

2020

South Carolina
DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CREDIT REPORT



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INTRODUCTION

The South Carolina Department of Consumer Affairs (SCDCA) has been protecting consumers from inequities in the marketplace since 1975. For more than forty-five 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. SCDCA 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 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. Governed by the Commission on Consumer Affairs, SCDCA is organized into six divisions: Administration, Consumer Services, Public Information and Education, Identity Theft Unit, Consumer Advocacy, and Legal.

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.²

The purpose of the State of Credit Report (SOCR) is to provide information and analysis of existing and emerging trends in the consumer credit marketplace in South Carolina. The 2020 SOCR focuses on the use of credit in this State, as well as enforcement actions and supervisory highlights. The data comes from an analysis of filings and reports received by SCDCA, reports compiled by the South Carolina Board of Financial Institution's Consumer Finance Division, a general familiarity with credit markets and with regulators who are familiar with markets in other jurisdictions.

The 2020 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. It is 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

Due to the submission deadlines for various reports, the most recent available data elements for a particular section contained herein may cover calendar year 2018 or 2019 and are delineated as such.

GENERAL FILINGS (2019 DATA)

- Credit grantor notification filings remained fairly steady compared to 2018.
- Half of creditors continued to file APRs of 36.99% or less. The largest increase took place in the 300% APR or greater category where 7.45% of filings, a nearly 3% increase over 2018, fell.
- The average fixed APR for a consumer loan exceeded the average fixed APR for a credit sale by approximately 54%.
- Cherokee County saw the highest average of fixed APR for consumer loans (120.93%). The highest APR filed overall (800%) came from out of state lenders.
- Lee County saw the highest average of fixed APR for credit sales (71%). The highest APR filed overall (400%) came from Lancaster County.

SUPERVISED LENDING (2018 DATA)

- Supervised lenders account for 45.10% of all maximum rate filings, the majority of which were made in the 50-99.99% APR and 300% or Greater categories, respectively.
- In 2018, supervised lenders made 8.67% more loans than in 2017 and advanced 10% more.
- Loans in the amount of \$600 or less saw a large jump in the highest APR filed with a 23% increase to 107.73% and with the most frequent APR filed, increasing 24% to 95.50%.

DEFERRED PRESENTMENT (2018 DATA)

- Deferred presentment companies (aka payday lenders) saw a 7% increase in the number of transactions and a nearly 6% drop in both the advance amount and fees charged.

PAWN (2018 DATA)

- Through more than 457,000 transactions, pawnbrokers loaned nearly \$30 million.

CREDIT COUNSELING (2018 DATA)

- Credit counselors funneled over \$32 million to consumers’ creditors in 2018, a slight increase over 2017 (\$29,735,935).

MORTGAGE (2018 DATA)

- The Average Income of a Borrower rose to \$80,000, the highest since reporting began in 2013.
- The Average APR stayed the same over 2017 at 4.9%.
- More consumers are getting a mortgage to purchase a home this year, an almost 10% increase over 2017.

INTEREST RATES & CREDITORS: GENERAL FILINGS

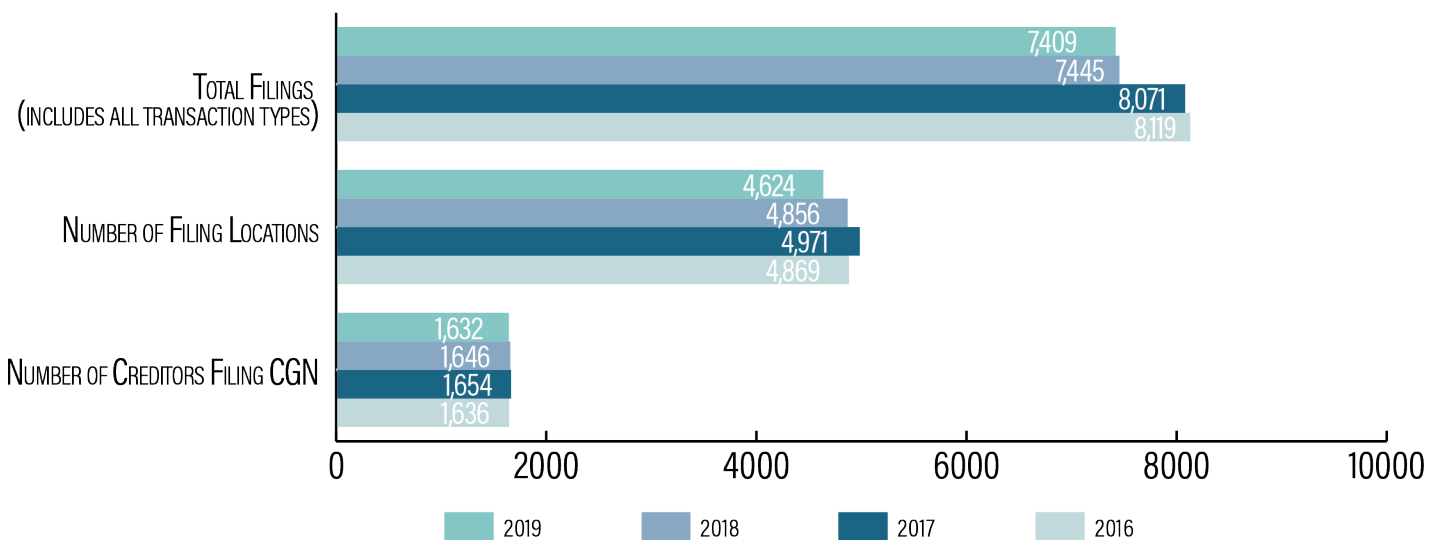
General Filings Overview

The Code provides requirements and restrictions for persons engaging in consumer credit transactions with South Carolina consumers. A “consumer credit transaction”³ is a consumer credit sale⁴, a consumer loan⁵, a consumer lease⁶, or a consumer rental-purchase agreement⁷. “Credit” is “the right granted by a creditor to a debtor to defer payment of or to incur debt and its payment.”⁸ 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.⁹ The Code requires a person file certain information with the Department if threshold requirements are triggered.¹⁰

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.¹¹

CREDIT GRANTOR NOTIFICATION FILINGS (2016 - 2019)

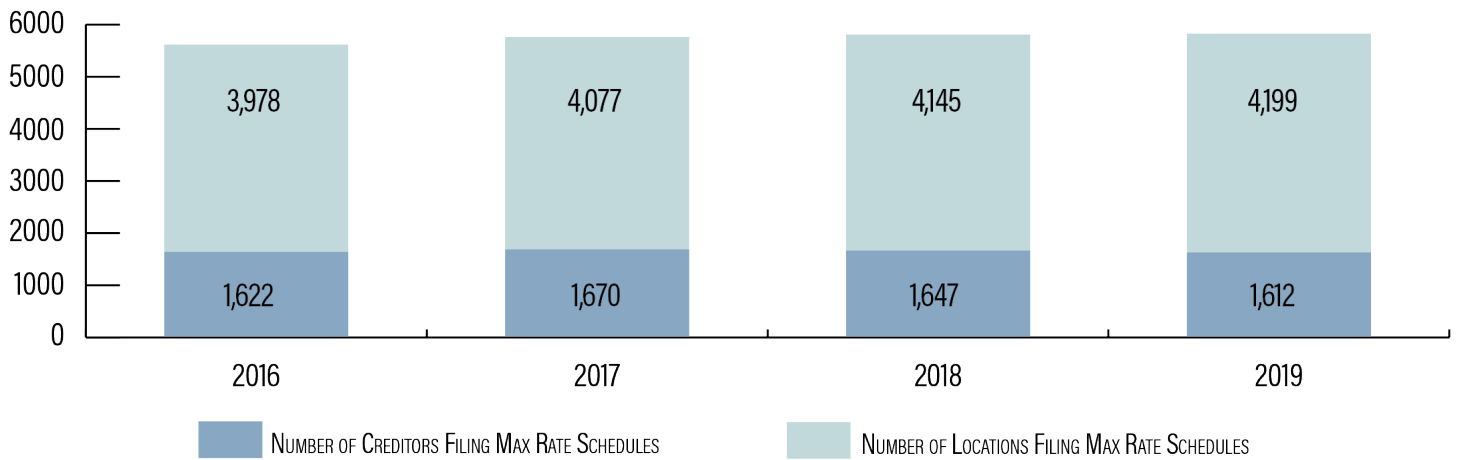


Max Rate Schedules

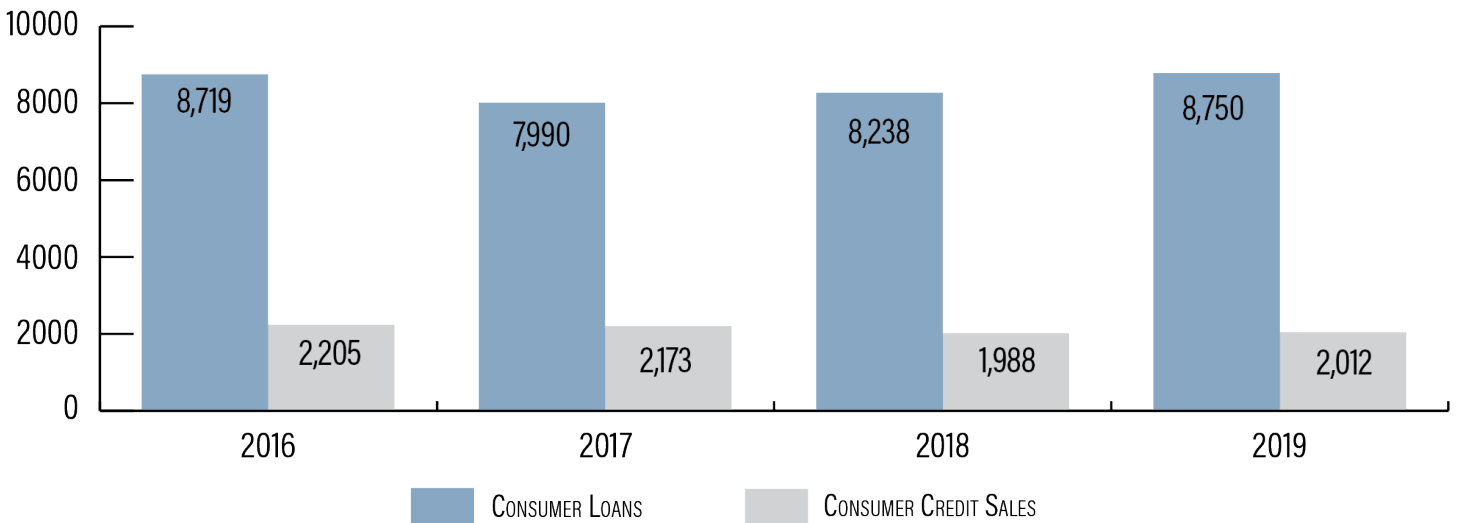
In South Carolina, creditors intending to charge more than 18% APR must first file the rate with SCDCA and post that same rate in its place of business. These maximum rate schedules are self-imposed limits set by each creditor, and must be filed for each credit category the creditor engages in.

