providers; almost 175,000 mortgage applications and approximately 32,000 contracts of South Carolinians seeking credit counseling services. Key highlights include:

GENERAL FILINGS (2024 DATA)

- The total number of creditors filing credit grantor notifications increased slightly compared to 2023.
- Fifty-six percent of creditors filed APRs of 36.99% or less. The largest decrease in APR filings took place in the 50% - 99.99% category with 19.25% of filings, a decrease of 2% when compared to 2023. The largest increase occurred in the 18% or Less APR category with a 2.78% increase (12% in 2024 vs. 9.22% in 2023). Second-largest increase occurred in the 300% or Greater category with 10.47% of filers choosing this category as opposed to 9.17% in 2023.
- The highest average of fixed APR for consumer loans (210.23%) came from out-of-state lenders and is approximately 47% higher than the highest in-state average fixed APR (143.15%). The highest APR filed overall (850%) also came from out-of-state lenders and exceeds the highest in-state APR by 300% (550%).
- Aiken County continued to have the highest in-state average of fixed APR for consumer loans at 143.15%. Lee County held the spot for highest average of fixed APR for credit sales (70.70%) even though the rate is 16% lower than last year's average for the county.

SUPERVISED LENDING (2023 & 2024 DATA)

- Supervised lenders account for 42% of all maximum rate filings. A slight decrease compared to 2023. The APR category with the largest percent increase in 2024 was the 30%-36.99% category with 33% more filers indicating APRs within that category when compared to 2023 (438 vs. 293 in 2023). Approximately 13% of supervised lenders filed a maximum rate in this category.
- After seeing a decrease in 2022, the highest APR and most frequent APR charged continued to increase in 2023 in almost every loan amount category. The largest increase occurred in the $600 or less category with a 11.55% increase in highest APR (279.70%) and approximately 12% in most frequent APR charged category (273.13%).
- Supervised lender transactions decreased by 10.9% in 2023. The amount advanced to consumers decreased by 18% ($2,288,310,403 in 2023 vs. $2,791,593,660 in 2022).

Executive Summary (continued)

DEFERRED PRESENTMENT (2023 DATA)

- Deferred presentment companies (aka payday lenders) saw a 36% decrease in the number of transactions, 35% decrease in amount advanced and a 36% decrease in fees charged year over year.

PAWN (2023 DATA)

- The number of pawnbrokers in the state remained stable.
- Pawn transactions entered into in 2023 decreased 3.8%.
- The amount loaned in 2023 decreased 0.6% ($50,419,021.83 vs. $50,719,403.00).

CREDIT COUNSELING (2023 DATA)

- Credit counselors funneled over $29 million to consumers' creditors in 2023, a 13% increase over 2022.
- The average amount of consumer debt was $22,259, 44% more than the $14,168 reported in 2022.

MORTGAGE (2023 DATA)

- The average appraised value of property increased approximately $11,000 to $357,450, a marked difference when compared to the $21,000 (2022), $33,000 (2021), $29,000 (2020) and $39,000 (2019) increases seen in past years. Average loan amounts increased just $2,000 to $268,652 slowing the upward trend that began in 2018.
- The average APR rose almost 2% to 6.7% in 2023. This surpasses the former highest average of 5.3% seen in 2011, the first year SCDCA published mortgage data.

Interest Rates & Creditors: General Filings

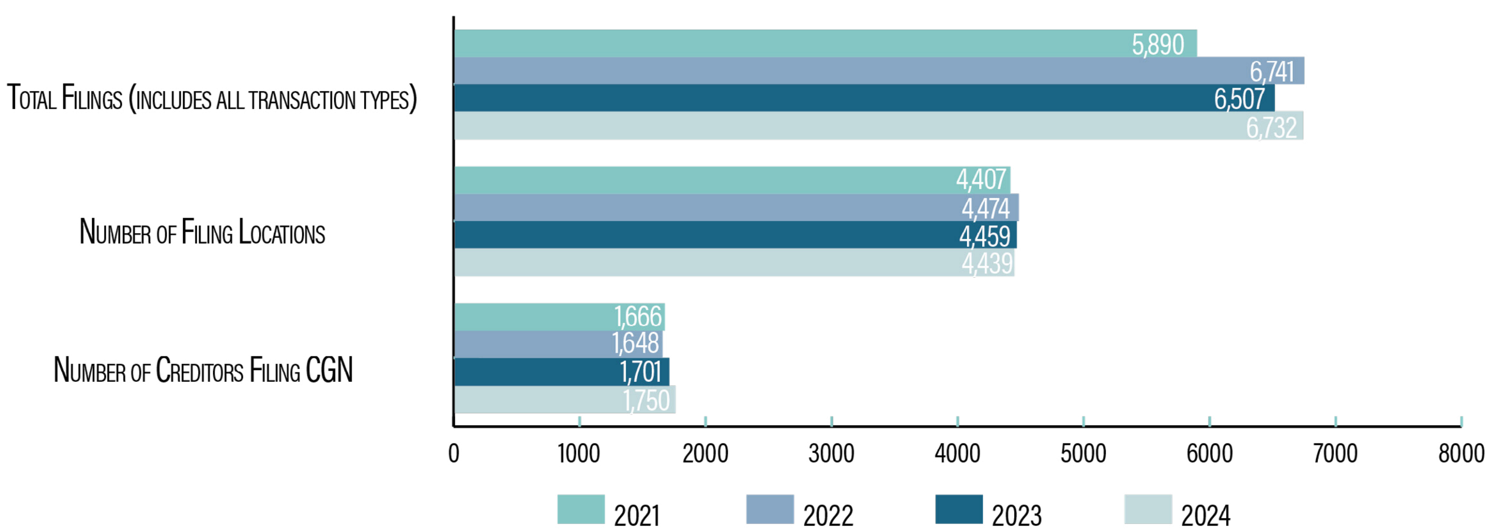
General Filings Overview

The Code provides requirements and restrictions for persons engaging in consumer credit transactions with South Carolina consumers. A "consumer credit transaction" is a consumer credit sale, a consumer loan, a consumer lease, or a consumer rental-purchase agreement. "Credit" is "the right granted by a creditor to a debtor to defer payment of or to incur debt and its payment." The general provisions of the Code are not industry specific and its requirements apply to any person or transaction meeting its definitions, which cover a broad swath of industries and consumer contracts. A "creditor" is the person who grants credit in a consumer credit transaction or an assignee thereof. The Code requires a person file certain information with the Department if threshold requirements are triggered.

Credit Grantor Notifications (CGNs)

Creditors whose annual gross volume of business exceeds $150,000, must file a consumer grantor notification with the Department if they: (1) make consumer credit sales, leases, or loans or engage in rent-to-own transactions; (2) take assignment of payments that arise from consumer credit sales, leases, loans, or rent-to-own transactions and engage in direct collection of those payments from debtors; or (3) take assignment of payments that arise from consumer credit sales, leases, loans, or rent-to-own transactions and enforce rights against debtors.

Credit Grantor Notification Filings (2021 - 2024)

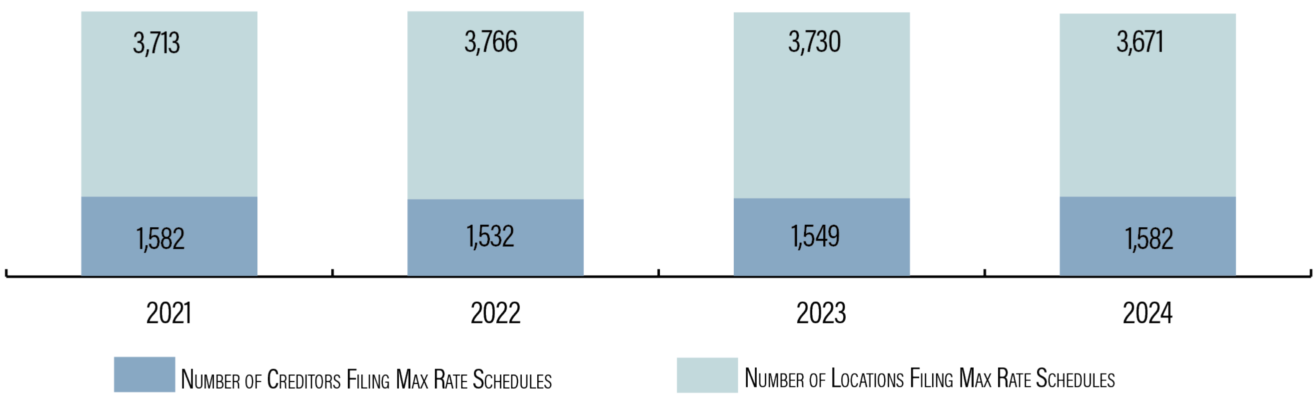


Maximum Rate Schedules

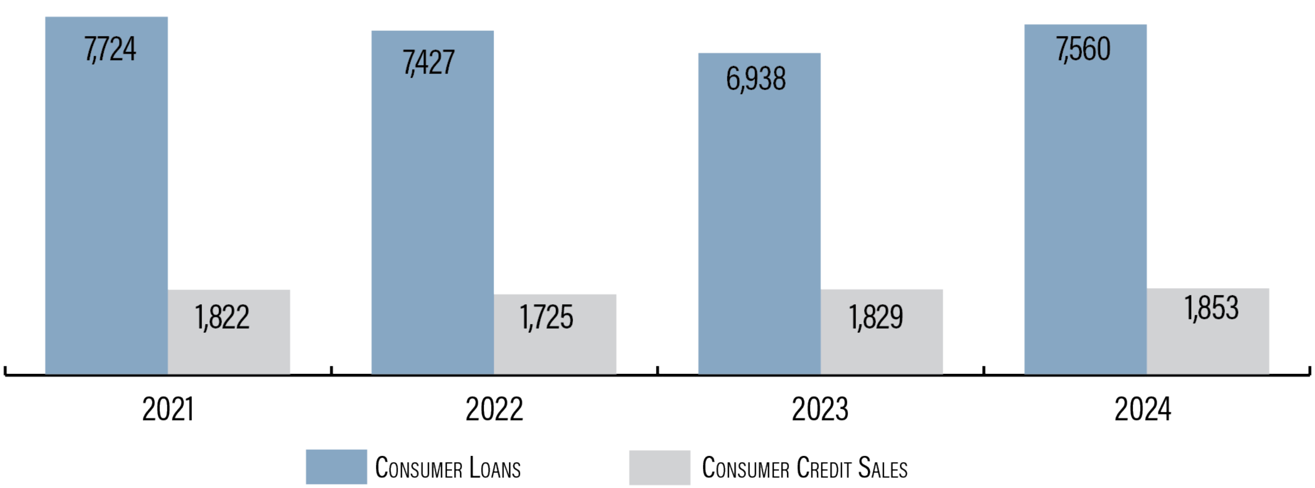
In South Carolina, creditors intending to charge more than 18% APR must first file the rate with SCDCA and post that same rate in its place of business. These maximum rate schedules are self-imposed limits set by each creditor, and must be filed for each credit category the creditor offers.

The rate schedule is meant to foster competition and help encourage the informed use of consumer credit, assisting consumers in comparing rates and understanding of the terms of a transaction. Maximum rates filed with SCDCA are posted at the creditor's business location and on SCDCA's website.

