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PROTECTING CONSUMERS SINCE 1975

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Via Electronic Submission: <https://www.regulations.gov>

Federal Trade Commission
 Office of the Secretary
 600 Pennsylvania Avenue NW, Mail Stop H-144 (Annex R)
 Washington, DC 20580

RE: Unfair or Deceptive Rental Housing Fee Practices ANPRM, Project No. R207011

Dear Commissioners:

The South Carolina Department of Consumer Affairs ("SCDCA"/"Department") is pleased to offer comments in response to the Federal Trade Commission's ("FTC"/"Commission") request related to its Rule on Unfair or Deceptive Rental Housing Fee Practices. SCDCA is South Carolina's consumer protection agency. Established in 1974, SCDCA is responsible for the administration and enforcement of over 120 state and federal laws. A large part of our authority stems from Title 37 of the South Carolina Code of Laws, the Consumer Protection Code (the "Code"). The Code, among other purposes, is meant to further consumer understanding of the terms of credit transactions, foster competition among suppliers of consumer credit, and permit and encourage the development of fair and economically sound credit practices.¹ Further, it requires the Department to undertake activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion and sale of consumer goods and services.² Central to SCDCA's mission is protecting consumers from inequities in the marketplace by educating them and businesses on their respective rights and responsibilities.

¹ S.C. Code Ann. § 37-1-102(c)-(e)(2019).

² S.C. Code Ann. § 37-6-117(f) (2019).



SCDCA supports the FTC's efforts to ensure consumer transparency in the marketplace. We offer the comments below based upon our experience regulating various industries and collecting and handling consumer complaints for both regulated and unregulated businesses.³

Discussion

The Department's complaint data indicates an abundance of hidden fees or deceptive practices exist in the marketplace that consumers find unfair. From January 1, 2020 to March 13, 2026 the Department received a total of 32,384 complaints. Of these, 4,251 (13.1%) were related to deceptive fees.⁴ Of the 4,251 complaints for deceptive fees 233 (5.48%) related to rental housing.⁵

These complaints vary in scope and closely align with the array of deceptive practices identified in the Commission's request, including: hidden homeowners' association fees, application fees,⁶ quoted or advertised price not matching actual price, rent increases without notice, rental not in move-in condition, improper application of late fees, misrepresentation of rental features,⁷ improper withholding of the security deposit, hidden parking fees, hidden utility costs,⁸ hidden credit card fees or credit card fees greater than necessary, hidden or unauthorized pet fees, and mandatory valet trash fees.

The Department has previously offered comments on hidden and deceptive fees in other industries. In 2022, the Department submitted comments to the Consumer Financial Protection Bureau ("CFPB"/"Bureau") in response to a request for information regarding Fees Imposed by Providers of Consumer Financial Products or Services.⁹ The Department also, in 2022, provided comments to the FTC regarding the proposed Motor Vehicle Dealers Trade Regulation Rule.¹⁰ In

³ SCDCA's Consumer Services Division processes and mediates written consumer complaints, seeking to find equitable solutions for the consumer and the business, including refunds, adjustments and credits to consumer accounts.

⁴ The Department used the following as key terms to narrow its complaint data: misleading, false, hidden, quoted price, fee, fine, deceptive, billing dispute, advertisement, hidden, disclosed, honor, and overcharged.

⁵ The Department then filtered complaints by Homeowners Associations/Property Owners Associations ("HOA/POA") and "Lease – Apartment/House". The Department reviewed the remaining complaints manually for relevance.

⁶ In one circumstance the consumer could not tour the property until paying an application fee.

⁷ In one complaint the landlord/property manager told the customer the floors were hardwood when the floors instead were vinyl.

⁸ For example, some customers complained that the landlord/property manager indicated that utilities were covered in the rent price and then utilities began being billed separately.

⁹ See *Memo Re: Docket No. CFPB-2022-0003 – Fees Imposed by Providers of Consumer Financial Products or Services* (4/11/2022) available at <https://consumer.sc.gov/sites/consumer/files/Documents/Advocacy/CFPB-2022-0003%20-%20SCDCA%20Comment%20Letter.pdf>

¹⁰ See South Carolina Dept. of Consumer Affairs, *Memo Re: Motor Vehicle Dealers Trade Regulation Rule Making No. P204800* (9/12/2022) available at https://consumer.sc.gov/sites/consumer/files/Documents/Advocacy/SCDCA_Comments_FTC_MV_Dealers_Trade_Rule.pdf



2024, the Department provided comments to the FTC in response to unfair and deceptive fees, primarily in ticketing services industries.¹¹

Based on its data and experience, the Department's prior comments regarding hidden and deceptive fees are also applicable to the rental housing market:

- History has shown a desire for industries participating in the consumer credit marketplace to assess fees outside of an advertised price or cost.
- Hidden or misleading fees impair a consumer's ability to shop around in the marketplace.
- A rule would benefit consumers and foster fair competition by curbing deceptive practices related to fees, while promoting transparency and honesty in pricing.
- The Department supports clear and conspicuous displays of all fees in business advertisements.

Generally, the Department believes any fees or charges should be disclosed explicitly and uniformly and such disclosure should be presented in a manner to create an informed buyer.

Conclusion

We commend the Commission for the work and effort put into this process and appreciate the opportunity to comment. We hope this information assists with the FTC's consideration of rules to ensure fair treatment of consumers seeking rental housing. Should you have any questions pertaining to our comments, please feel free to contact us at 803-734-4233.

Regards,

Carri Grube Lybarker, Esq.
Administrator/Consumer Advocate

¹¹ South Carolina Dept. of Consumer Affairs, *Memo Re: Unfair or Deceptive Fees NPRM, R207011 (2/7/2024)* available at <https://consumer.sc.gov/sites/consumer/files/Documents/Advocacy/SCDCA%20Comment%20Letter%20on%20Unfair%20or%20Deceptive%20Fees.pdf>