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.¹²

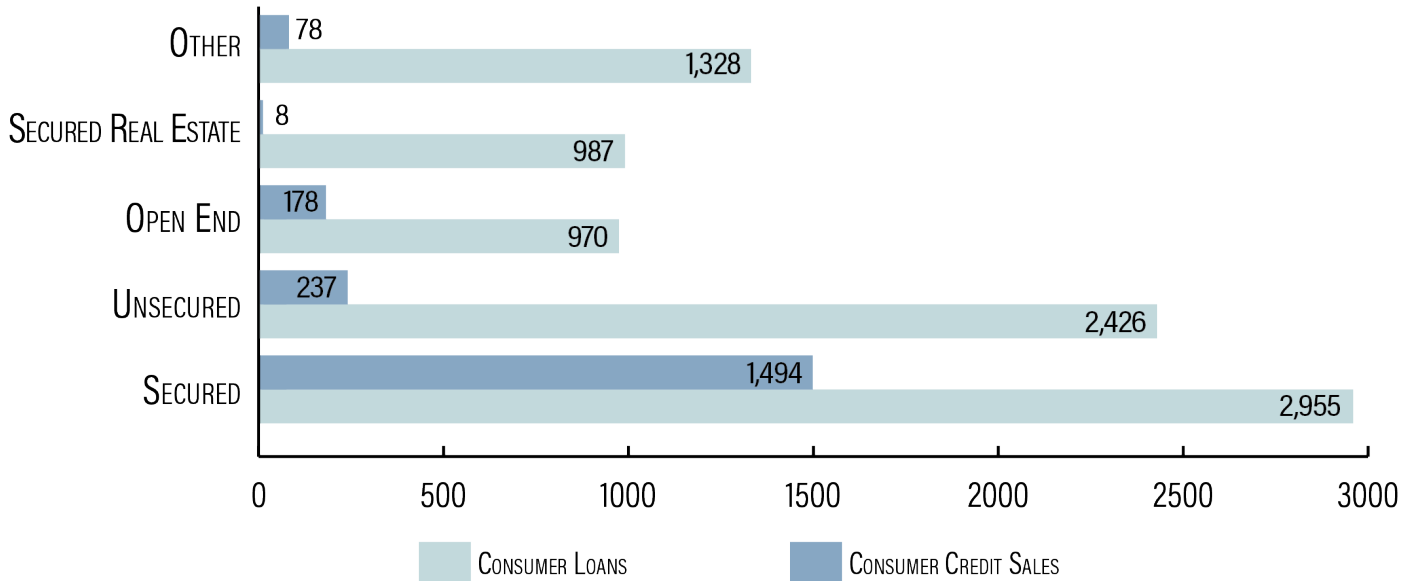
NUMBER OF MAX RATE FILINGS BY CREDITOR & LOCATION (2016 - 2019)



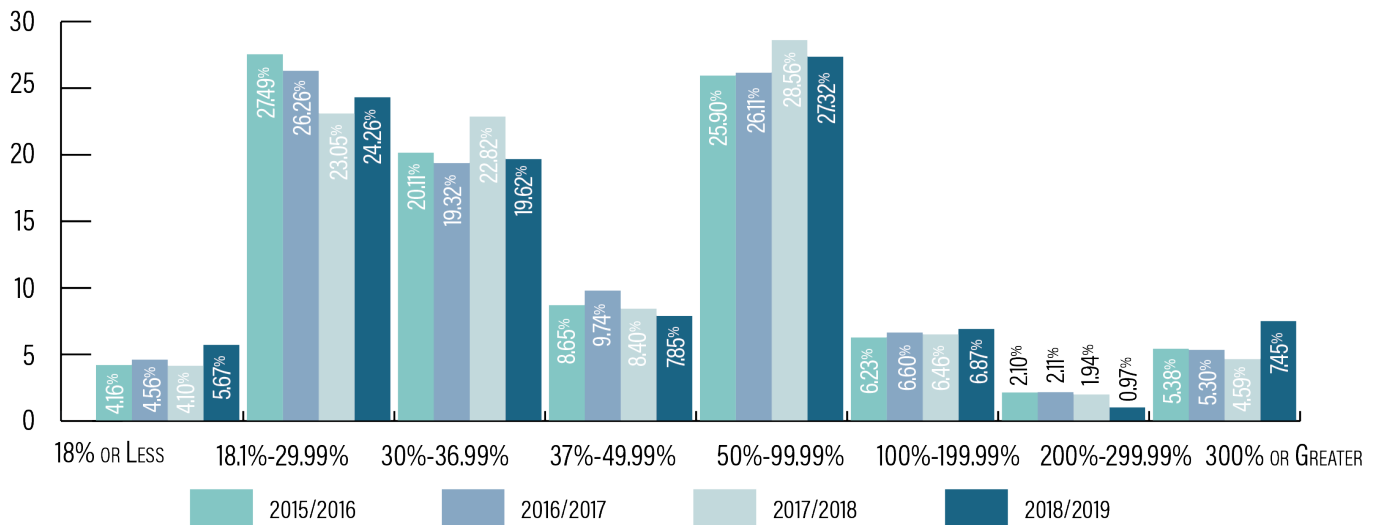
TOTAL MAX RATE FILINGS: LOANS VS. CREDIT SALES (2016 - 2019)



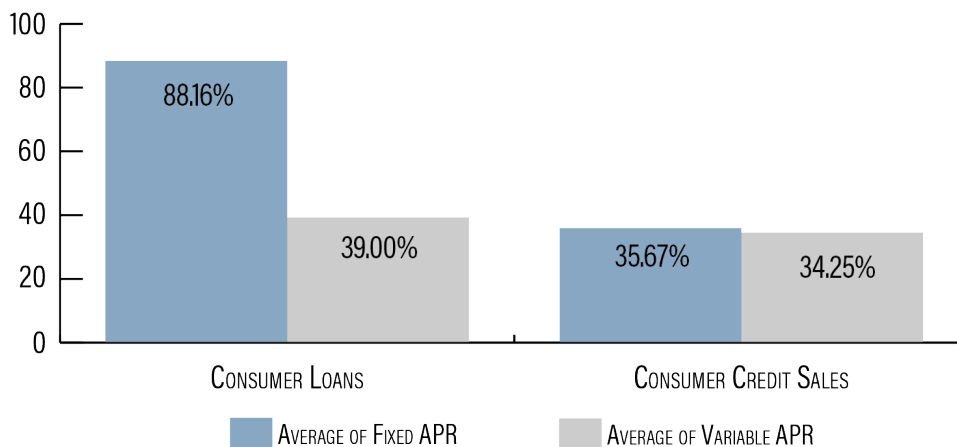
NUMBER OF MAX RATE FILINGS BY TYPE (2019)



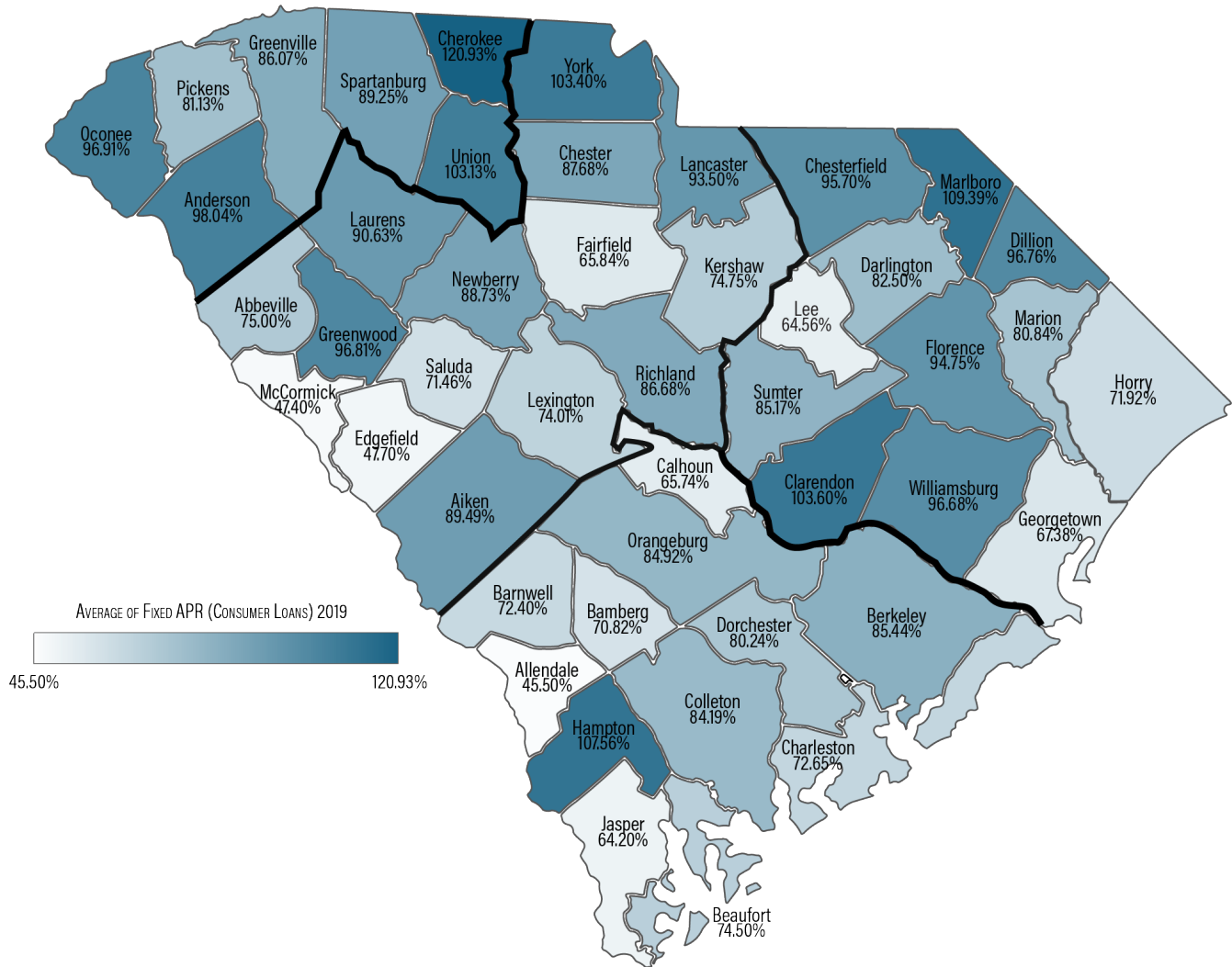
MAX RATE FILINGS BY APR RANGE: YEAR OVER YEAR COMPARISON (2015 - 2019)



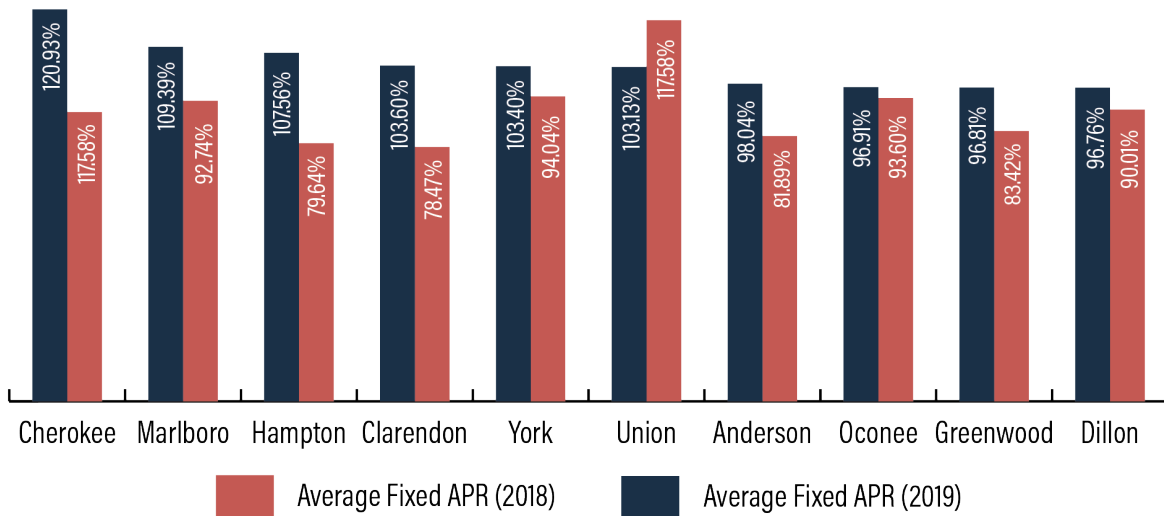
AVERAGE OF MAX RATE FILINGS BY TRANSACTION (2019)