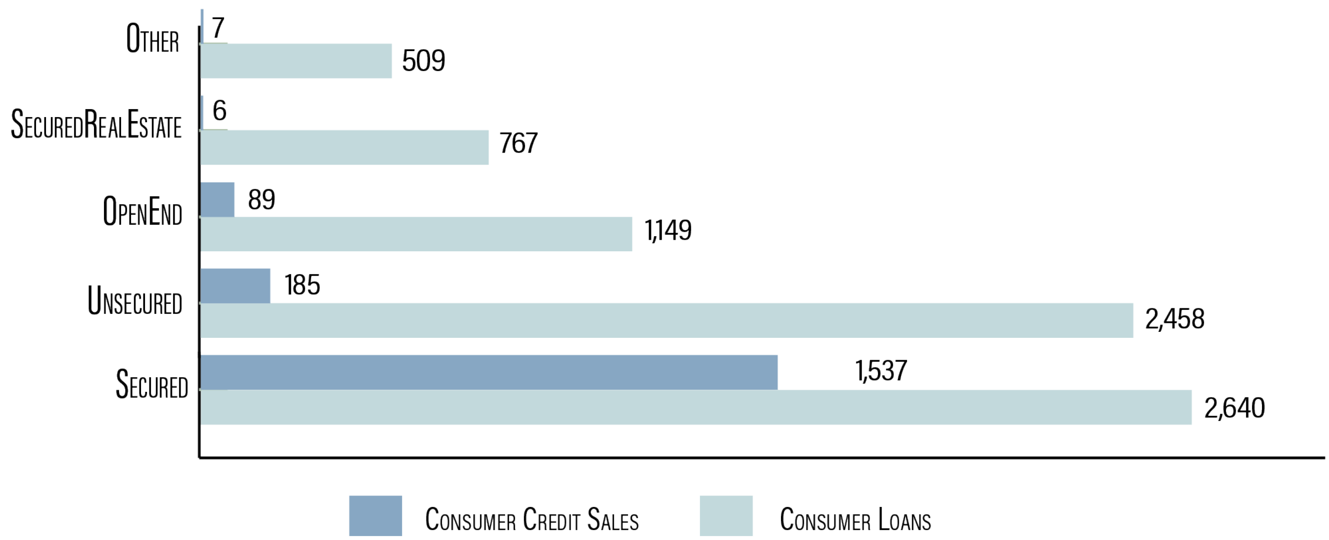
Number of Maximum Rate Filings by Creditor & Location (2021 - 2024)



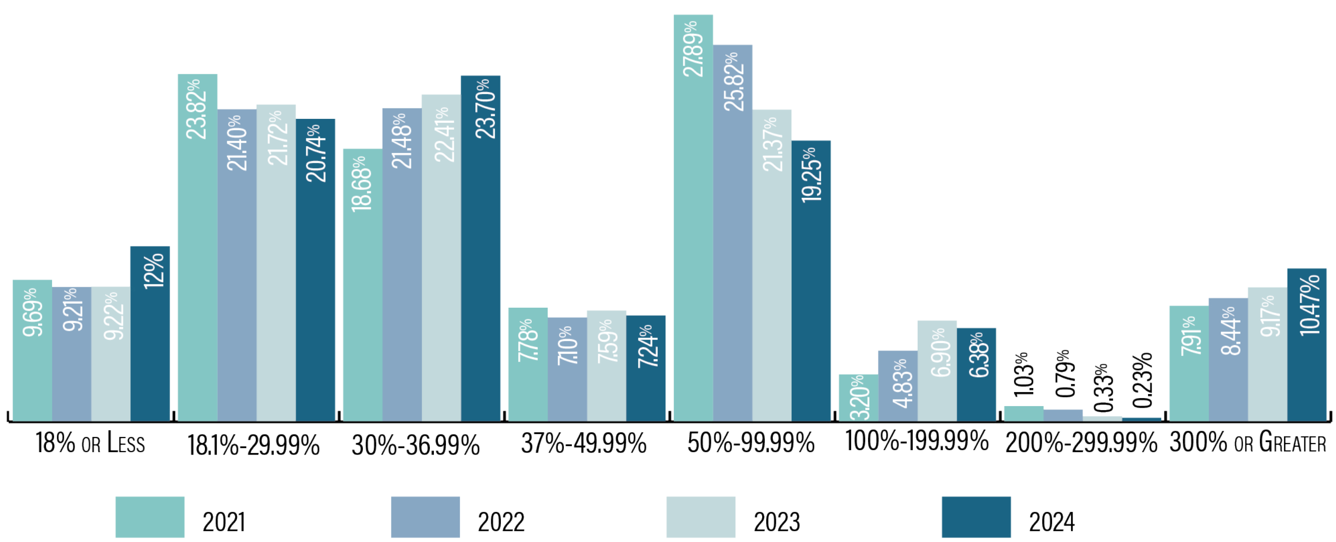
Total Maximum Rate Filings: Loans vs. Credit Sales (2021 - 2024)



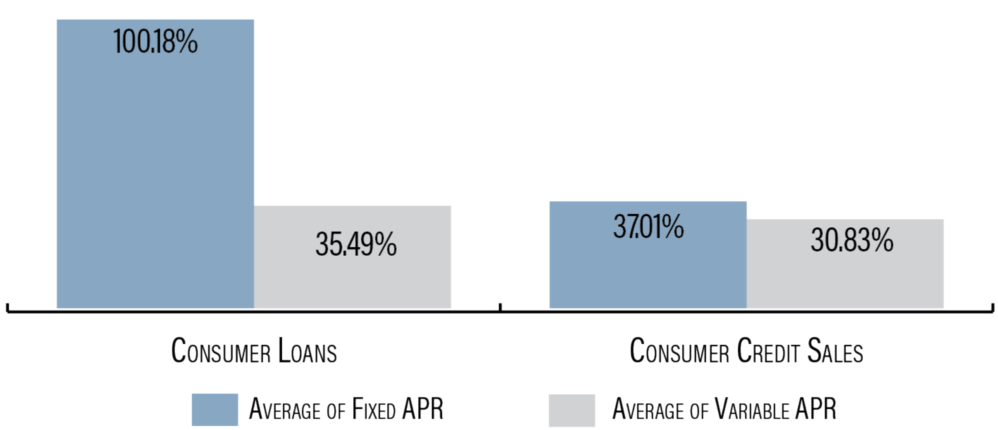
Number of Maximum Rate Filings by Type (2024)



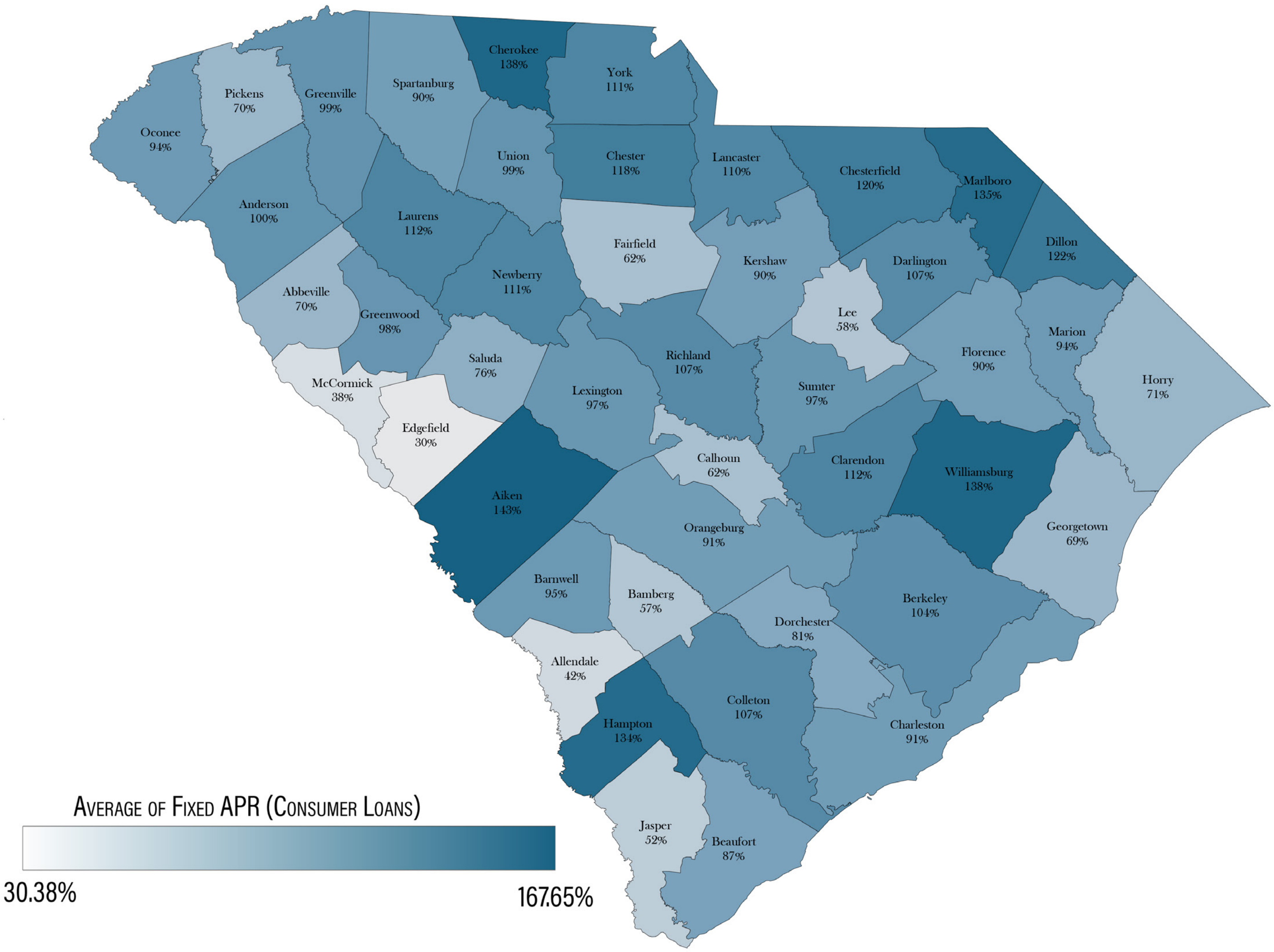
Maximum Rate Filings by APR Range: Year over Year Comparison (2021 - 2024)



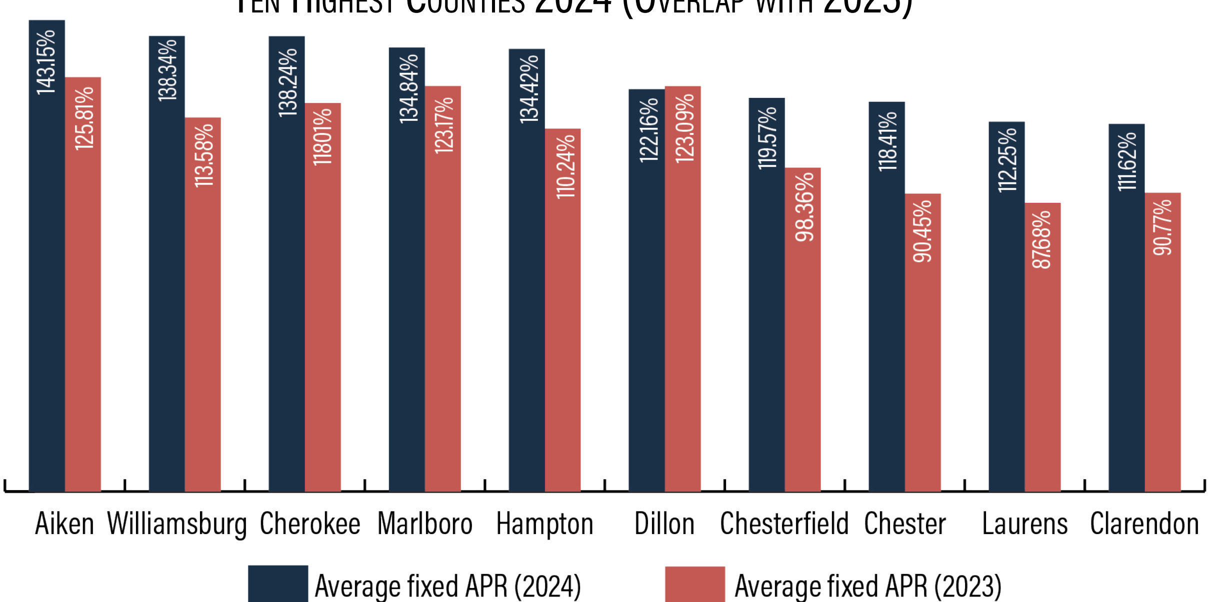
Average of Maximum Rate Filings by Transaction (2024)



Average of Fixed Maximum APR Filed by County (Consumer Loans) 2024



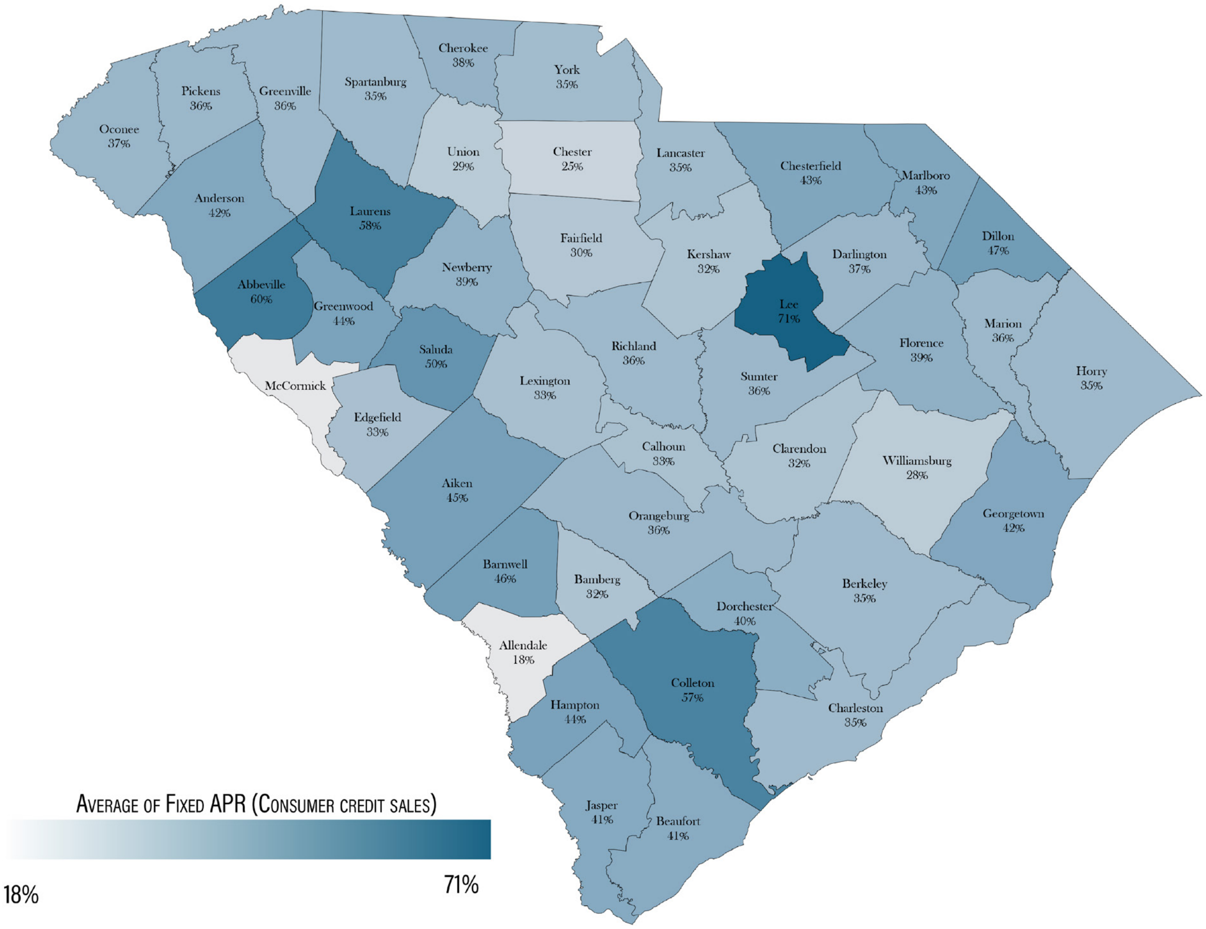
Average of Maximum Rates Filed (Consumer Loans) Ten Highest Counties 2024 (Overlap with 2023)



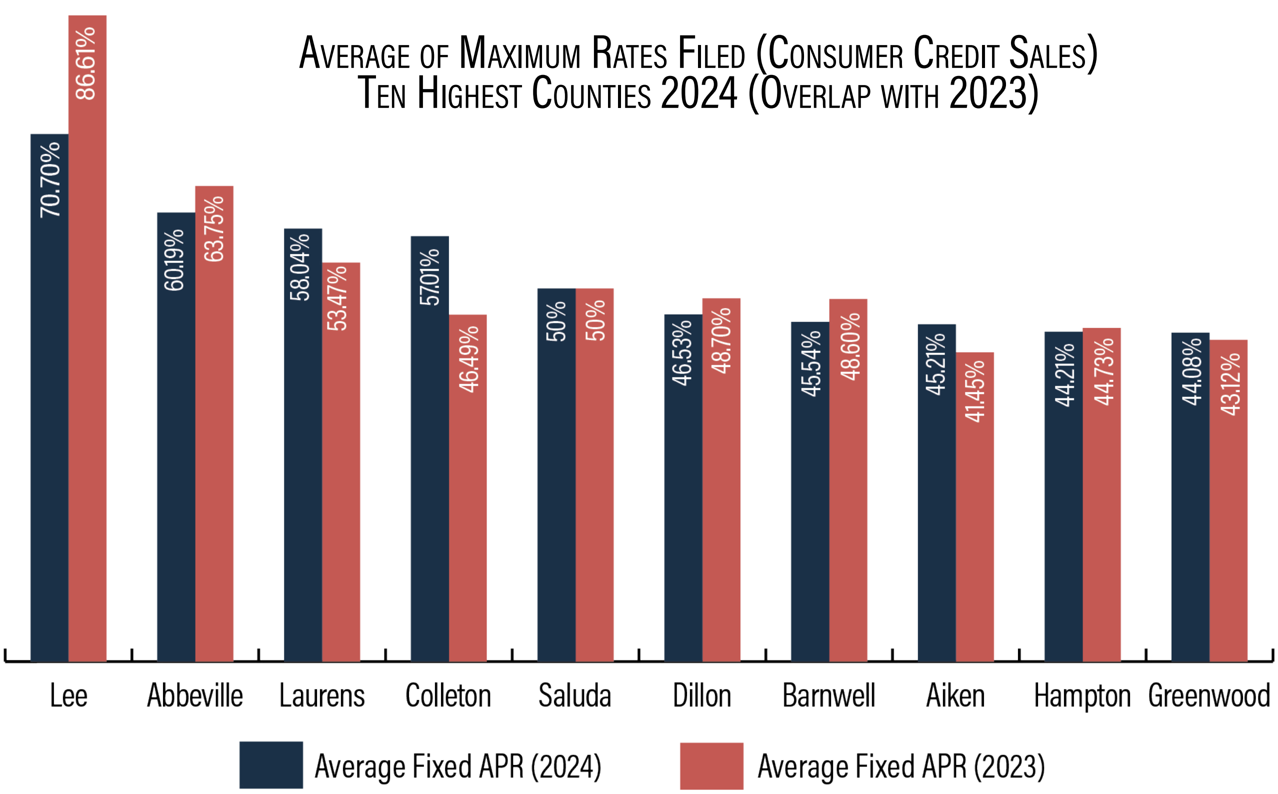
Highest & Average Maximum Rate Filed by County (Consumer Loans) Ranked by Highest Fixed APR

	Consumer Loans	Fixed APR		Variable APR	
Rank	County	Highest (Fixed APR)	Average (Fixed APR)	Highest (Variable APR)	Average (Variable APR)
1	Outside SC	850.00%	210.23%	110.00%	52.55%
2	Aiken	550.00%	143.15%	110.00%	43.07%
3	Williamsburg	550.00%	138.34%	110.00%	43.64%
4	Cherokee	550.00%	138.24%	110.00%	42.74%
5	Marlboro	550.00%	134.84%	38.00%	31.86%
6	Hampton	550.00%	134.42%	110.00%	41.75%
7	Dillon	550.00%	122.16%	110.00%	40.68%
8	Chesterfield	550.00%	119.57%	110.00%	36.68%
9	Chester	550.00%	118.41%	110.00%	38.39%
10	Laurens	550.00%	112.25%	110.00%	38.71%
11	Clarendon	550.00%	111.62%	36.00%	32.55%
12	York	550.00%	111.42%	110.00%	37.00%
13	Newberry	550.00%	111.36%	110.00%	39.91%
14	Lancaster	550.00%	110.26%	31.50%	25.50%
15	Richland	550.00%	107.30%	110.00%	34.16%
16	Colleton	550.00%	107.24	110.00%	53.21%
17	Darlington	550.00%	106.64%	110.00%	36.99%
18	Berkeley	550.00%	103.90%	110.00%	42.36%
19	Anderson	550.00%	100.09%	110.00%	28.64%
20	Greenville	550.00%	99.50%	110.00%	40.17%
21	Greenwood	550.00%	97.70%	110.00%	46.23%
22	Sumter	550.00%	97.36%	110.00%	45.52%
23	Lexington	550.00%	96.58%	110.00%	36.98%
24	Barnwell	550.00%	94.50%	110.00%	36.34%
25	Oconee	550.00%	93.74%	110.00%	31.16%
26	Marion	550.00%	93.63%	110.00%	40.71%
27	Orangeburg	550.00%	91.29%	110.00%	37.62%
28	Charleston	550.00%	91.26%	110.00%	36.80%
29	Spartanburg	550.00%	90.44%	110.00%	29.17%
30	Florence	550.00%	90.41%	110.00%	39.28%
31	Kershaw	550.00%	89.83%	110.00%	41.06%
32	Beaufort	550.00%	87.04%	96.00%	34.42%
33	Dorchester	550.00%	80.89%	110.00%	32.41%
34	Horry	550.00%	70.61%	110.00%	27.63%
35	Pickens	550.00%	69.75%	110.00%	29.51%
36	Georgetown	550.00%	69.27%	110.00%	30.97%
37	Union	359.00%	99.21%	25.00%	25.00%
38	Jasper	325.53%	51.56%	96.00%	42.71%
39	Saluda	300.00%	76.26%	31.50%	27.35%
40	Abbeville	300.00%	70.08%	50.00%	31.53%
41	Bamberg	300.00%	57.42%	31.50%	27.35%
42	Calhoun	169.00%	62.00%	25.00%	22.00%
43	McCormick	140.00%	37.97%	31.50%	25.82%
44	Fairfield	99.99%	62.24%	31.50%	27.35%
45	Lee	99.99%	57.79%	36.00%	31.67%
46	Allendale	99.99%	41.82%	36.00%	36.00%
47	Edgefield	99.99%	30.38%	31.50%	27.35%