AVERAGE OF FIXED MAX APR FILED BY COUNTY (CONSUMER LOANS) 2019



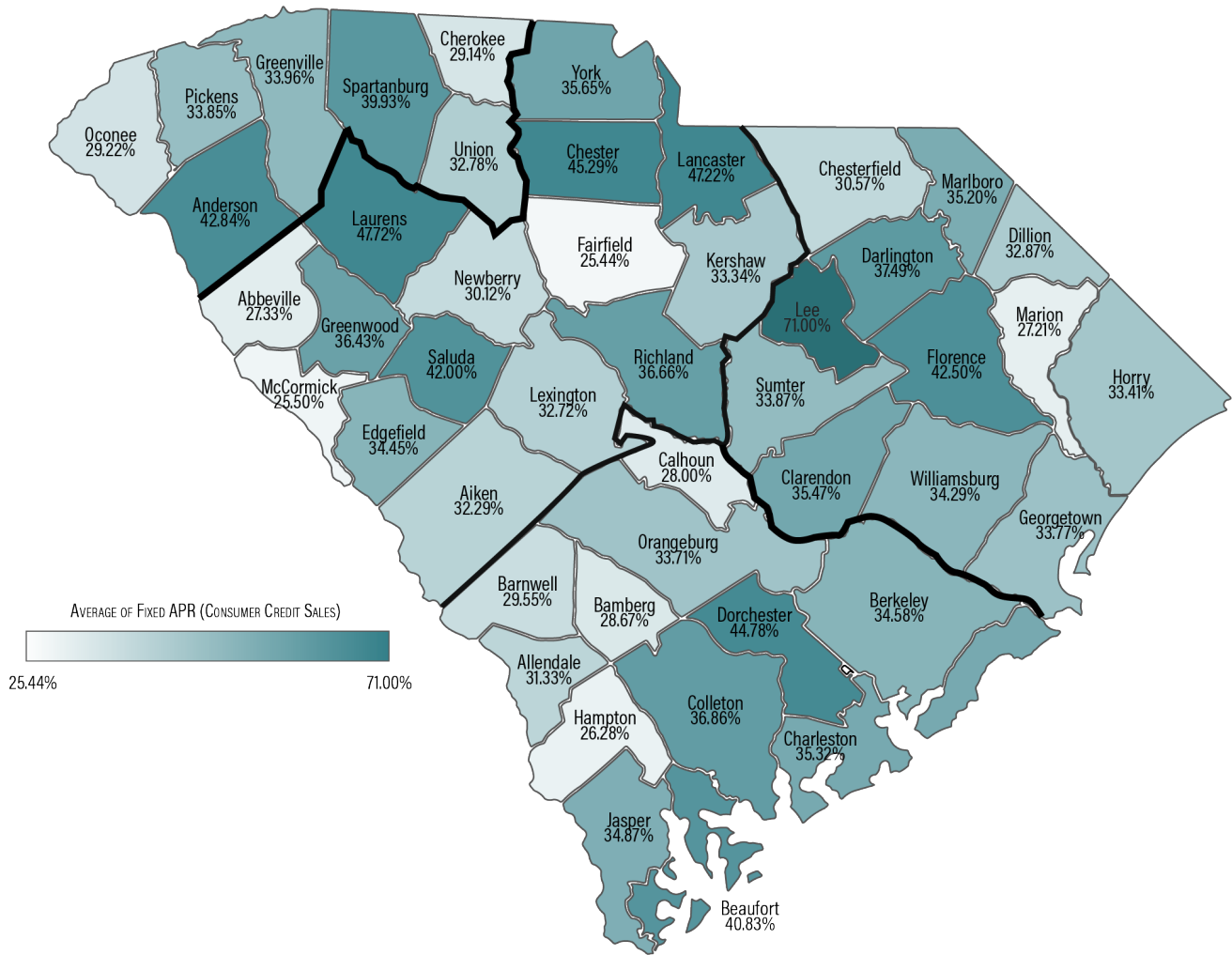
AVERAGE OF MAX RATES FILED (CONSUMER LOANS) TEN HIGHEST COUNTIES 2019 (OVERLAP WITH 2018)



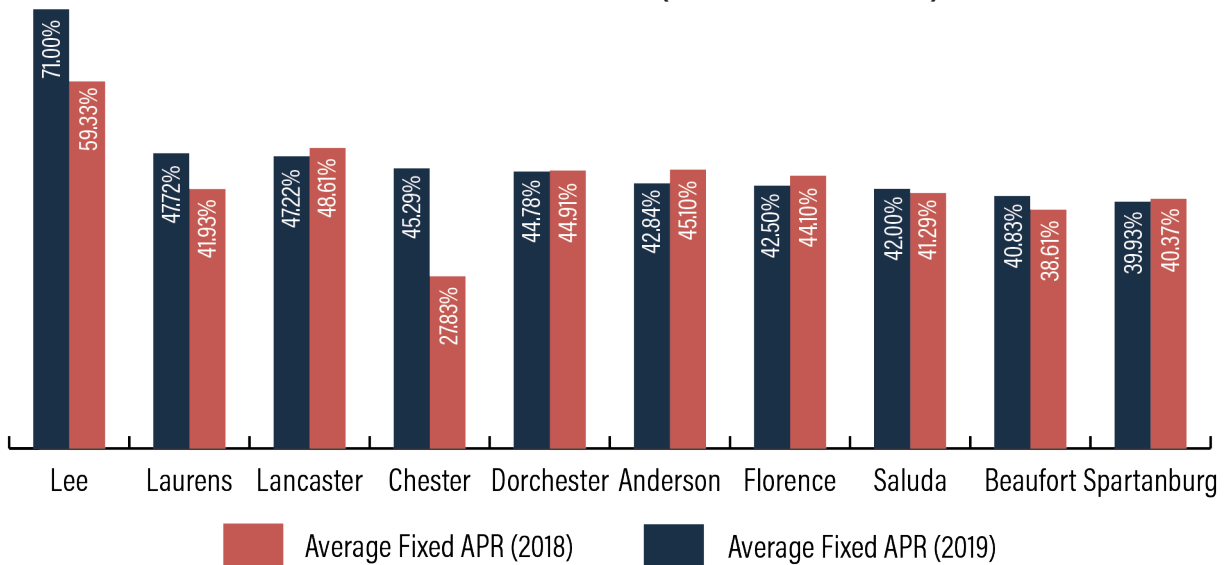
HIGHEST & AVERAGE MAX RATE FILED BY COUNTY (CONSUMER LOANS) RANKED BY HIGHEST FIXED APR

Rank	Consumer Loans County	FIXED APR		VARIABLE APR	
		Highest (Fixed APR)	Average (Fixed APR)	Highest (Variable APR)	Average (Variable APR)
1	OutsideSC	800.00%	198.63%	800.00%	216.43%
2	Cherokee	520.00%	120.93%	99.00%	46.50%
3	Marlboro	520.00%	109.39%	259.30%	37.83%
4	Hampton	520.00%	107.56%	99.00%	36.56%
5	Clarendon	520.00%	103.60%	45.00%	29.79%
6	York	520.00%	103.40%	400.00%	44.15%
7	Anderson	520.00%	98.04%	400.00%	39.51%
8	Oconee	520.00%	96.91%	400.00%	43.74%
9	Greenwood	520.00%	96.81%	259.30%	46.27%
10	Dillon	520.00%	96.76%	99.00%	37.70%
11	Williamsburg	520.00%	96.68%	99.00%	45.00%
12	Chesterfield	520.00%	95.70%	99.00%	36.30%
13	Florence	520.00%	94.75%	259.30%	32.55%
14	Lancaster	520.00%	93.50%	36.00%	27.07%
15	Laurens	520.00%	90.63%	99.00%	36.61%
16	Aiken	520.00%	89.49%	259.30%	36.46%
17	Spartanburg	520.00%	89.25%	400.00%	42.50%
18	Newberry	520.00%	88.73%	99.00%	34.10%
19	Chester	520.00%	87.68%	99.00%	35.76%
20	Richland	520.00%	86.68%	259.30%	32.25%
21	Greenville	520.00%	86.07%	400.00%	41.04%
22	Berkeley	520.00%	85.44%	99.00%	31.11%
23	Sumter	520.00%	85.17%	259.30%	39.58%
24	Orangeburg	520.00%	84.92%	259.30%	36.14%
25	Colleton	520.00%	84.19%	99.00%	41.24%
26	Darlington	520.00%	82.50%	259.30%	35.81%
27	Pickens	520.00%	81.13%	400.00%	41.67%
28	Marion	520.00%	80.84%	99.00%	41.98%
29	Dorchester	520.00%	80.24%	259.30%	30.42%
30	Kershaw	520.00%	74.75%	99.00%	34.83%
31	Beaufort	520.00%	74.50%	45.00%	28.00%
32	Lexington	520.00%	74.01%	259.30%	32.60%
33	Charleston	520.00%	72.65%	259.30%	33.25%
34	Barnwell	520.00%	72.40%	99.00%	28.09%
35	Horry	520.00%	71.92%	259.30%	42.90%
36	Georgetown	520.00%	67.38%	99.00%	30.28%
37	Union	396.00%	103.13%	36.00%	24.00%
38	Abbeville	300%	75.00%	99%	42.24%
39	Saluda	300.00%	71.46%	36.00%	26.21%
40	Bamberg	300.00%	70.82%	36.00%	25.64%
41	Jasper	260.00%	64.20%	259.30%	53.57%
42	Calhoun	168.99%	65.74%	36.00%	26.80%
43	Fairfield	150.00%	65.84%	36.00%	26.25%
44	Lee	150.00%	64.56%	45.00%	30.90%
45	Edgefield	129.00%	47.70%	31.50%	27.60%
46	McCormick	93.00%	47.40%	36.00%	27.20%
47	Allendale	93.00%	45.50%	36.00%	32.00%

AVERAGE OF FIXED MAX APR FILED BY COUNTY (CONSUMER CREDIT SALES) 2019



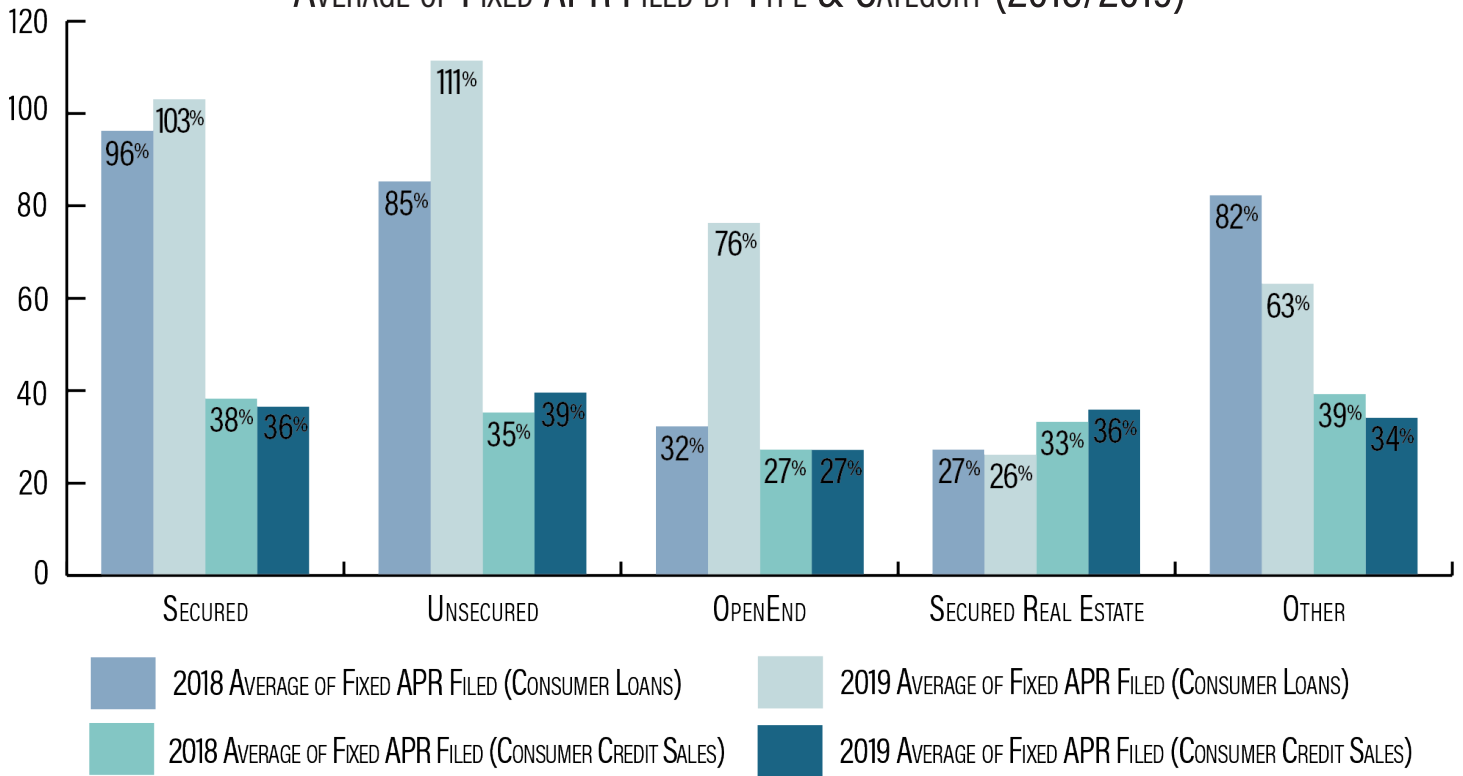
AVERAGE OF MAX RATES FILED (CONSUMER CREDIT SALES) TEN HIGHEST COUNTIES 2019 (OVERLAP WITH 2018)