Average of Fixed Maximum APR Filed by County (Consumer Credit Sales) 2024



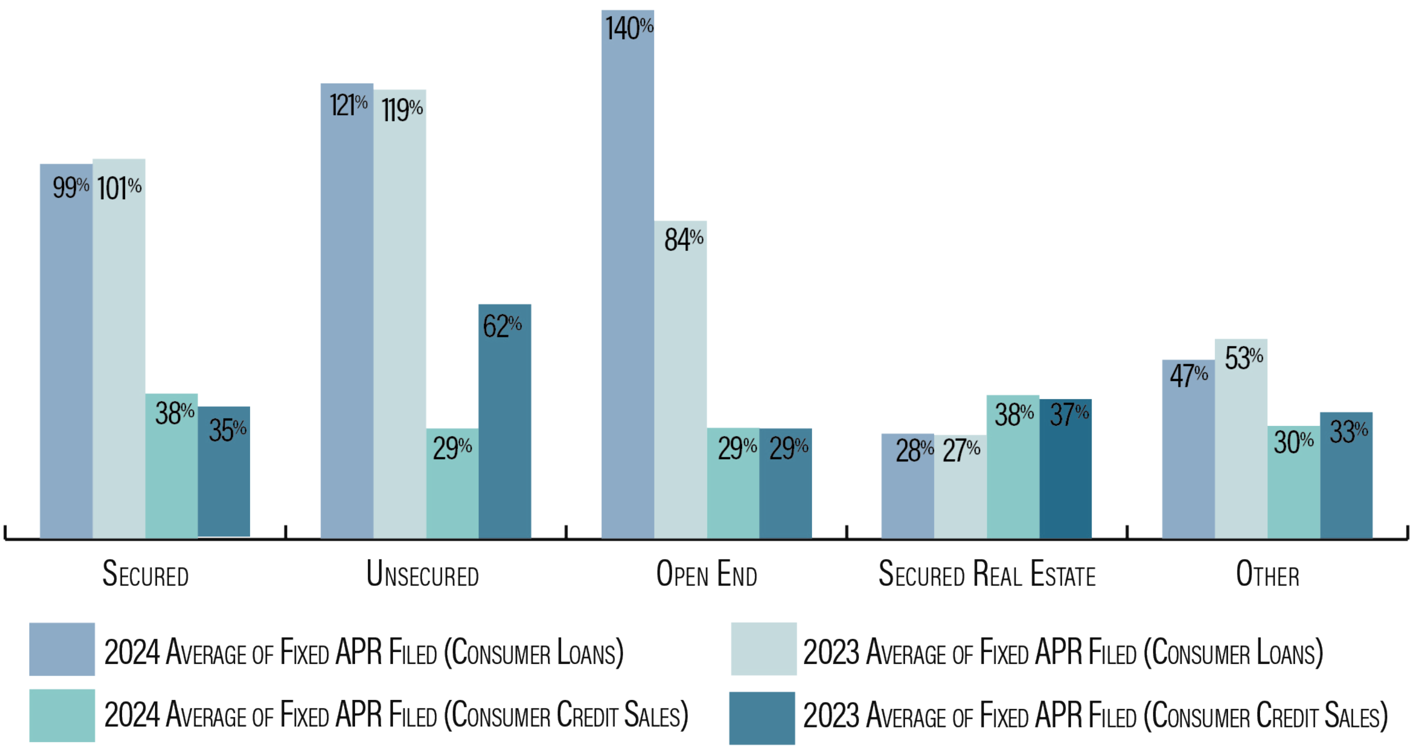
Average of Maximum Rates Filed (Consumer Credit Sales) Ten Highest Counties 2024 (Overlap with 2023)



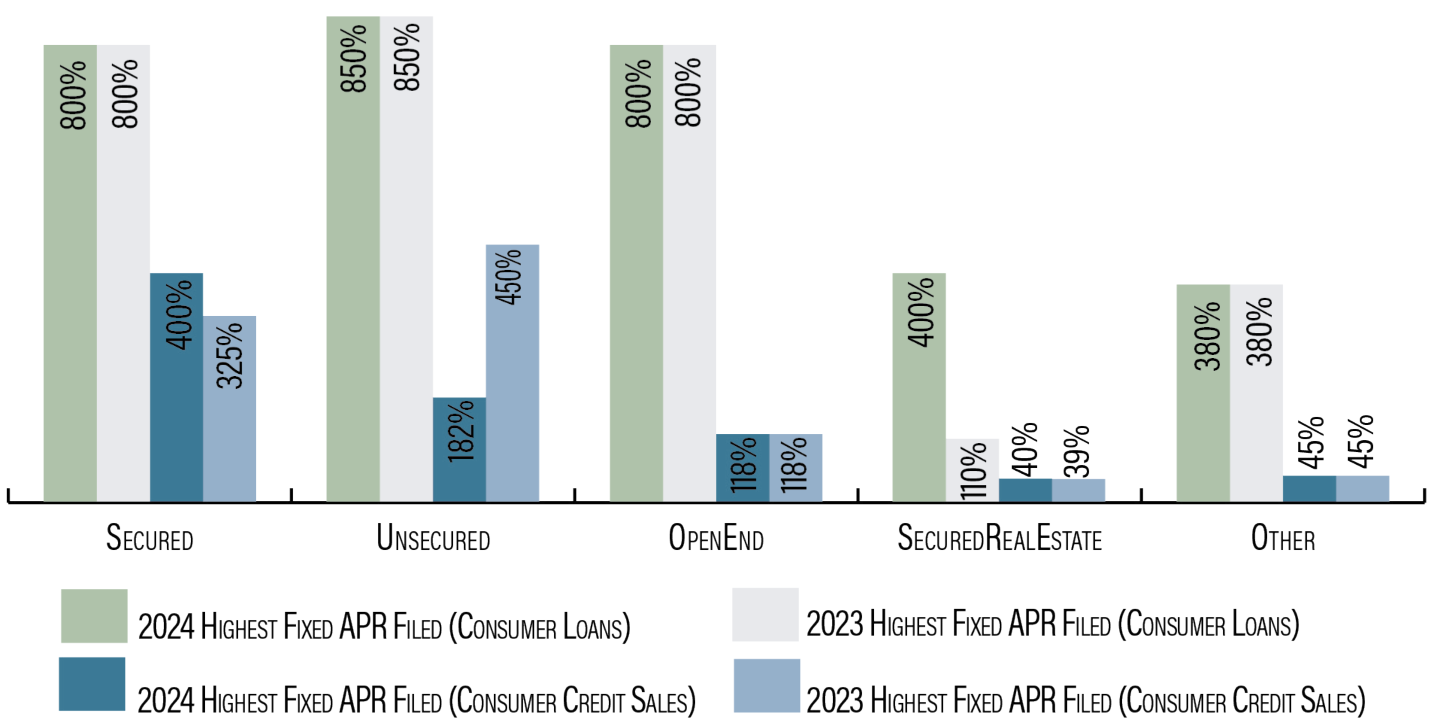
Highest & Average Maximum Rate Filed by County (Credit Sales) Ranked by Highest Fixed APR

	Consumer Credit Sales	Fixed APR		Variable APR	
	County	Highest (Fixed APR)	Average (Fixed APR)	Highest (Variable APR)	Average (Variable APR)
1	Colleton	400.00%	57.01%	0.00%	0.00%
2	Aiken	355.00%	45.21%	0.00%	0.00%
3	Anderson	325.00%	42.44%	0.00%	0.00%
4	Spartanburg	240.00%	35.21%	36.00%	36.00%
5	Beaufort	200.00%	40.78%	50.00%	37.50%
6	Outside SC	182.00%	30.62%	29.99%	29.99%
7	Abbeville	170.00%	60.19%	0.00%	0.00%
8	Laurens	170.00%	58.04%	0.00%	0.00%
9	Dillon	170.00%	46.53%	0.00%	0.00%
10	Barnwell	170.00%	45.54%	0.00%	0.00%
11	Hampton	170.00%	44.21%	0.00%	0.00%
12	Greenwood	170.00%	44.08	0.00%	0.00%
13	Marlboro	170.00%	42.99%	0.00%	0.00%
14	Chesterfield	170.00%	42.92%	39.00%	39.00%
15	Georgetown	170.00%	42.27%	0.00%	0.00%
16	Jasper	170.00%	41.39%	0.00%	0.00%
17	Dorchester	170.00%	39.93%	0.00%	0.00%
18	Florence	170.00%	38.87%	29.00%	20.75%
19	Newberry	170.00%	38.66%	0.00%	0.00%
20	Cherokee	170.00%	37.87%	0.00%	0.00%
21	Darlington	170.00%	36.65%	0.00%	0.00%
22	Pickens	170.00%	36.19%	0.00%	0.00%
23	Orangeburg	170.00%	36.14%	29.99%	24.00%
24	Sumter	170.00%	36.14%	29.00%	25.67%
25	Marion	170.00%	36.10%	0.00%	0.00%
26	Richland	170.00%	35.56%	0.00%	0.00%
27	Greenville	170.00%	35.51%	50.00%	31.40%
28	Horry	170.00%	35.41%	0.00%	0.00%
29	Charleston	170.00%	35.10%	0.00%	0.00%
30	Lancaster	170.00%	34.85%	0.00%	0.00%
31	York	170.00%	34.55%	0.00%	0.00%
32	Lexington	170.00%	33.13%	0.00%	0.00%
33	Lee	118.00%	70.70%	0.00%	0.00%
34	Oconee	100.00%	36.74%	40.00%	40.00%
35	Berkeley	99.90%	35.20%	39.00%	31.25%
36	Clarendon	60.00%	31.88%	0.00%	0.00%
37	Saluda	50.00%	50.00%	0.00%	0.00%
38	Union	50.00%	28.86%	0.00%	0.00%
39	Williamsburg	50.00%	28.33%	35.00%	35.00%
40	Kershaw	48.00%	31.81%	0.00%	0.00%
41	Edgefield	46.00%	32.75%	0.00%	0.00%
42	Fairfield	45.00%	30.48%	0.00%	0.00%
43	Bamberg	40.00%	31.67%	0.00%	0.00%
44	Chester	40.0%	25.09%	0.00%	0.00%
45	Calhoun	36.00%	32.63%	0.00%	0.00%
46	Allendale	18.00%	18.00%	0.00%	0.00%

Average of Fixed APR Filed by Type & Category (2023/2024)



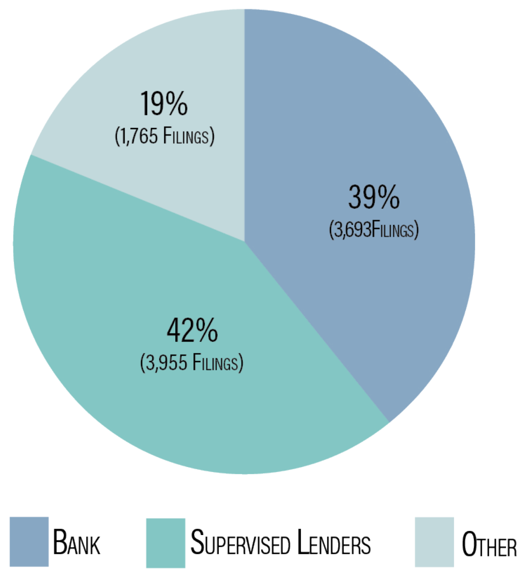
Highest APR Filed by Type & Category (2023/2024)



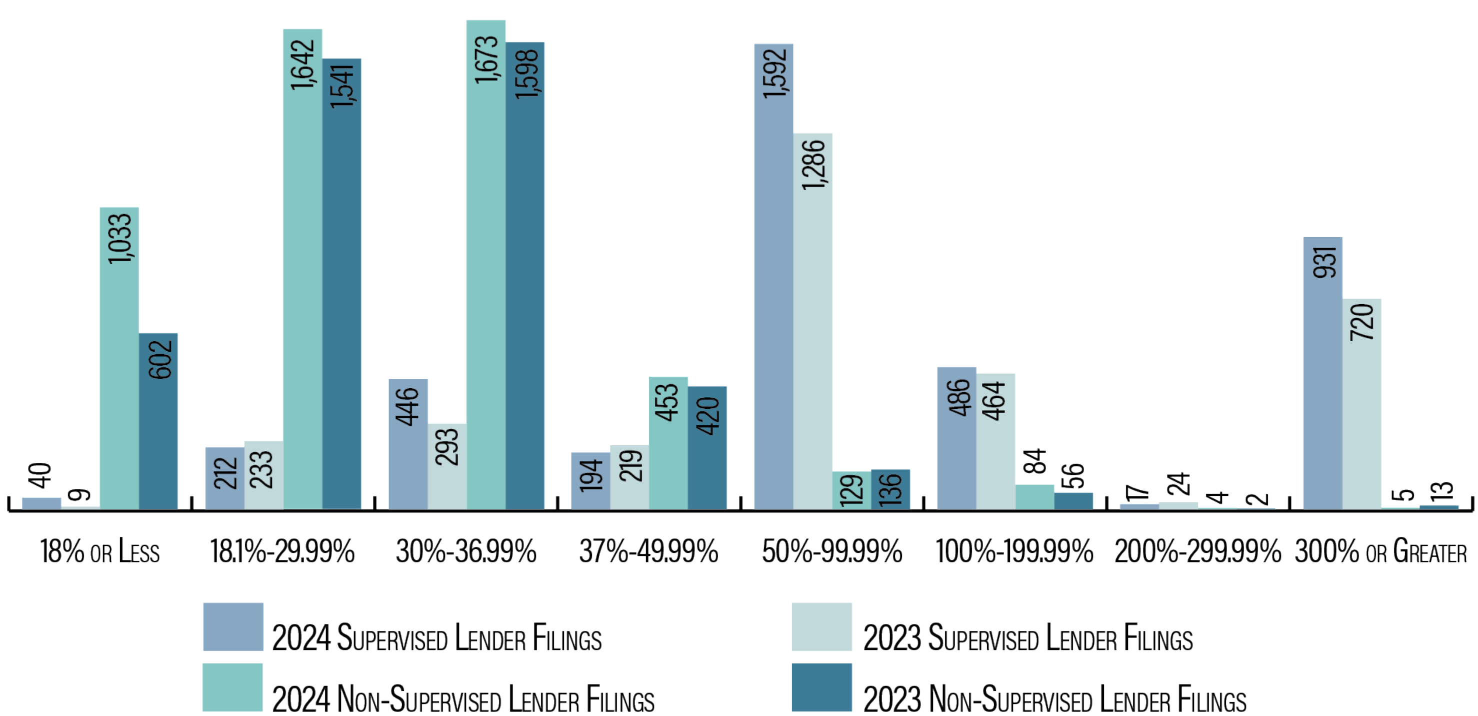
Consumer Lending

Consumer loan transactions, which account for the majority of maximum rate filings, are comprised of various industries, or registered creditor types. While the Code contains provisions for consumer loans similar to those for credit sales, rent-to-own transactions and leases, additional requirements and consumer protections are contained in Chapter Three with which lenders must comply. This includes specific regulation of lenders offering loans in excess of 12% APR. Some consumer loan products, however, are regulated by other titles, including deferred presentment and pawn transactions.

Number of Maximum Rate Filings by Industry Type (2024)



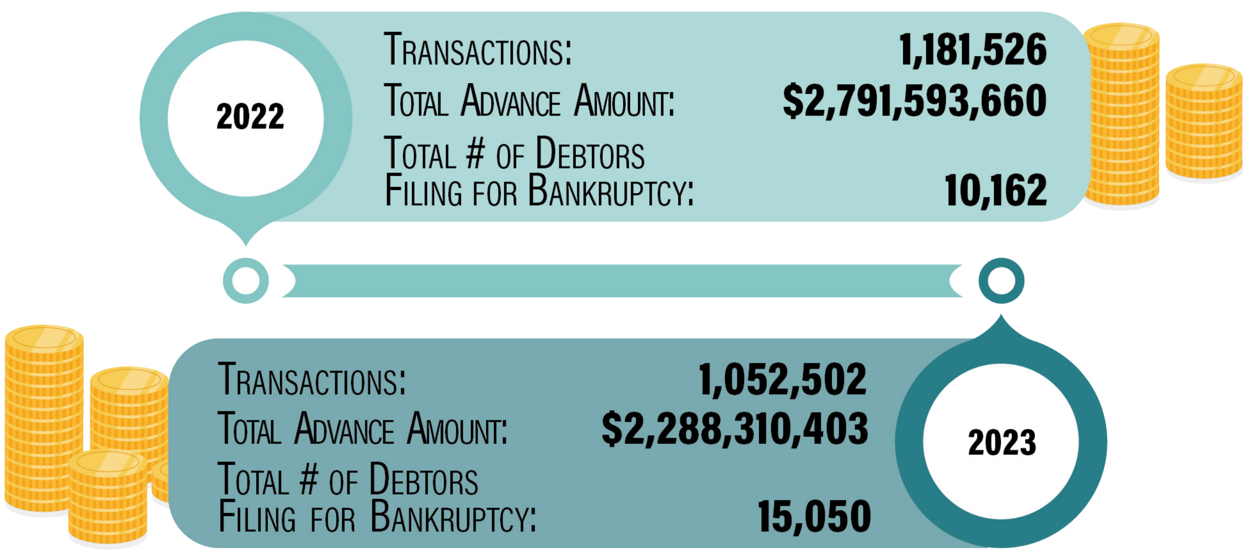
Maximum Rate Filings by Range:
Supervised Lenders & Non-supervised Lenders (2023/2024)



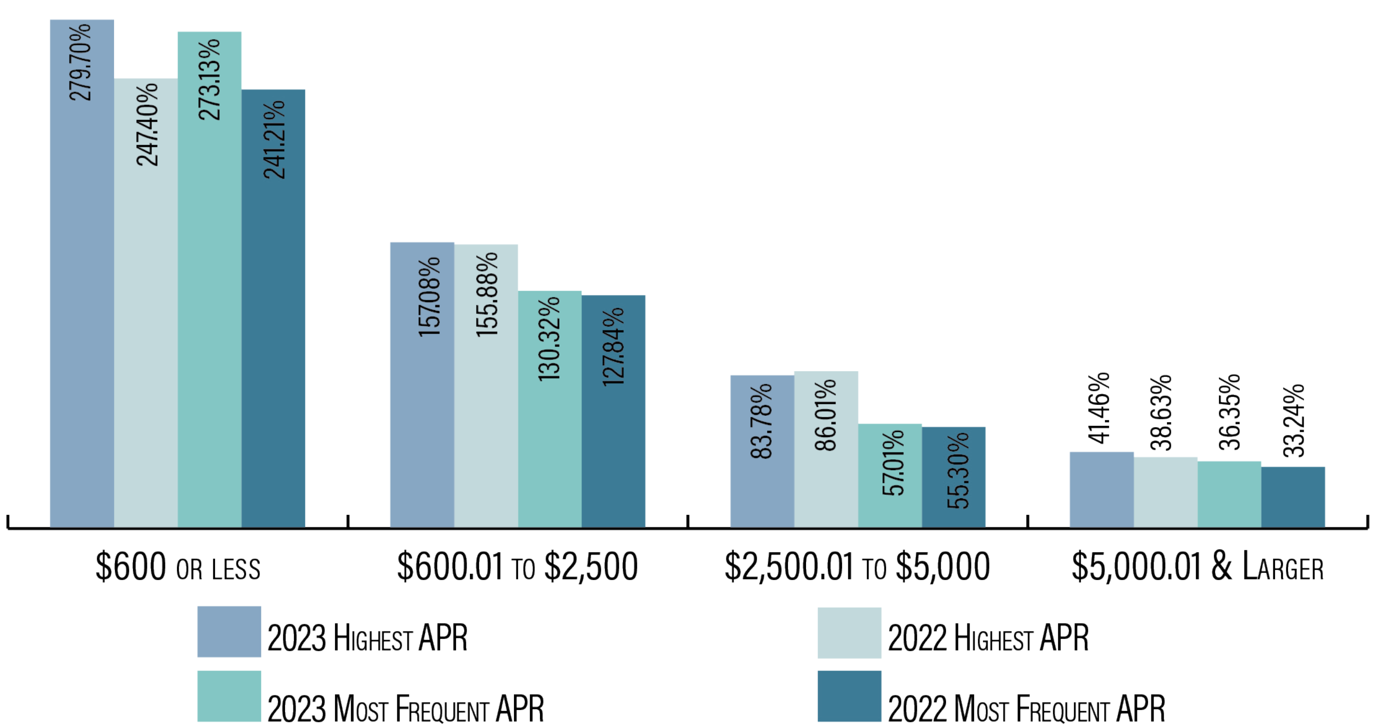
Supervised Lending

Supervised loans are governed by the Code, specifically section 37-3-500 et seq. Supervised loans are consumer loans in which the rate of the loan finance charge exceeds 12% APR. A supervised lender is a person who is authorized to make or take assignments of supervised loans. These lenders are licensed and examined by the South Carolina Board of Financial Institution's Consumer Finance Division. A supervised lender who charges more than 18% APR must also file its rate with the Department and post that rate in its place of business. However, for loans not exceeding $600, the supervised lender may not file or post a rate in excess of that set by statute for restricted lenders under section 34-29-140.

Supervised Lending

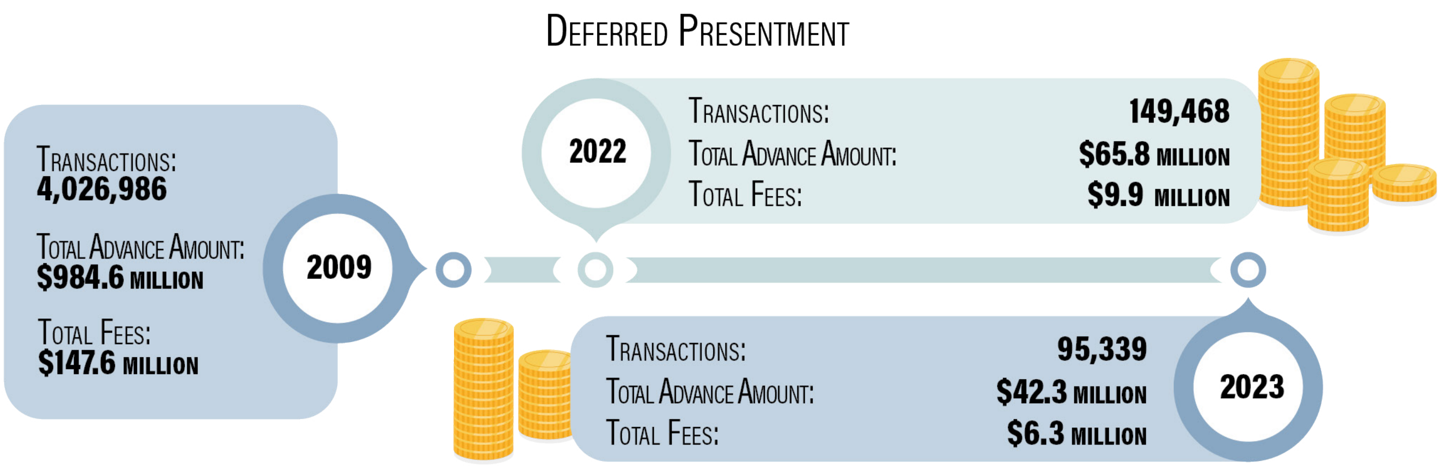


Highest and Most Frequent APR Charged by Loan Amount (Weighted Averages)