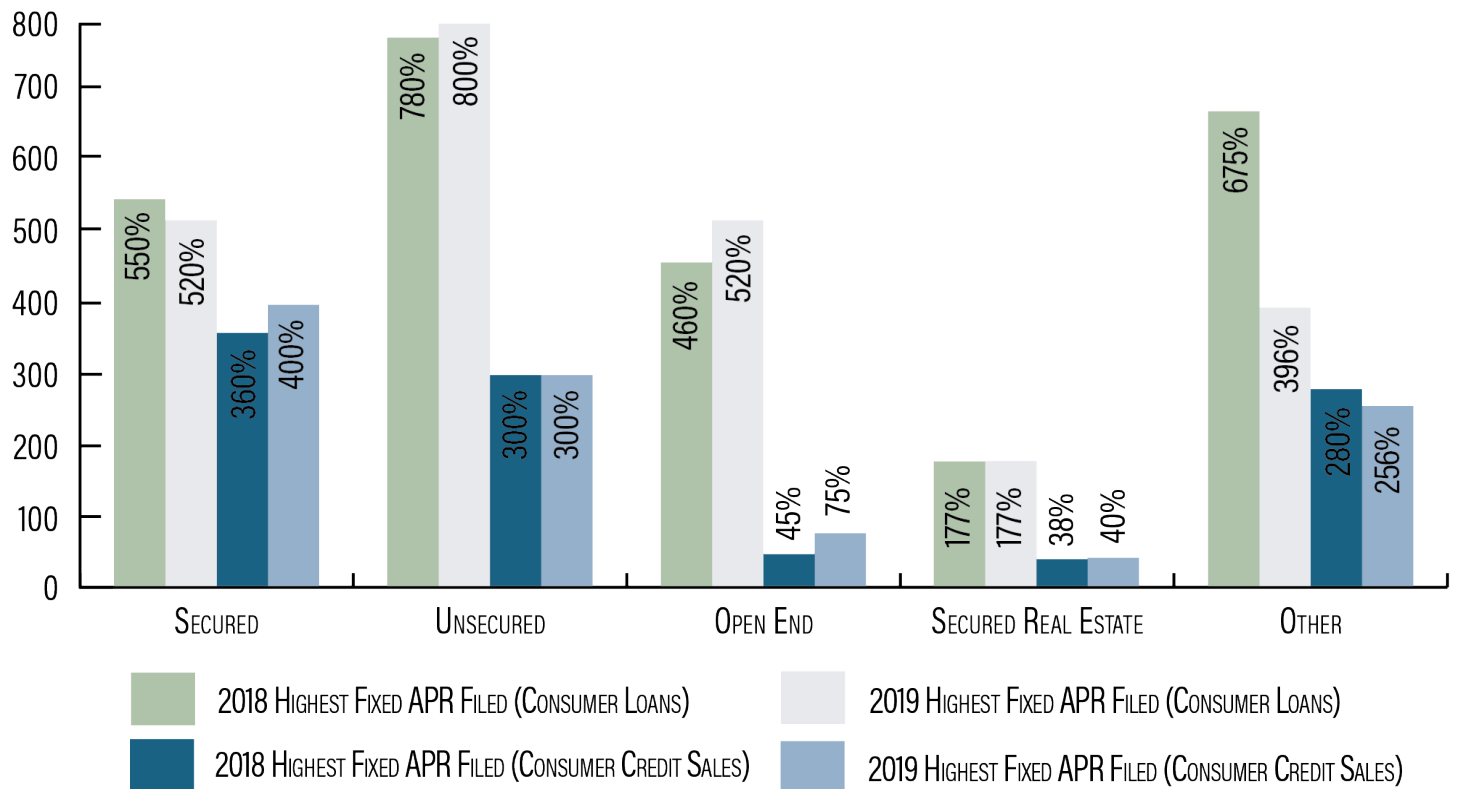
HIGHEST & AVERAGE MAX RATE FILED BY COUNTY (CREDIT SALES) RANKED BY HIGHEST FIXED APR

	Consumer Credit Sales County	FIXED APR		VARIABLE APR	
		Highest (Fixed APR)	Average (Fixed APR)	Highest (Variable APR)	Average (Variable APR)
1	Lancaster	400.00%	47.22%	100.00%	42.00%
2	Anderson	360.00%	42.84%	360.00%	77.48%
3	Dorchester	300.00%	44.78%	69.00%	33.86%
4	Florence	300.00%	42.50%	50.00%	30.04%
5	Richland	279.00%	36.66%	256.00%	40.44%
6	Spartanburg	279.00%	39.93%	99.00%	36.17%
7	Greenville	279.00%	33.96%	99.00%	31.41%
8	Charleston	279.00%	35.32%	39.99%	31.83%
9	Horry	279.00%	33.41%	38.00%	28.32%
10	Beaufort	200.00%	40.83%	50.00%	32.08%
11	Darlington	150.00%	37.49%	40.00%	30.33%
12	Chester	150.00%	45.29%	19.00%	19.00%
13	Sumter	120.00%	33.87%	39.00%	30.54%
14	Laurens	120.00%	47.72%	36.00%	31.67%
15	Lee	118.00%	71.00%	0.00%	0.00%
16	Colleton	100.00%	36.86%	100.00%	46.00%
17	York	100.00%	35.65%	100.00%	33.96%
18	Marlboro	100.00%	35.20%	100.00%	58.33%
19	Orangeburg	100.00%	33.71%	100.00%	37.89%
20	Lexington	100.00%	32.72%	50.00%	29.99%
21	Williamsburg	100.00%	34.29%	45.00%	32.60%
22	Berkeley	99.99%	34.58%	99.99%	43.90%
23	Pickens	99.00%	33.85%	45.00%	27.83%
24	Greenwood	89.00%	36.43%	89.00%	34.83%
25	OutsideSC	75.00%	29.38%	75.00%	36.24%
26	Aiken	75.00%	32.29%	40.00%	33.92%
27	Clarendon	60.00%	35.47%	36.00%	27.50%
28	Newberry	59.00%	30.12%	59.00%	29.90%
29	Saluda	50.00%	42.00%	50.00%	50.00%
30	Georgetown	50.00%	33.77%	50.00%	36.41%
31	Jasper	50.00%	34.87%	40.00%	34.67%
32	Oconee	50.00%	29.22%	39.00%	31.33%
33	Union	50.00%	32.78%	36.00%	30.33%
34	Dillon	49.99%	32.87%	42.00%	30.00%
35	Marion	49.00%	27.21%	30.00%	24.78%
36	Kershaw	48.00%	33.34%	39.99%	33.22%
37	Edgefield	46.00%	34.45%	40.00%	35.00%
38	Barnwell	45.00%	29.55%	30.00%	30.00%
39	Fairfield	45.00%	25.44%	19.00%	19.00%
40	Chesterfield	39.00%	30.57%	39.00%	29.60%
41	Allendale	38.00%	31.33%	18.00%	18.00%
42	Cherokee	36.00%	29.14%	36.00%	27.50%
43	Hampton	36.00%	26.28%	28.00%	23.00%
44	Bamberg	36.00%	28.67%	21.00%	21.00%
45	Calhoun	35.00%	28.00%	0%	0%
46	Abbeville	32.00%	27.33%	0%	0%
47	McCormick	30.00%	25.50%	0.00%	0.00%

AVERAGE OF FIXED APR FILED BY TYPE & CATEGORY (2018/2019)



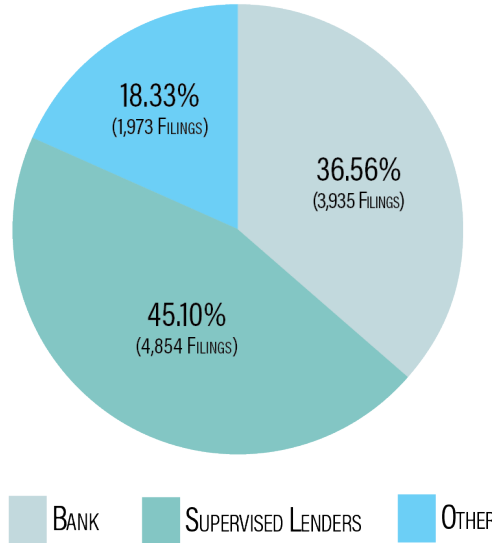
HIGHEST APR FILED BY TYPE & CATEGORY (2018/2019)



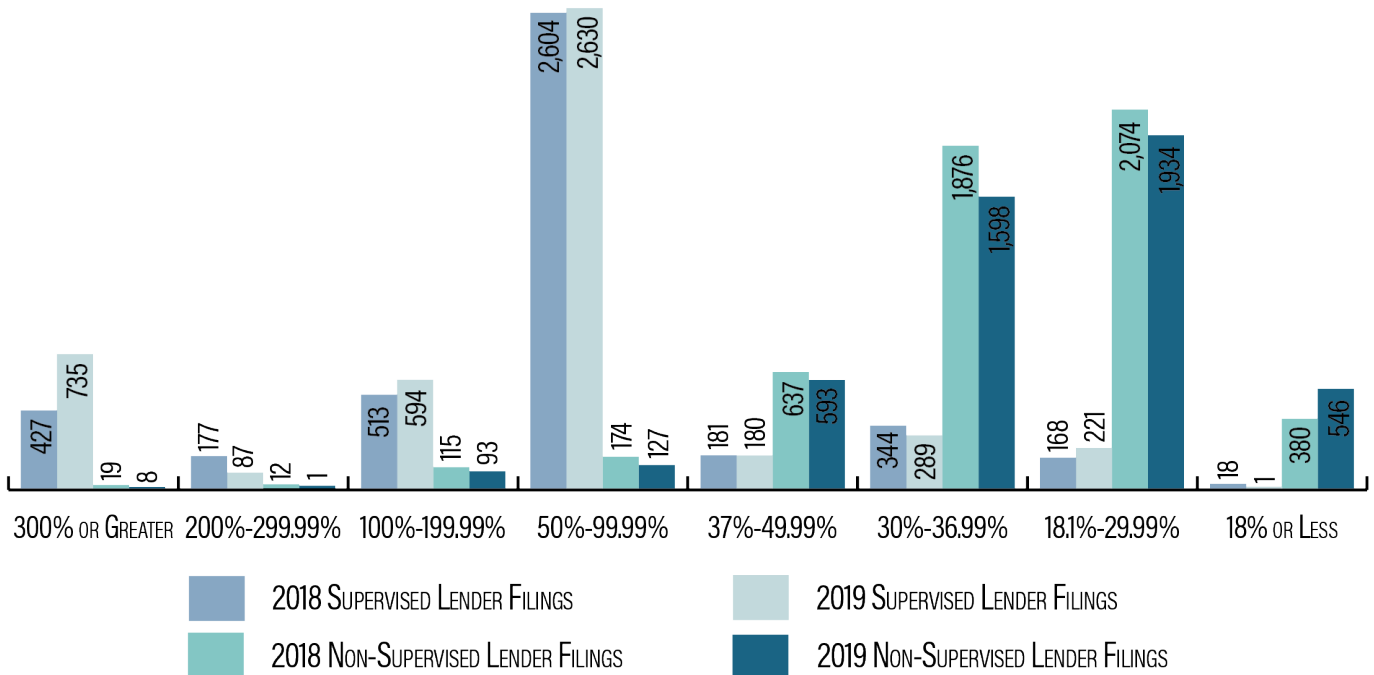
CONSUMER LENDING

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.¹³ This includes specific regulation of lenders offering loans in excess of 12% APR.¹⁴ Some consumer loan products, however, are regulated by other titles, including deferred presentment and pawn transactions.¹⁵

NUMBER OF MAX RATE FILINGS BY INDUSTRY TYPE (2019)