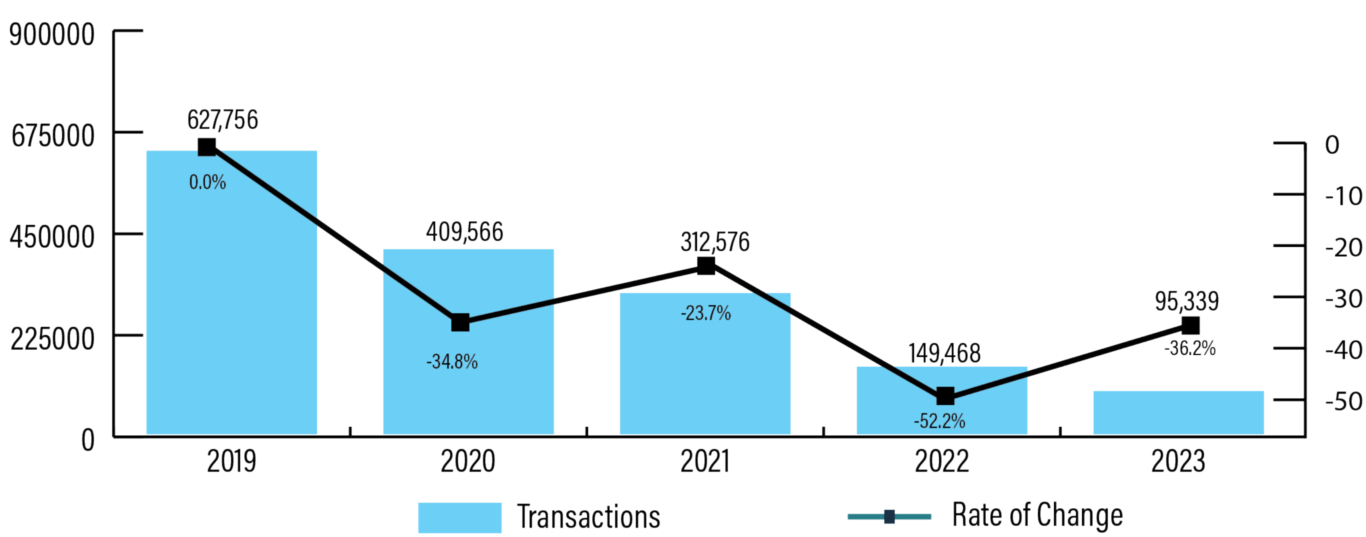


Deferred Presentment

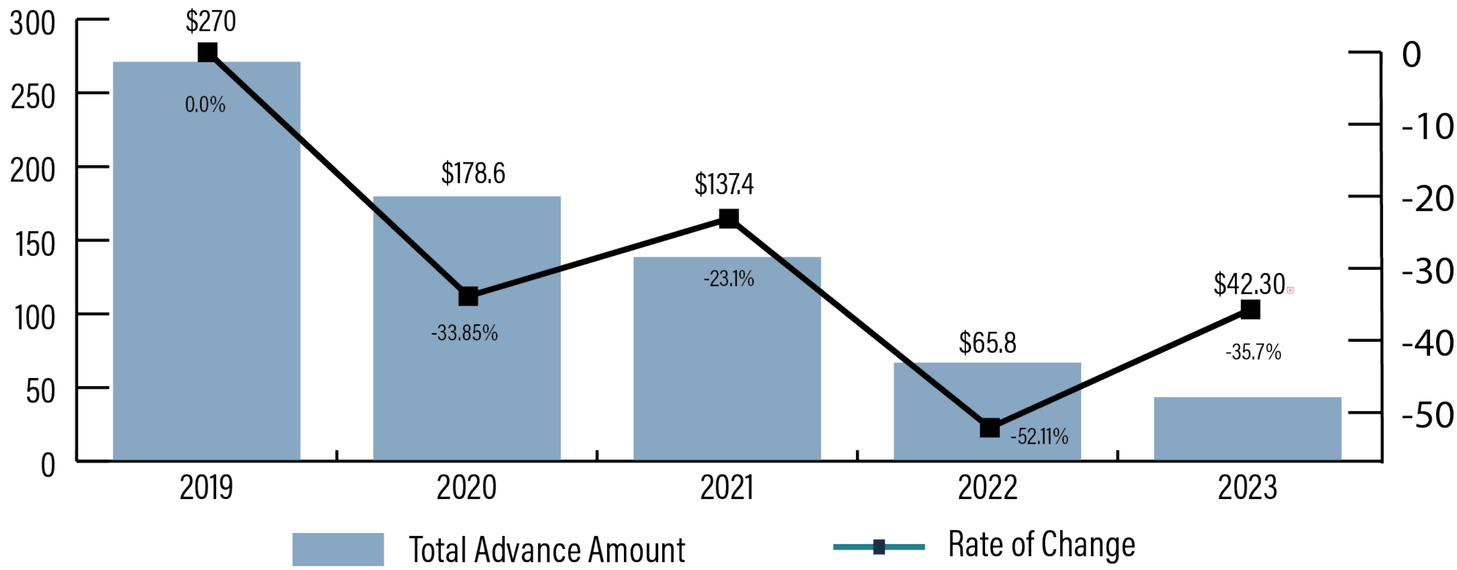
Deferred presentment is commonly referred to as a "payday loan." A "payday loan" is when a lender charges a fee to accept a check dated on the date it was written and agrees to hold the check for a period of time before presentment for payment or deposit. These high rate lenders often charge at or above 300% APR.



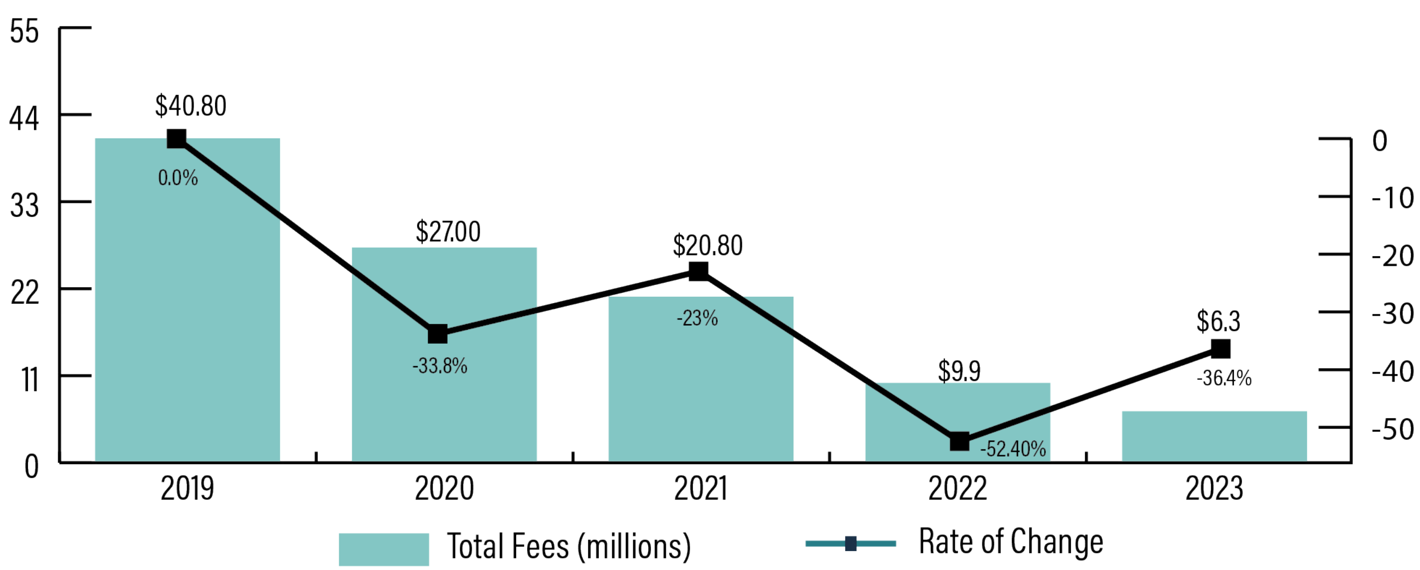
Deferred Presentment Total Number of Transactions: Rate of Change (2019 - 2023)



Deferred Presentment Total Advance Amounts: Rate of Change (2019 - 2023)



Deferred Presentment Total Fees: Rate of Change (2019 - 2023)

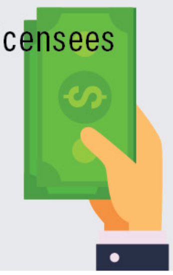


Pawnbrokers

Section 40-39-10(2) of the South Carolina Code of Laws defines "pawnbroker" as "any person engaged in the business of lending money on the security of pledged goods or engaged in the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time." No person may engage in the business of a pawnbroker without first obtaining a Certificate of Authority from the Department for each location. As a regulated industry, pawnbrokers must keep certain records as required by law, including documentation of every pawn or purchase transaction by a pawnbroker.

Total # Pawn Transactions for Licensees
362,128

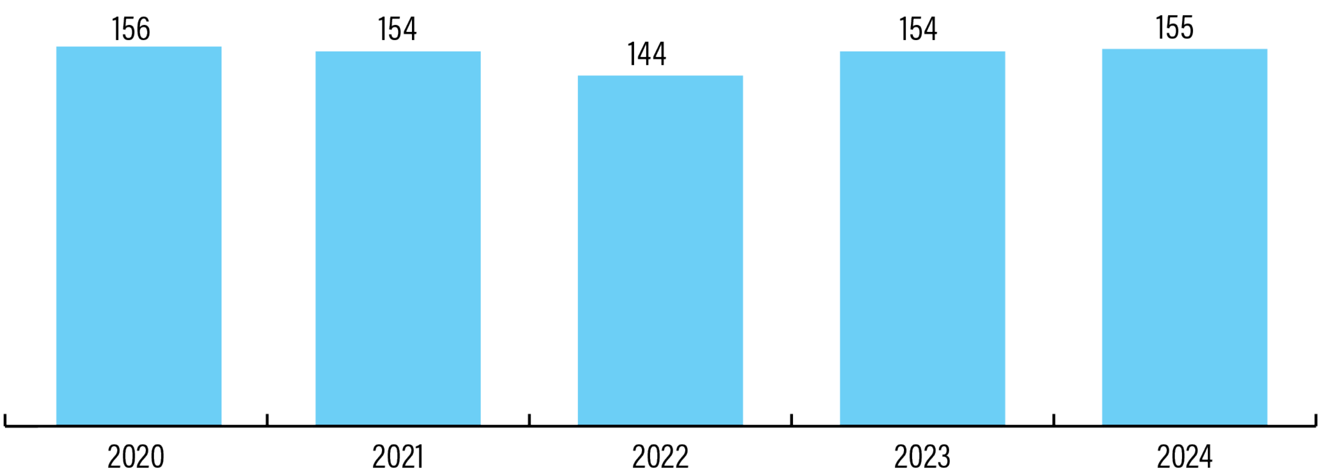
Interest Collected
$14,473,349



Amount Advanced
$50,419,022

Average Amount Advanced
$333,901

Number of Licensed Pawnbrokers (2020 - 2024)



Credit Counseling

The Consumer Credit Counseling Act (the "CCCA") went into effect on December 2, 2005. The CCCA requires consumer credit counseling organizations, which are businesses offering or providing credit counseling services for a fee, compensation or gain, to obtain a license from SCDCA for each location. Employees of these organizations who are involved with providing the credit counseling services, "credit counselors" under the CCCA, must also obtain a license. The industries that must comply with the CCCA can generally be divided into three categories: (1) Debt management/debt consolidation businesses, (2) Credit repair businesses, and (3) Debt settlement/negotiation businesses.

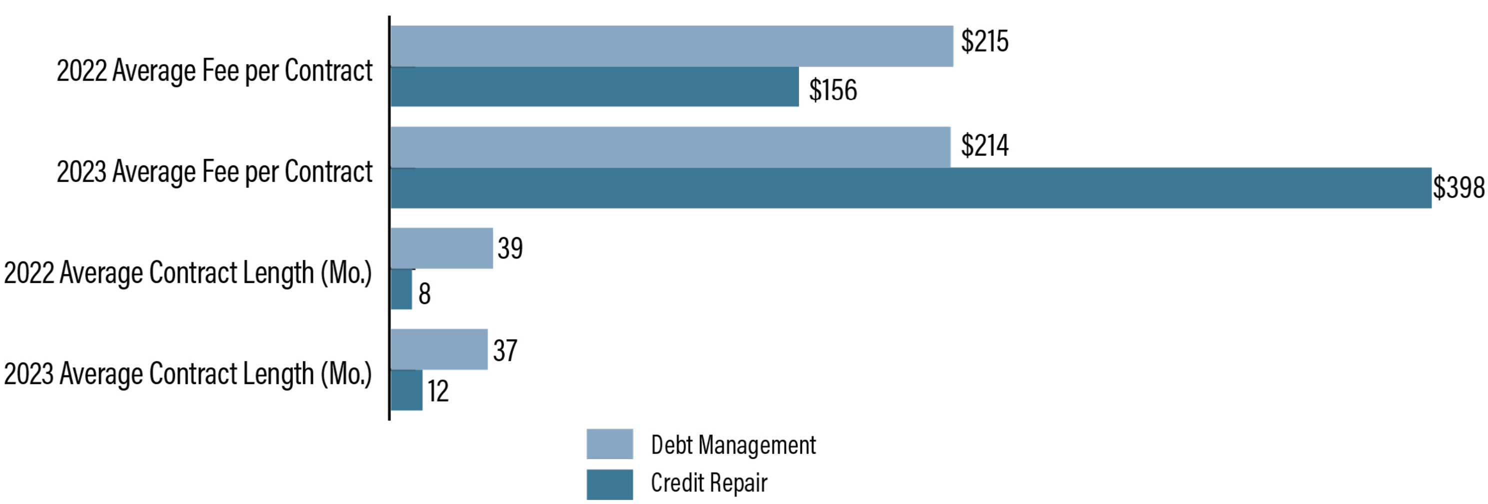
2022

Number of Licensed Credit Counselor Organizations:	**91**
Total # of New Consumer Contracts:	**35,166**
Average Length of Contract (Months):	**25**
Average Amount of Debt per Customer:	**$14,168**
Money Paid to Consumers' Creditors:	**$26,464,128**
Percent of Contracts Completed:	**29%**

2023

Number of Licensed Credit Counselor Organizations:	**69**
Total # of New Consumer Contracts:	**17,417**
Average Length of Contract (Months):	**26**
Average Amount of Debt per Customer:	**$22,259**
Money Paid to Consumers' Creditors:	**$29,900,505**
Percent of Contracts Completed:	**29%**

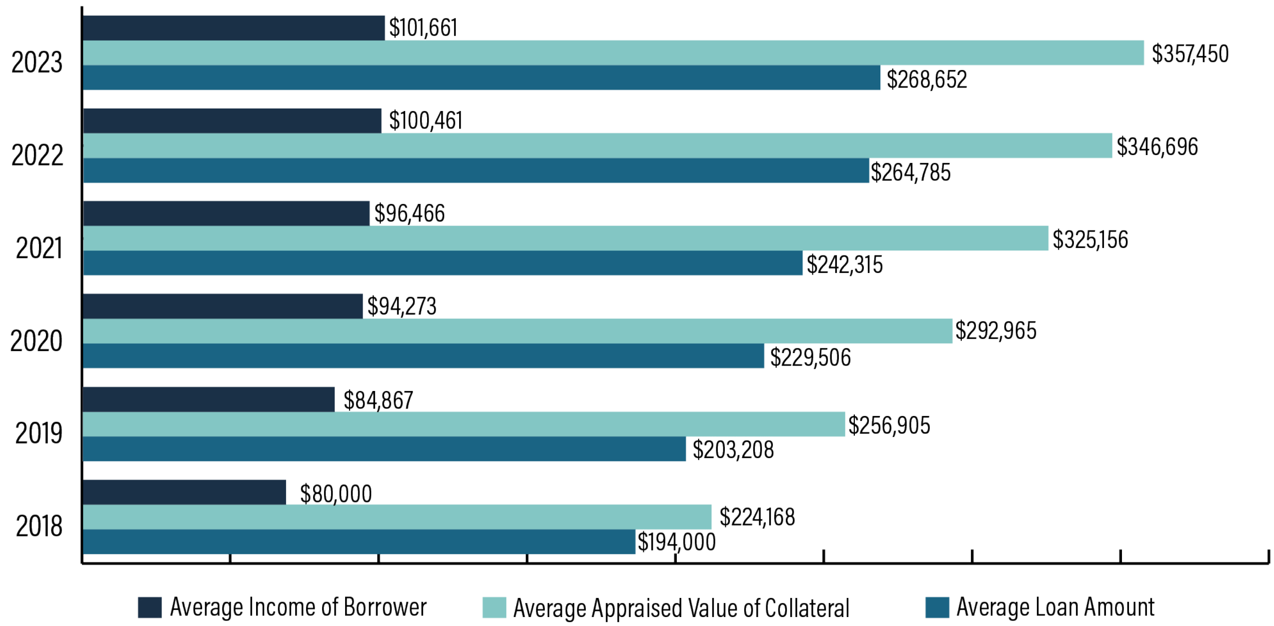
Credit Counseling Contracts by Company Type (2022/2023)



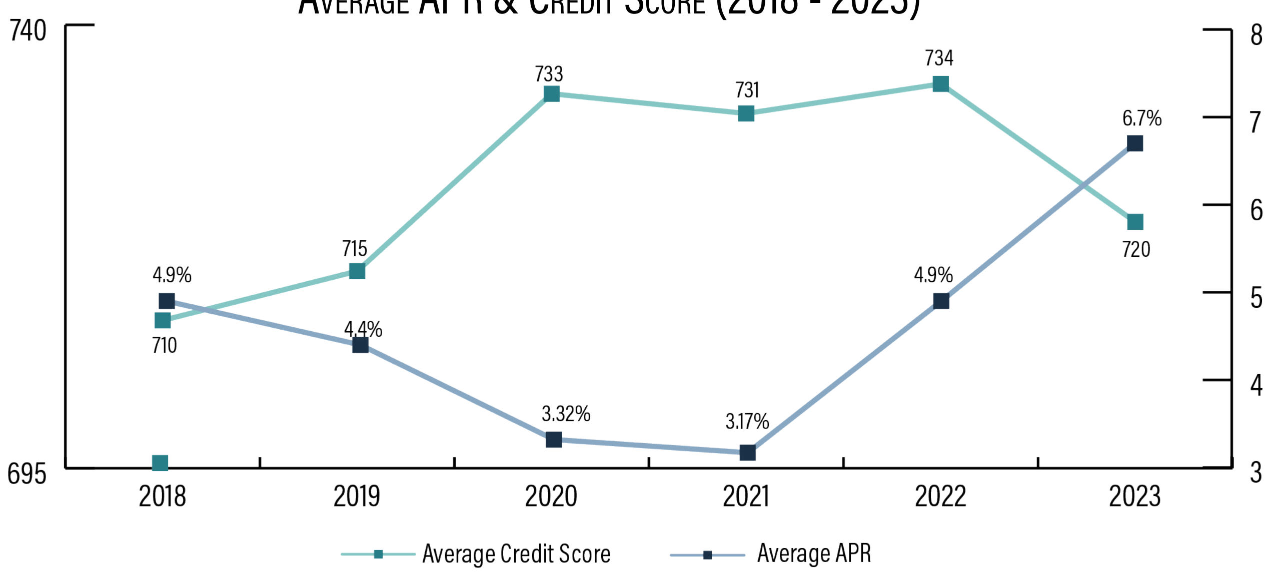
Mortgage Lending

SCDCA has regulated mortgage loan brokers since 1988, and mortgage loan originators since 2005, pursuant to the Mortgage Brokers Act, S.C. Code Ann. section 40-58-10 et seq. The South Carolina Board of Financial Institution's Consumer Finance Division has regulated mortgage lenders/servicers and their mortgage loan originators since 2009 pursuant to the Mortgage Lending Act, S.C. Code Ann. section 37-22-110 et seq. The Mortgage Brokers and Lenders Acts require lenders, servicers, and brokers in the mortgage industry to maintain accurate records and annually report certain mortgage data to the state. This data is compiled annually in the form of the Mortgage Log Report. Certain trends and data were pulled from the reports and included herein. The complete Report can be viewed on SCDCA's website.

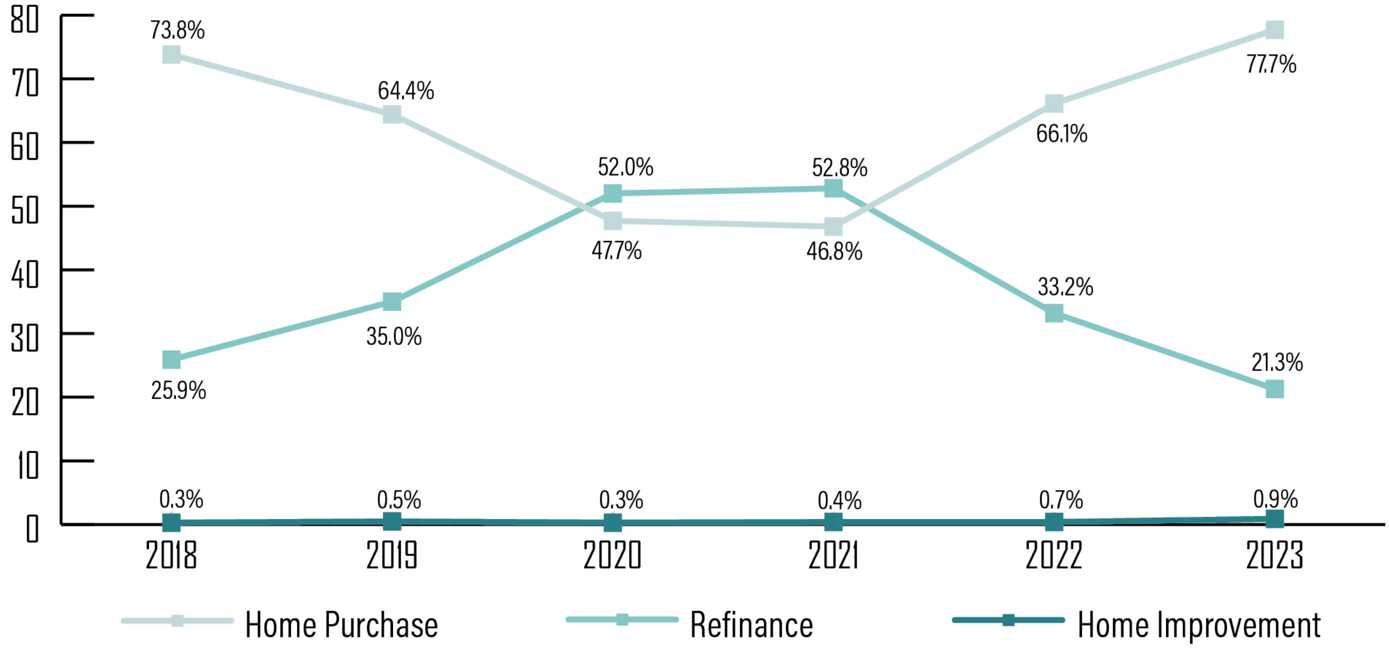
Averages: Loan Amount, Value of Collateral & Borrower's Income (2018 - 2023)



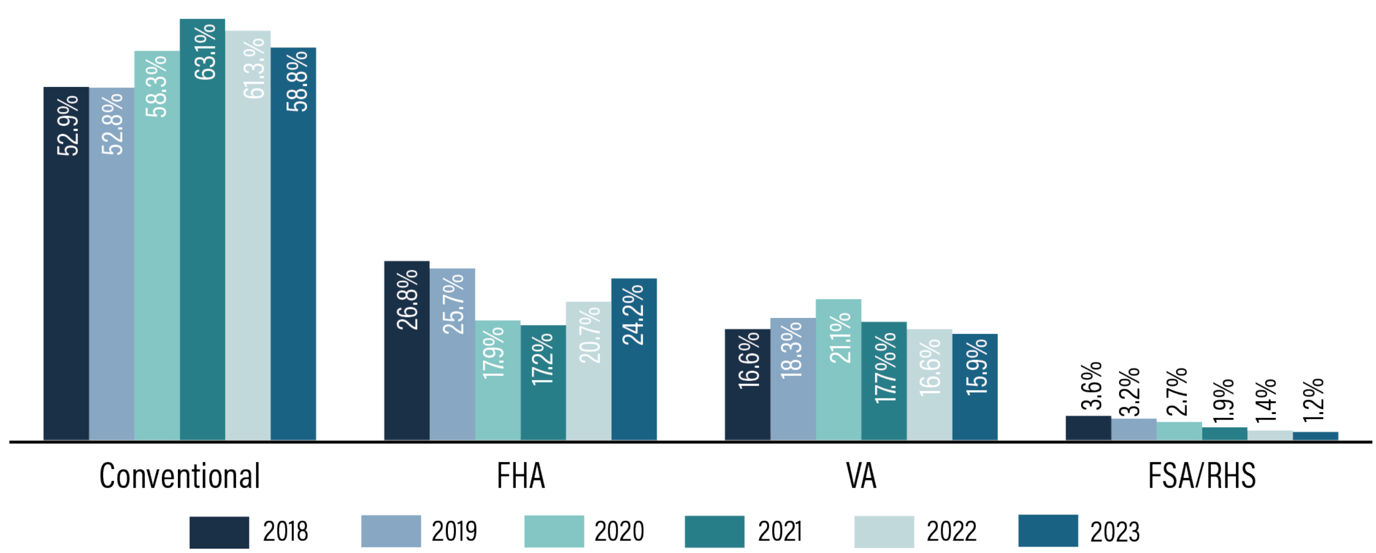
Average APR & Credit Score (2018 - 2023)