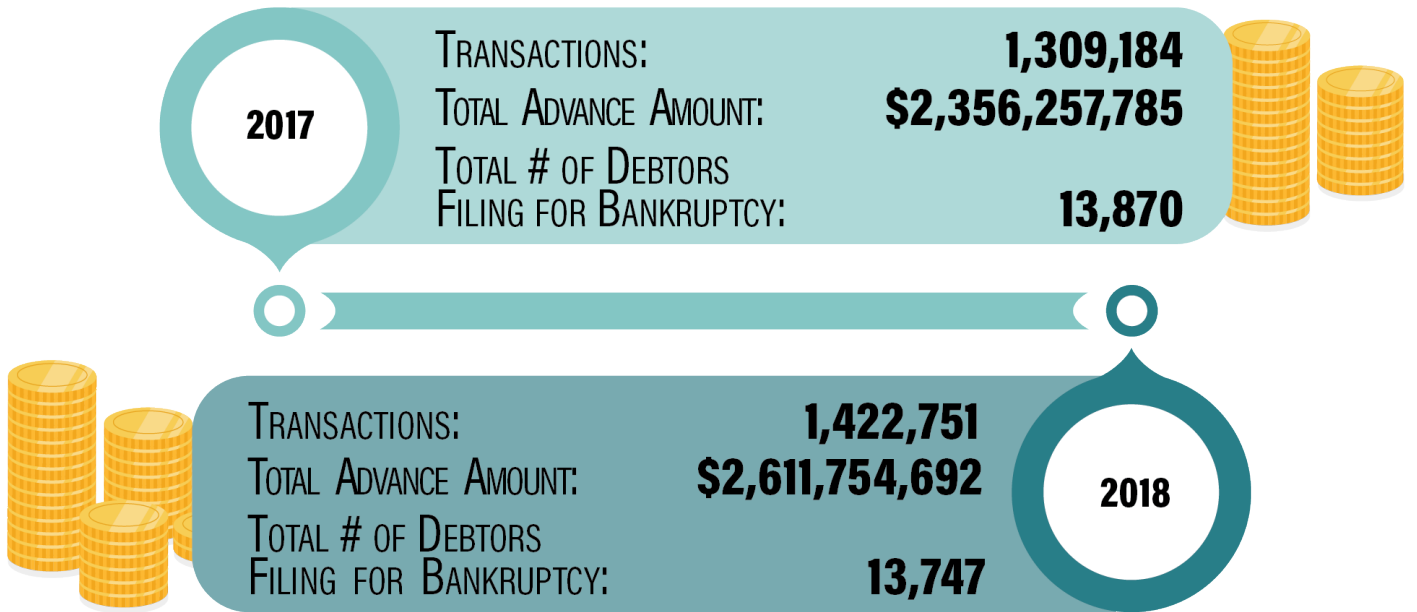


MAX RATE FILINGS BY RANGE:
SUPERVISED LENDERS & NON-SUPERVISED LENDERS

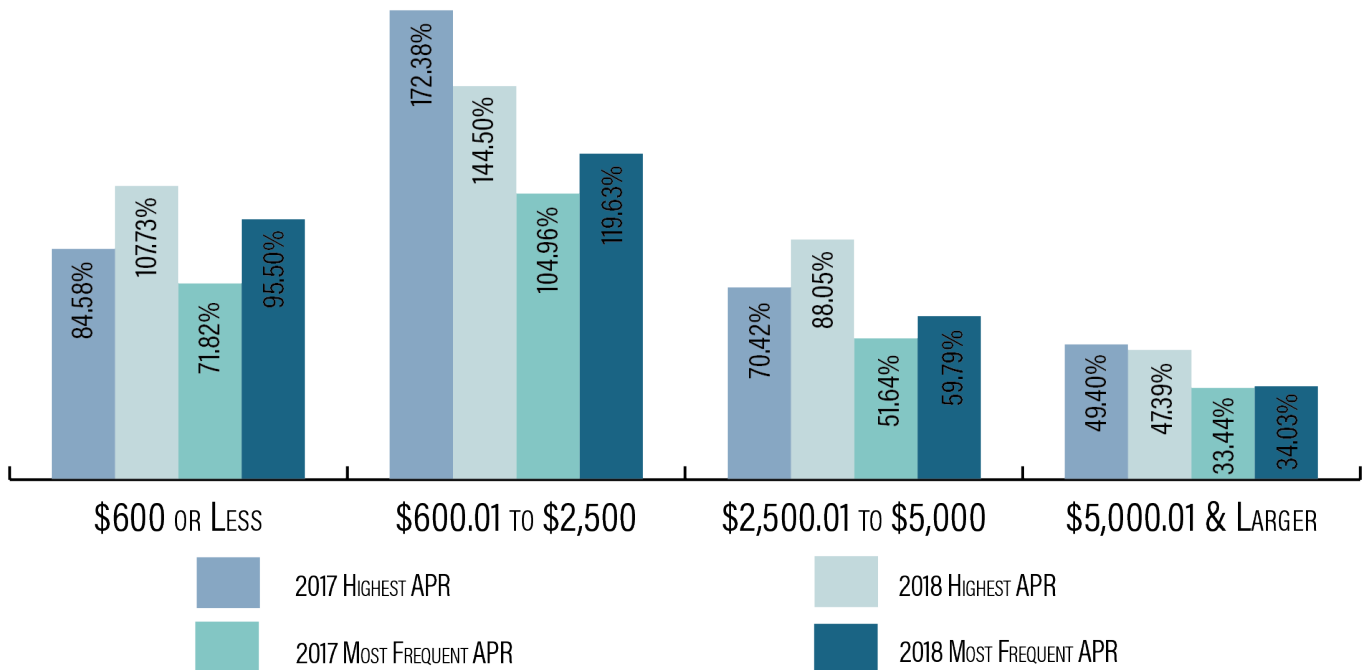


Supervised Lending

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.¹⁶ A supervised lender is a person who is authorized to make or take assignments of supervised loans.¹⁷ These lenders are licensed and examined by the South Carolina Board of Financial Institution's Consumer Finance Division.¹⁸ 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.¹⁹ 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 34-29-140.²⁰

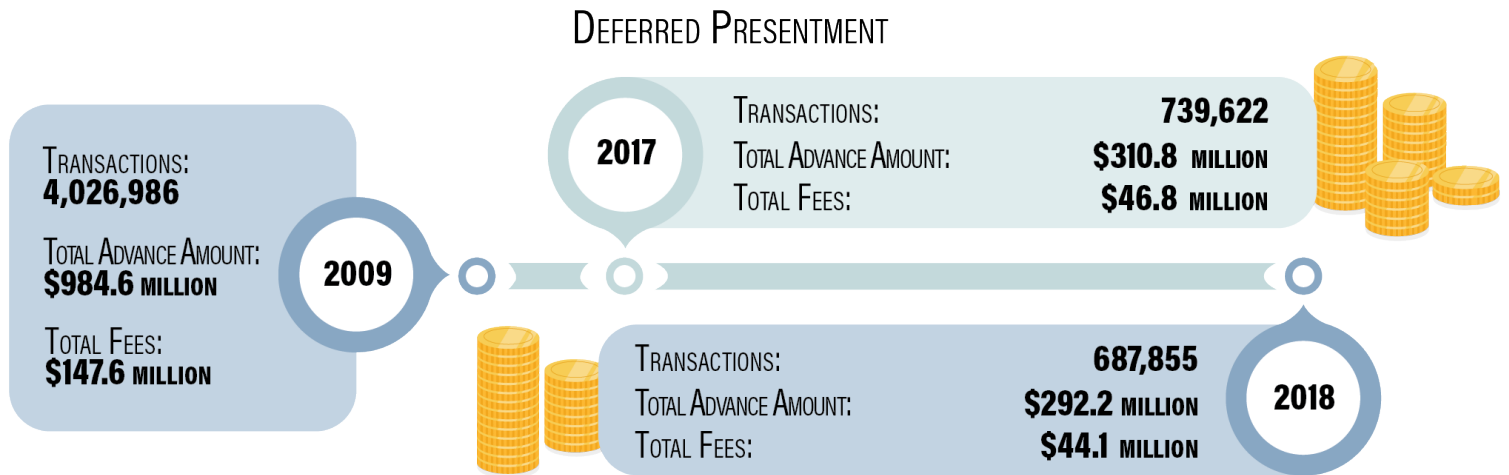


HIGHEST AND MOST FREQUENT APR CHARGED BY LOAN AMOUNT (WEIGHTED AVERAGES)

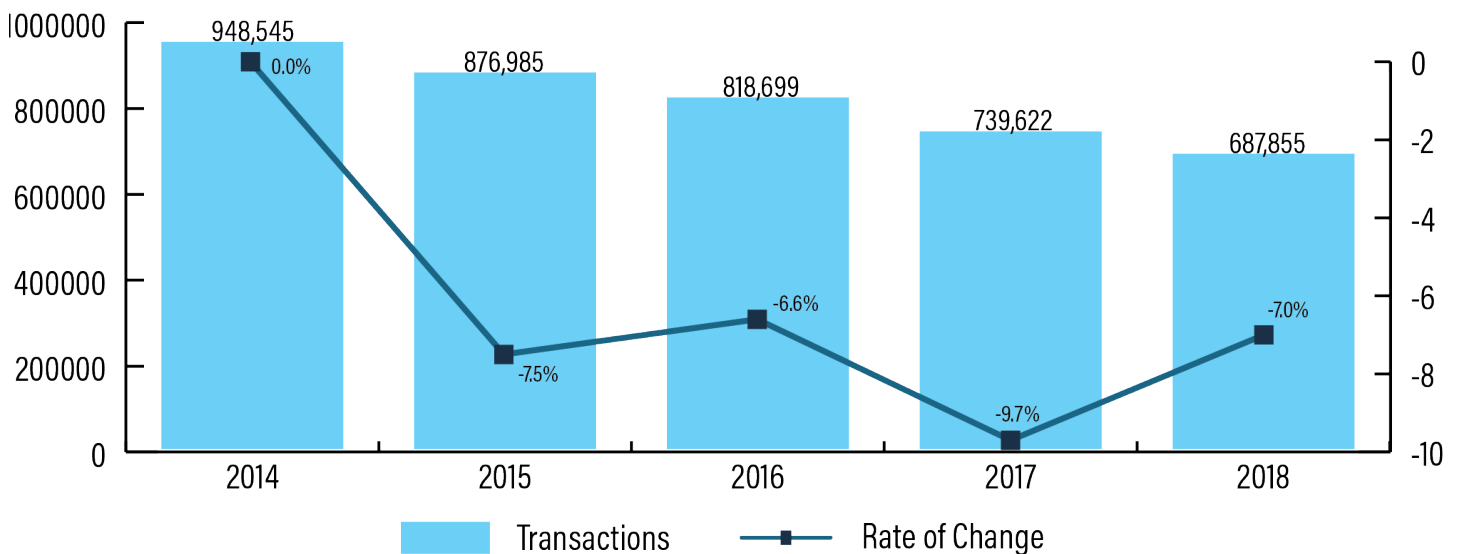


Deferred Presentment

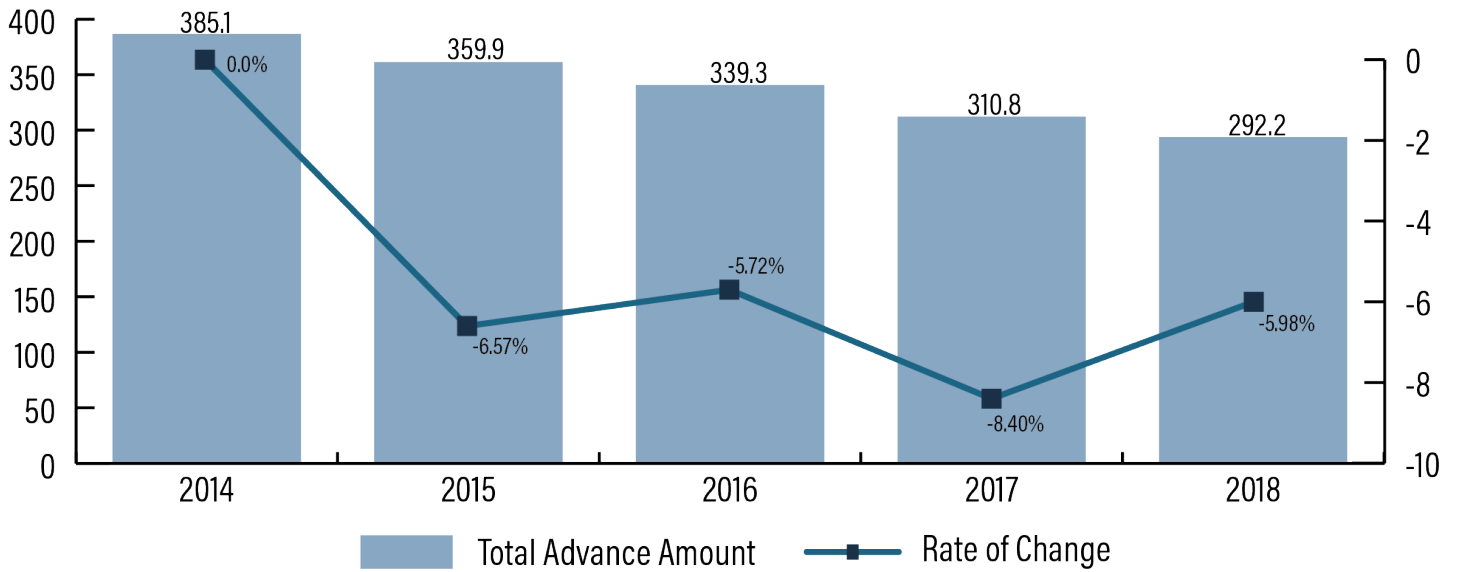
Deferred presentment is commonly referred to as a “payday loan.” A “payday loan” is when a lender charges a fee to accept a check dated on the date it was written and agrees to hold the check for a period of time before presentment for payment or deposit.²¹ These high rate lenders often charge at or above 300% APR.²²