Loan Purpose (2018 - 2023)



Mortgage Loan Type (2018 - 2023)



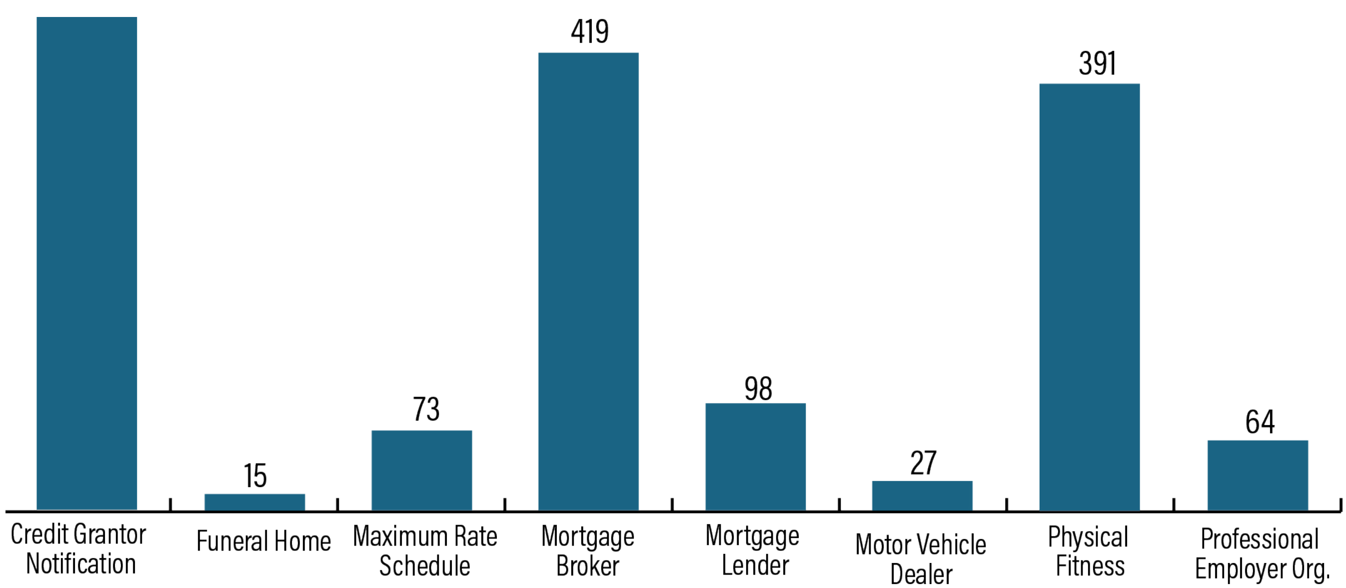
Appendix: Recent Enforcement Actions

Introduction

Overall, the agency's outcome of credits, refunds and adjustments for FY24 through efforts in complaint mediation and enforcement was nearly $2,000,000. This amount constitutes almost 42% of the agency's FY24 budget ($4,506,384). The amount fluctuates from year to year due to the unpredictability in forecasting results of enforcement actions and complaint resolutions due to the varied complexity of matters brought before the Department. The most recent court action in which the Department participated was not an enforcement action, but a matter between a debt buyer and a consumer.

At times, the Department requests a court permit it to file an Amicus Curiae Brief when a case could significantly impact the application of the South Carolina Consumer Protection Code (Code). The Court of Appeals granted the Department such a request in *Portfolio Recovery Associates, LLC v. Jennifer Campney*[1]. The Department submitted its brief and participated in oral arguments relaying its position that consumer debt incurred using a lender credit card is subject to the Code and the notice of a right to cure requirement applies to all creditors, including assignees. In August 2023, the Court of Appeals issued an Order holding, in part, that consumer credit cards are subject to the Code and that the plaintiff debt buyer was required to send a right to cure notice before suing the consumer on the debt. The matter is pending before the Supreme Court who granted the Department permission to submit an amicus brief at this level as well.

406 Enforcement Actions During FY24



*Note: One enforcement action could result in multiple remedies (e.g. fines, refunds, or credits/adjustments).

Non-depository financial institutions and other regulated industries submitted **31,211 filings** and applications, approximately **1,000 more than FY23** and a 16% increase when compared to FY20 (26,799). Despite the filing increase and staffing vacancies, DCA staff exceeded the goal to process 95% within thirty days of receipt (actual was 96%). During the same time period, investigators conducted 585 advisories, compliance reviews, contacts and inspections. The Department strives to conduct compliance reviews of at least twenty-five percent of licensees annually to ensure continued compliance. In FY24, agency investigators reviewed 25.8% of licensees. Special investigations of licensed and unlicensed businesses may also be conducted upon receipt of consumer complaints, industry tips or reports or requests from other state or federal agencies. With the increase in licensees, investigators also spent significant time visiting new businesses to educate them on applicable laws. In FY24, **23% of investigator activities** were attributed to these **outreach/educational efforts**.

Some highlights of issues identified through recent compliance reviews or investigations can be found below. A listing of recent public enforcement actions can also be viewed on the Department's website[2]. The Department's FY24 Accountability Report[3] showing data points related to enforcement and licensing may be viewed on the Department's website along with Administrative Interpretations[4] , and Business Guidance[5] documents.

The Department issued one interpretation[6] in FY24 regarding the correct means of calculating conforming discount points on certain loans made under the Code as referenced measurements have been, or will be, discontinued. The Department opined that the term "Average Prime Offer Rate" as defined by 12 C.F.R. § 1026.35(a)(2), as amended, that applies to a comparable transaction, as published by the United States Consumer Financial Protection Bureau as of the last date the discounted interest rate for the transaction is set before consummation may be substituted for the required net yield referenced in S.C. Code Ann. Section 37-23-20(6) and (15).

RECENT COMPLIANCE/INVESTIGATIVE HIGHLIGHTS

Title 37 Consumer Protection Code, Chapter 11
Continuing Care Retirement Communities

The Continuing Care Retirement Community Act requires all continuing care retirement communities (CCRCs) operating in South Carolina to obtain a license from the Department, use contracts containing specific provisions, deposit entrance fees or reservations deposits into trust accounts and establish a complaint processing system.

To ensure compliance, investigators reviewed resident applications, disclosures, and privacy agreements. Recurring issues include:

- Some centers have not gotten updated privacy notices signed by residents.
- Some centers do not have complete disclosure statements in the residents' files.

Title 40 Consumer Protection Code, Chapter 58
Mortgage Brokers

The Mortgage Broker Act requires all businesses offering mortgage brokerage services, including loan correspondents, table-funding and independent contractor (third party) loan processors and underwriters, file with the Department. Transaction records must be kept for inspection and an annual mortgage log must be submitted by each broker to the Department annually.

To ensure compliance, investigators reviewed bank statements, insurance provider account lists, investigator funeral home contract reports, receipt books and copies, ledger books/ledger databases, and the individual beneficiary files. Recurring issues include:

- Some Mortgage Brokers have unlicensed Loan Originators that often solicit, negotiate rates, and offer to accept mortgage applications for mortgage loans.
- Some Mortgage Brokers are using unlicensed 3rd party processors.
- In SC, mortgage brokers must complete a SC Mortgage Broker Fee agreement. However, several mortgage brokers use a generic version of a fee agreement that is not in compliance with SC laws.
- SC law requires all mortgage loans to be closed by an attorney licensed in South Carolina with the consumer being able to choose who they want as their attorney. In some instances, mortgage brokers will have the consumer sign and date a blank A/I preference form and complete the form at closing or not complete one at all.
- Sometimes mortgage brokers receive more broker compensation than was originally disclosed to the consumer. During the loan process, often the loan amount increases based on difference circumstances. Since broker compensation is based on a percentage of the loan amount, if the mortgage broker does not complete a new broker fee agreement disclosing the increased broker fee, the broker will be compensated more than originally disclosed to the consumer on the initial SC Mortgage Broker Fee Agreement.

Title 32 Consumer Protection Code, Chapter 7
Preneed Funeral Contracts

The Preneed Funeral Contract statute requires funeral homes that sell preneed funeral contracts to be licensed by the Department, use approved contracts, deposit funds into trust accounts or purchase preneed funeral insurance within 30 days of receipt, report all contracts sold to the Department and pay a filing fee for each contract sold. The statute also requires funeral directors, who manage the accounts, to keep a ledger for all trust accounts that reflects all activity for each account, i.e. all payments, deductions, accretions, etc.

To ensure compliance, investigators reviewed bank statements, insurance provider account lists, investigator funeral home contract reports, receipt books and copies, ledger books/ledger databases, and the individual beneficiary files. Recurring issues include:

- Failure of licensed preneed funeral contract providers to deposit preneed funeral funds into trust accounts as required by law.
- Failure of licensed preneed providers to provide the Department with a listing of all contracts sold and payment of the $20 filing to the Department for each contract.
- Failure of licensed preneed providers to maintain trust ledgers as required by statute.
- Funeral homes that are not licensed to sell preneed funeral contracts accepting funds from consumers.
- Funeral homes failure to complete a state preneed contract as required by law.
- Licensed preneed providers receiving monies greater than the contract amount and failing to execute an additional contract for the excess funds received.

Title 44 Health, Chapter 79
Physical Fitness Services Act

The Physical Fitness Services Act requires any facility or individual that offers physical fitness services for the development of physical fitness through exercise or weight control to file for a Certificate of Authority with the Department. If a physical fitness provider offers services that exceed 3 months in duration or $200, a written membership must be executed with the consumer. The statute gives specific requirements that must be disclosed on all prepaid or credit contracts for physical fitness services. The law requires that all books and records must be available for review by the Department.

To ensure compliance, investigators reviewed membership contracts, membership account databases, and individual member files. Recurring issues include:

- Physical fitness centers failing to file with the Department for a Certificate of Authority to provide services.
- Physical fitness centers failing to maintain proper financial responsibility in the form of a bond.
- Licensed physical fitness centers failing to execute a contract with consumers for services exceeding $200 or 3 months as required by law.
- Physical fitness centers failing to provide consumers with the proper disclosures as required on the contract.
- Failing to provide SCDCA Investigators with books and records as required by law.

Title 40 Professions and Occupations, Chapter 39
Pawnbrokers

No person shall carry on the business of a pawnbroker in any location without first obtaining a Certificate of Authority for each location. All pawnbrokers conducting business in this state are under the authority of and regulated by the Department. The statute requires a pawnbroker to keep a detailed record of all transactions for items being pledged or purchased. The statute requires a pawnbroker to keep books and records available to the Department designees, law enforcement officers, or court officials. Pawnbrokers must also submit daily transactions to an approved online database.

To ensure compliance, investigators reviewed pawn tickets and buy tickets, pawn/buy reports, itemized payment histories, redeemed tickets, and forfeiture letters. Recurring issues include:

- Failure of businesses that have taken in pawns and received interest on pawned items filing for a Certificate of Authority with the Department.
- Licensed pawnbrokers failing to disclose complete descriptions of items on the pawn ticket (including serial numbers).
- Licensed pawnbrokers failing to hold purchased items for the required holding period.
- Licensed pawnbrokers failing to maintain proper employee records as required by law.

Endnotes

1 See https://www.sccourts.org/media/opinions/HTMLFiles/COA/6019.pdf

2 See https://consumer.sc.gov/business-resourceslaws/enforcement-actions

3 See https://consumer.sc.gov/agency-reports

4 See https://consumer.sc.gov/business-resourceslaws/administrative-interpretations

5 See https://consumer.sc.gov/business-resourceslaws/business-education-tools

6 See https://consumer.sc.gov/sites/consumer/files/Documents/Business%20Resources%20Laws/Administrative%20Inter preta-tions/SCDCA%20AI%2023.20-2401%20-South%20Carolina%20High%20Rate%20Mortgage-%20Final.pdf

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