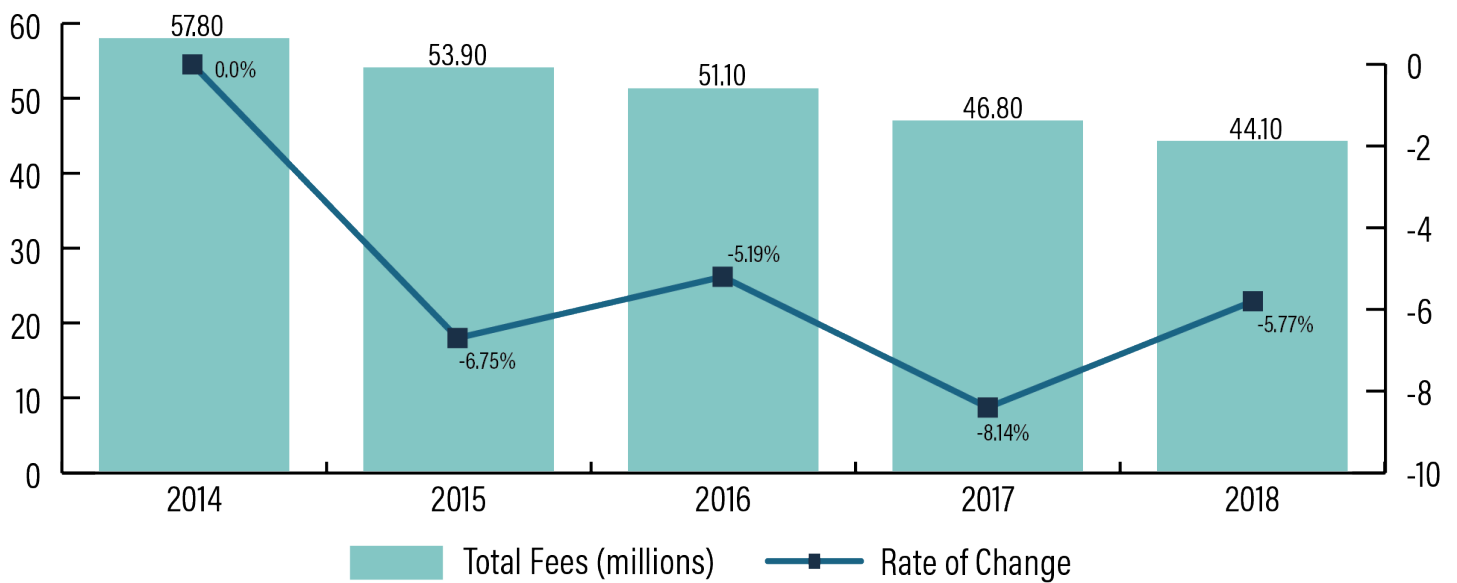
DEFERRED PRESENTMENT TOTAL NUMBER OF TRANSACTIONS:
RATE OF CHANGE (2014 - 2018)



DEFERRED PRESENTMENT TOTAL ADVANCE AMOUNTS: RATE OF CHANGE (2014 - 2018)





DEFERRED PRESENTMENT TOTAL FEES: RATE OF CHANGE (2014 - 2018)

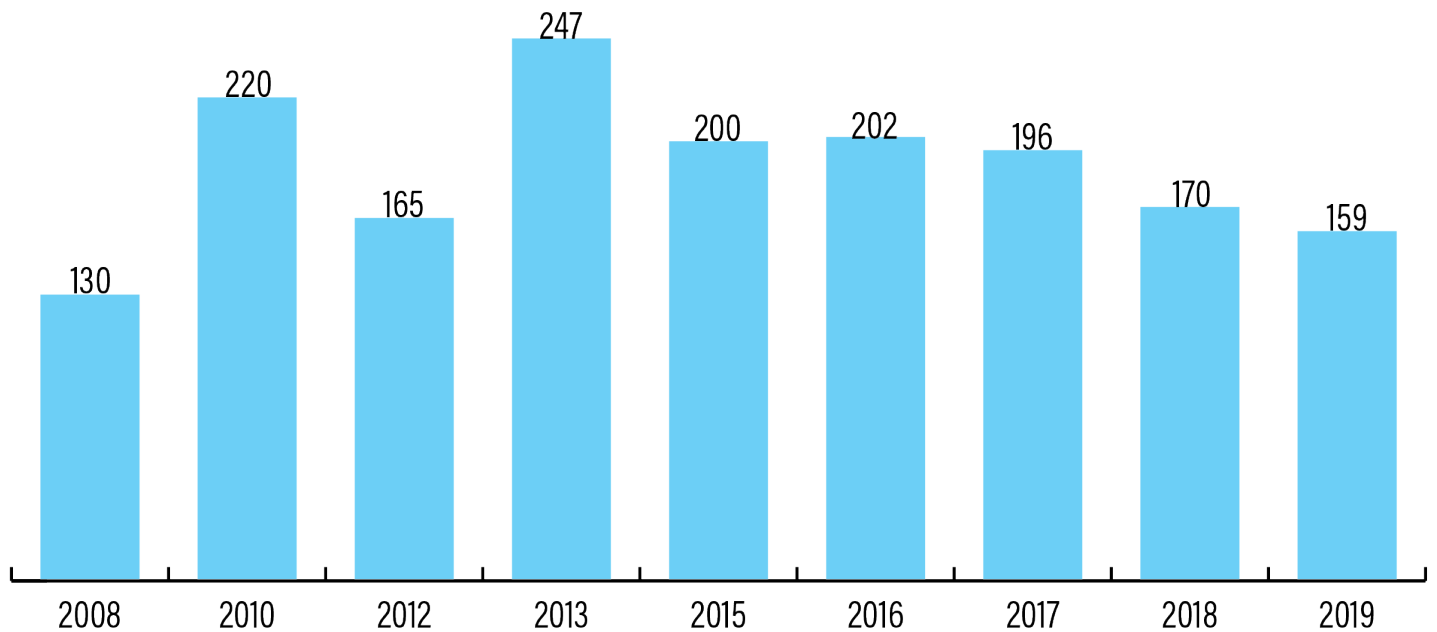


Pawnbrokers

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.”²³ No person may engage in the business of a pawnbroker without first obtaining a Certificate of Authority from the Department for each location.²⁴ As a regulated industry, pawnbrokers must keep certain records as required by law,²⁵ including documentation of every pawn or purchase transaction by a pawnbroker.²⁶

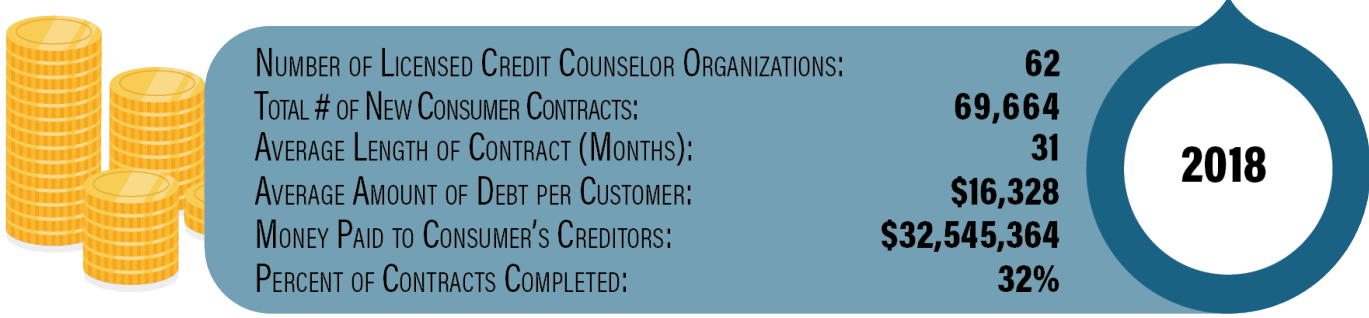
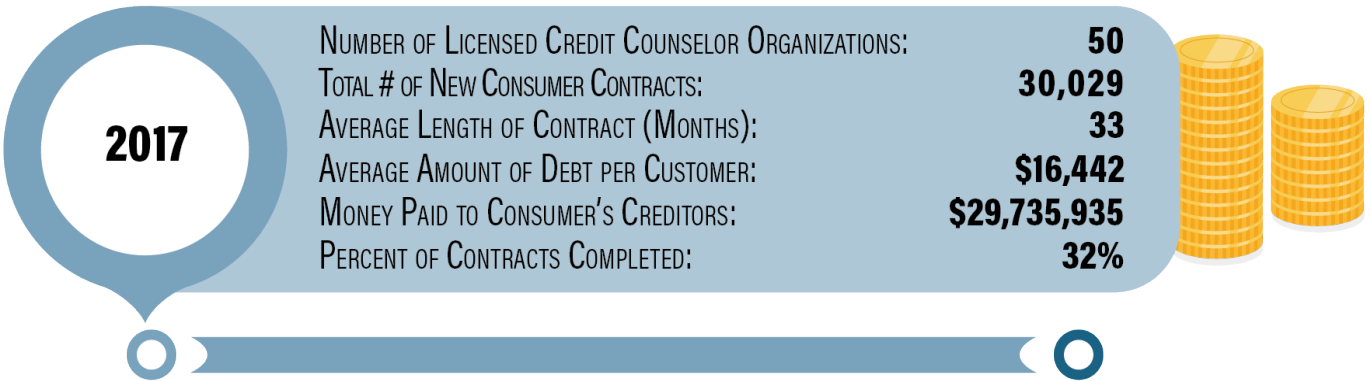
<p>Total # Pawn Transactions for Licensees 457,626</p> <p>Average # per Licensee 3,051</p>		<p>Total Dollar Amount \$29,315,192.55</p> <p>Average Dollar Amount per Licensee \$195,434.62</p>	
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NUMBER OF LICENSED PAWNBROKERS (2008 - 2019)

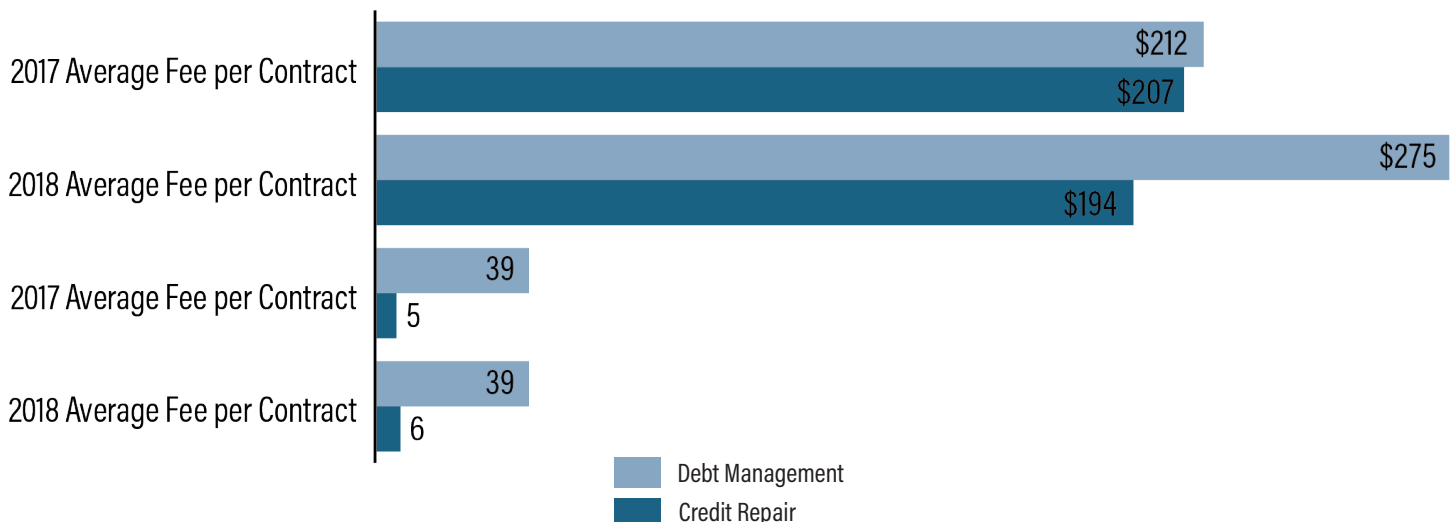


CREDIT COUNSELING

The Consumer Credit Counseling Act (the “CCCA”) went into effect on December 2, 2005.²⁷ 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.²⁸ Employees of these organizations who are involved with providing the credit counseling services, “credit counselors” under the CCCA, must also obtain a license.²⁹ 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.³⁰



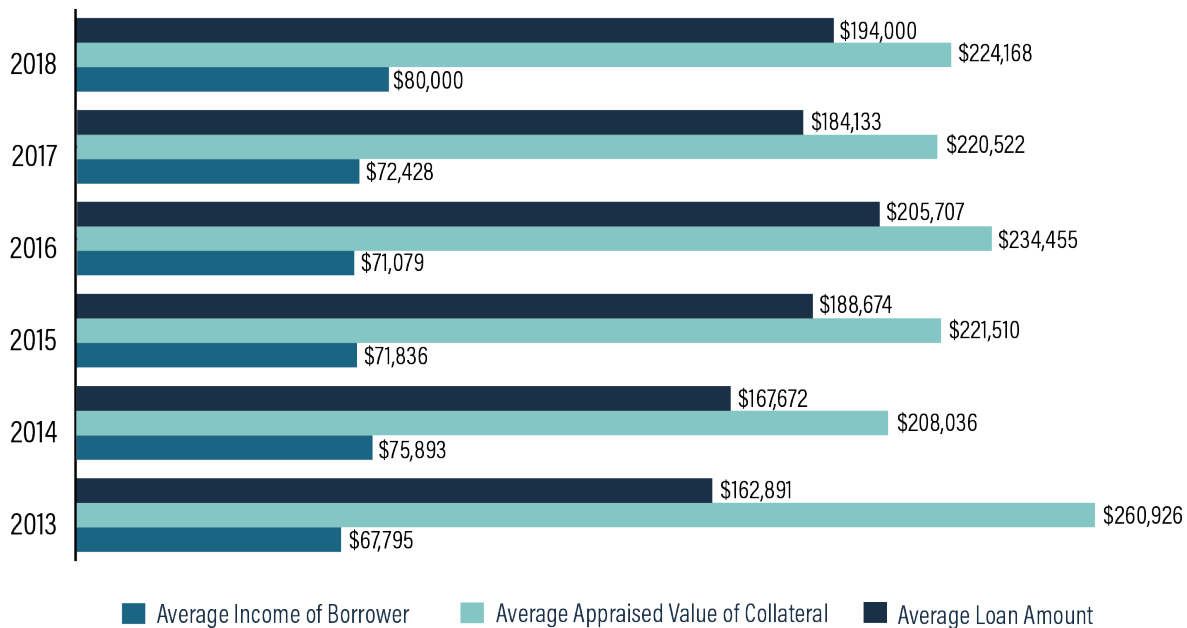
CREDIT COUNSELING CONTRACTS BY COMPANY TYPE (2017/2018)



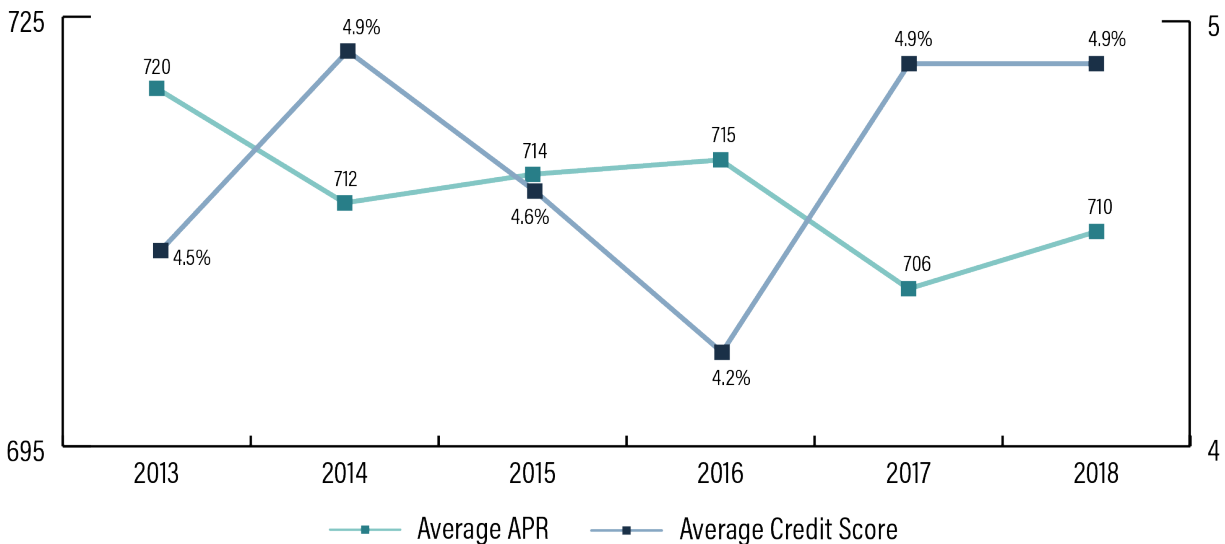
MORTGAGE LENDING

SCDCA has regulated mortgage loan brokers since 1988, and mortgage loan originators since 2005,³¹ 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.³²

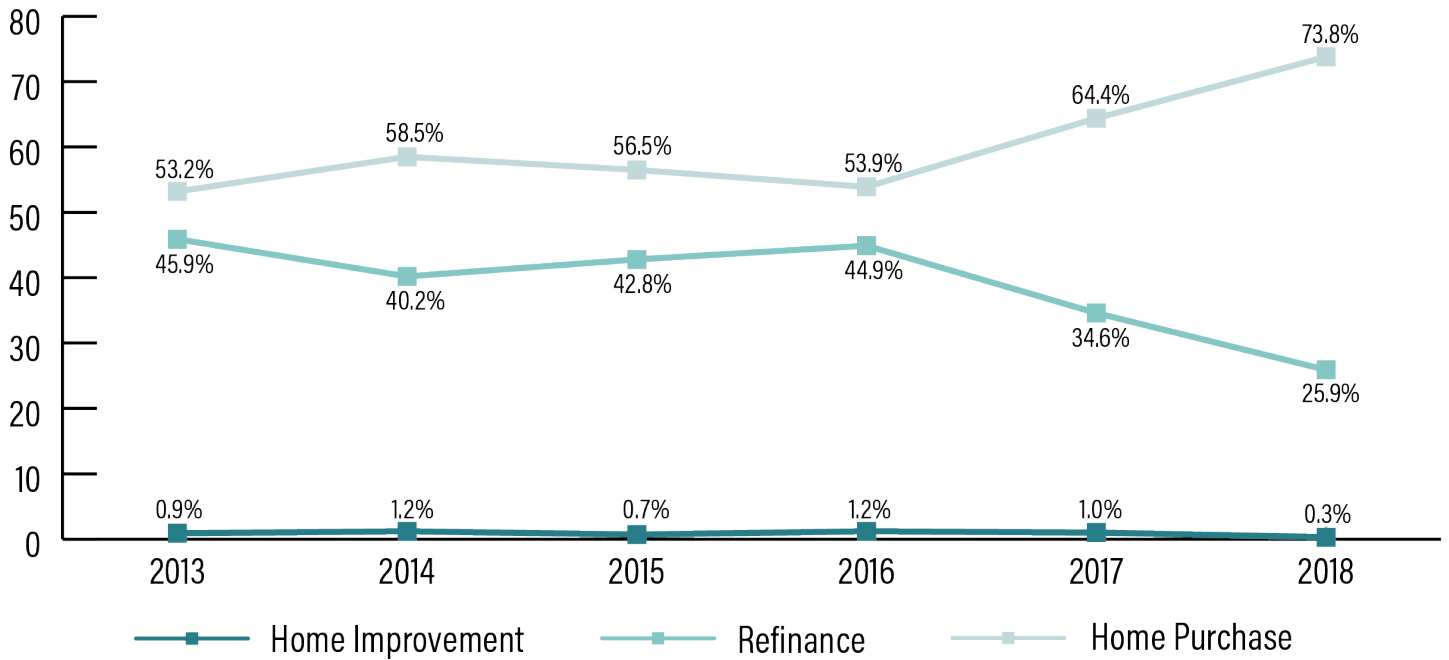
AVERAGES: LOAN AMOUNT, VALUE OF COLLATERAL & BORROWER’S INCOME (2013 - 2018)



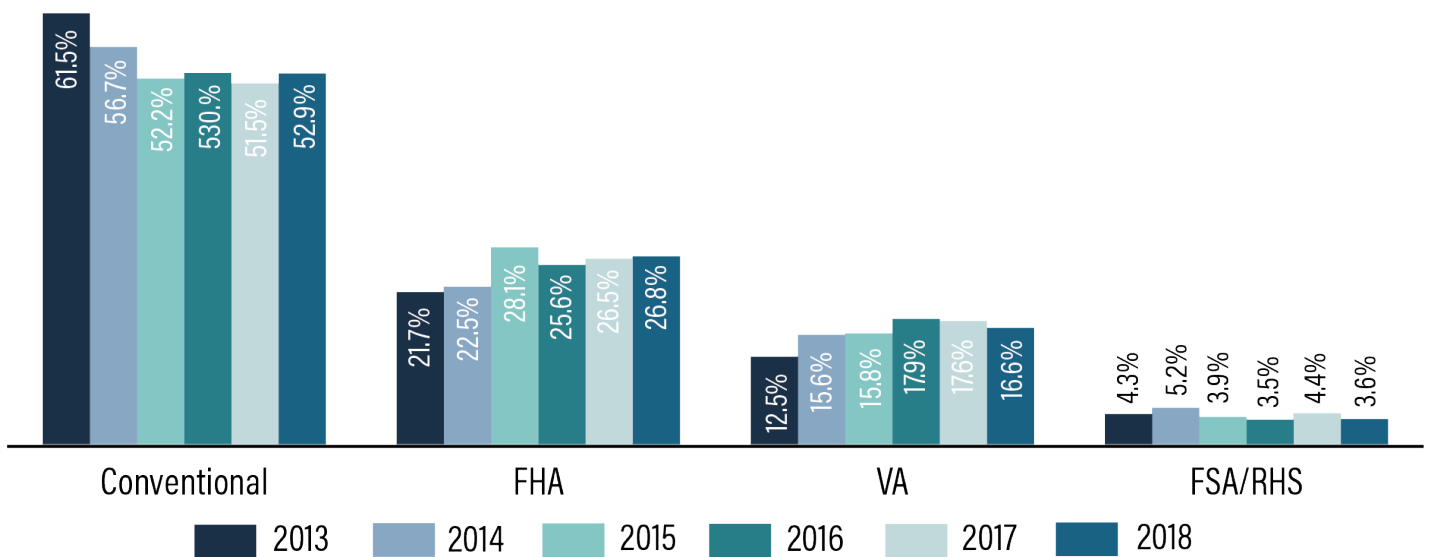
AVERAGE APR & CREDIT SCORE (2013 - 2018)



LOAN PURPOSE (2013 - 2018)



MORTGAGE LOAN TYPE (2013 - 2018)

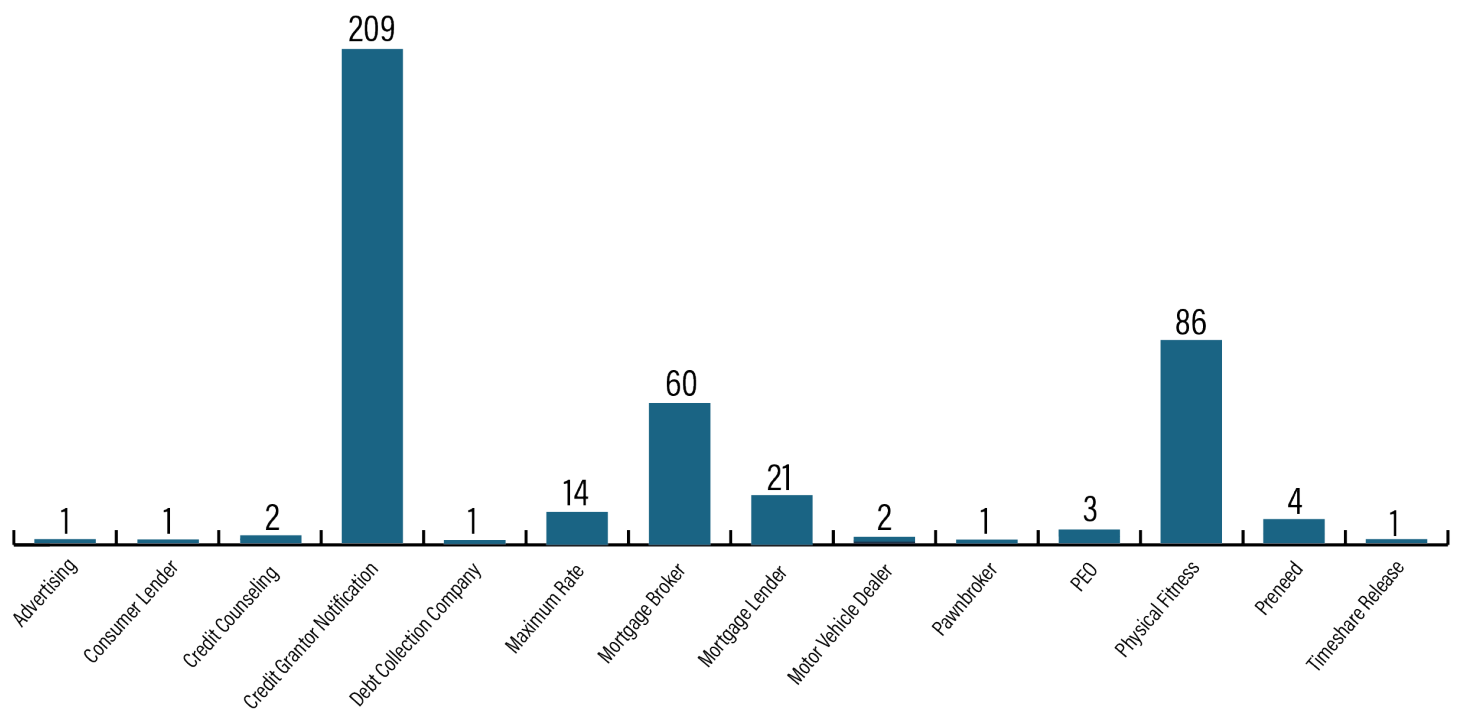


APPENDIX: RECENT ENFORCEMENT ACTIONS

Introduction

In Fiscal Year 2019 (FY19), SCDCA engaged in 406 enforcement actions. **Overall, SCDCA's outcome of credits, refunds and adjustments for FY19 through efforts in complaint mediation, enforcement and intervention in rate filings neared \$2.2 million.** This number constitutes a 39% return on investment on SCDCA's total budget of \$3.575 million. While a good result, the amount is less than the return achieved in FY18. The fluctuation is an example of the unpredictability in forecasting results of enforcement actions and complaint resolutions due to the varied complexity of matters brought before SCDCA.

406 ENFORCEMENT ACTIONS DURING FY19



SCDCA received approximately 25,500 filings and applications submitted by non-depository financial institutions and other regulated industries in FY19. During the same time period, investigators conducted 546 advisories, compliance reviews, contacts and inspections. SCDCA strives to conduct compliance reviews of at least twenty-five percent of licensees annually to ensure continued compliance. This goal was slightly exceeded with 25.7% of licensees reviewed in FY19. 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. Some highlights of issues identified through recent compliance reviews or investigations can be found below. Several are recurring issues and remain the same as those listed in prior editions of the State of Credit Report. A listing of recent public enforcement actions can be viewed on SCDCA's website.³³ SCDCA's FY19 Accountability Report³⁴ showing data points related to enforcement and licensing may be viewed on the Department's website along with Administrative Interpretations³⁵, none of which were issued in 2019.

Recent Enforcement/Investigative Highlights

Title 32 Contracts and Agents, 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 review 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 fee to the Department for each contract.
- Funeral homes that are not licensed to sell preneed funeral contracts accepting funds from consumers.
- Licensed preneed providers receiving monies greater than the contract amount and failing to execute an additional contract for the excess funds received.

Title 37 Consumer Protection Code, Chapter 2

Motor Vehicle Dealers

Pursuant to section 37-2-307, prior to charging a closing fee (sometimes referred to by other terms such as doc fee, doc prep fee, administrative fee, processing fee), a motor vehicle dealer must provide written notice to the SCDCA of the maximum amount of closing fee the dealer intends to charge. The notice must be filed annually. SCDCA reviews fees in excess of \$225 for reasonableness in light of standards provided by the law.

To ensure compliance, investigators reviewed automobile dealer financial statements, disclosures, and invoices, interviewed car dealer personnel and reviewed employee payroll and job descriptions. Recurring issues include:

- Including expense line items that are not permissible in the calculation to determine the closing fee. (ex. car detailing, fuel expense, delivery charges)
- Including compensation for employee duties that are not related to the closing process.
- Including the total costs for dealership expenses that are the standard dealers operating expense. (ex. IT systems, office supplies, shredding and retention expense)

Title 40 Professions and Occupations, Chapter 39

Pawnbrokers³⁶

No person shall carry on the business of a pawn broker in any location without first obtaining a Certificate of Authority for each location. All pawn brokers conducting business in this state are under the authority of and regulated by SCDCA. The statute requires a pawn broker to keep a detailed record of all transactions

for items being pledged or purchased. The statute requires a pawn broker 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.

Title 40 Professions and Occupations, 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 mortgage broker files, mortgage disclosures and contracts, mortgage call reports, and mortgage logs. Recurring issues include:

- Use of Mortgage Broker 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 preference form with no evidence of ever obtaining the preference from the consumer. In other circumstances, the form is completed at closing or no evidence of disclosure or ascertaining the preference is found.³⁷
- Failure to properly disclose broker compensation to the consumer. During the loan process, the loan amount may increase. 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 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 SCDCA. 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.
- 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.

Endnotes

- 1 *Id.*
- 2 Agency reports can found on the Department's website at www.consumer.sc.gov.
- 3 *S.C. Code Ann.* § 37-1-301(11) (2015), available at <http://www.scstatehouse.gov/code/t37c001.php>.
- 4 *S.C. Code Ann.* § 37-2-104 (2015), available at <http://www.scstatehouse.gov/code/t37c002.php>.
- 5 *S.C. Code Ann.* § 37-3-104 (2015), available at <http://www.scstatehouse.gov/code/t37c003.php>.
- 6 *S.C. Code Ann.* § 37-2-106 (2015), available at <http://www.scstatehouse.gov/code/t37c002.php>.
- 7 *S.C. Code Ann.* § 37-2-701(6) (2015), available at <http://www.scstatehouse.gov/code/t37c002.php>.
- 8 *S.C. Code Ann.* § 37-1-301(12) (2015), available at <http://www.scstatehouse.gov/code/t37c001.php>.
- 9 *S.C. Code Ann.* § 37-1-301(13) (2015), available at <http://www.scstatehouse.gov/code/t37c001.php>.
- 10 *S.C. Code Ann.* §§ 37-2-305, 37-3-305 (Supp. 2016) and § 37-6-201 (2015) available at <http://www.scstatehouse.gov/code/t37c002.php>, <http://www.scstatehouse.gov/code/t37c003.php> and <http://www.scstatehouse.gov/code/t37c006.php>.
- 11 *S.C. Code Ann.* §§ 37-6-201 to 203 (2015), available at <http://www.scstatehouse.gov/code/t37c006.php>.
- 12 <http://www.consumer.sc.gov/consumer/Pages/LicenseeLookup.aspx>.
- 13 *S.C. Code Ann.* § 37-3-101 et seq. (2015), available at <http://www.scstatehouse.gov/code/t37c003.php>.
- 14 *S.C. Code Ann.* § 37-3-500 through 515 (2015), available at <http://www.scstatehouse.gov/code/t37c003.php>.
- 15 *S.C. Code Ann.* § 34-39-10 et seq. (1987), available at <http://www.scstatehouse.gov/code/t34c039.php>; *S.C. Code Ann.* § 40-39-10 et seq. (2001), available at <http://www.scstatehouse.gov/code/t40c039.php>.
- 16 *S.C. Code Ann.* § 37-3-501(1) & (2) (2015), available at <http://www.scstatehouse.gov/code/t37c003.php>.
- 17 *S.C. Code Ann.* §§ 37-6-201 to 204 (2015), available at <http://www.scstatehouse.gov/code/t37c006.php>.
- 18 *S.C. Code Ann.* § 37-29-20 (2015), available at <http://www.scstatehouse.gov/code/t37c029.php>.
- 19 *S.C. Code Ann.* § 37-3-201(2)(b) (2015) and § 37-3-305 (Supp. 2016), available at <http://www.scstatehouse.gov/code/t37c003.php>.
- 20 *S.C. Code Ann.* § 37-3-201(2)(a) (2015), available at <http://www.scstatehouse.gov/code/t37c003.php>.
- 21 *S.C. Code Ann.* § 34-39-120(3) (Supp. 2016), available at <http://www.scstatehouse.gov/code/t34c039.php>.
- 22 How State Rate Limits Affect Payday Loan Prices, Fact Sheet, The Pew Charitable Trusts, Figure 2 (April 2014). Available at: http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes/content-level_pages/fact_sheets/stateratelimitsfactsheetpdf.pdf.
- 23 *S.C. Code Ann.* § 40-39-10(2) (2001 & Supp. 2016), available at <http://www.scstatehouse.gov/code/t40c039.php>.
- 24 *S.C. Code Ann.* §§ 40-39-20 and 40-39-30 (Supp. 2016), available at <http://www.scstatehouse.gov/code/t40c039.php>.
- 25 *S.C. Code Ann.* §§ 40-39-20 and 40-39-70 (Supp. 2016), available at <http://www.scstatehouse.gov/code/t40c039.php>.
- 26 *S.C. Code Ann.* § 37-7-101 et seq. (2015), available at <http://www.scstatehouse.gov/code/t37c007.php>.
- 27 *S.C. Code Ann.* § 37-7-102 (2015), available at <http://www.scstatehouse.gov/code/t37c007.php>.
- 28 *S.C. Code Ann.* § 37-7-102 (2015), available at <http://www.scstatehouse.gov/code/t37c007.php>.
- 29 *S.C. Code Ann.* § 37-7-101(3) & (7) (2015), available at <http://www.scstatehouse.gov/code/t37c007.php>.
- 30 *S.C. Code Ann.* § 40-39-70 (Supp. 2016), available at <http://www.scstatehouse.gov/code/t40c039.php>.
- 31 Act 544 of 1988; Act 42, effective January 1, 2004.
- 32 http://www.consumer.sc.gov/Regulatory/licensing_registration/MortgageBroker/Pages/default.aspx.
- 33 See http://www.consumer.sc.gov/Pages/Enforcement_Actions.aspx.
- 34 See <http://www.consumer.sc.gov/Pages/AgencyReports.aspx>.
- 35 See <https://consumer.sc.gov/business-resources/laws/administrative-interpretations>.
- 36 Items listed are recurring issues and remain the same as those listed in the *2016 State of Credit Report*.
- 37 See the *Quicken v. Wilson* case under "Mortgage Brokers" at http://www.consumer.sc.gov/Pages/Enforcement_Actions.aspx for more information related to Attorney Insurance Preference.

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