



2019

STATE OF CREDIT

REPORT

SC DEPARTMENT OF CONSUMER AFFAIRS
ADMINISTRATOR: CARRI GRUBE LYBARKER
2221 DEVINE ST. | STE. 200 | COLUMBIA, SC 29205
800-922-1594 | (803) 734-4200 | WWW.CONSUMER.SC.GOV

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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 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. The Department 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, DCA 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 the Department is required to report on the state of credit in South Carolina and agency enforcement operations. In pertinent part, the Department 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.”¹ 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. Such information is not contained herein.²

The purpose of the State of Credit Report is to provide information and analysis of existing and emerging trends in the consumer credit marketplace in South Carolina. The 2019 State of Credit Report focuses on the use of credit in this State, as well as enforcement actions and administrative interpretations of the Department. The data comes from an analysis of filings received by the Department, 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. Due to the submission deadlines for various reports, the most recent available data elements for a particular section contained herein may cover calendar year 2017 and are delineated as such.

The 2019 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.

¹ *Id.*

² Agency reports can be found on the Department’s website at www.consumer.sc.gov.

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 sale,⁴ a consumer loan,⁵ a consumer lease,⁶ or a consumer rental-purchase agreement.⁷ “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 Such filings constitute the Credit Grantor Notification and Maximum Rate Schedule filings, and creditors who file this information are referred to as registered creditors.

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

In 2018, 1,646 creditors filed 7,445 credit grantor notifications for 4,856 locations. While creditors must file for each location, the total number of credit grantor filings includes the varied transaction types available per location (*Figure 1*). Between 2017 and 2018, the number of creditors filing consumer credit grantor notifications decreased slightly, correlating with the slight decrease in filing locations for those creditors (*Figure 1*). Despite the overall decrease, the top ten companies filed for 1,102 locations in both years. In conjunction with the decrease in locations, total filings decreased by 626 (7.8% decrease), outpacing the downward trend of the number of creditors filing (*Figure 1*).

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>.

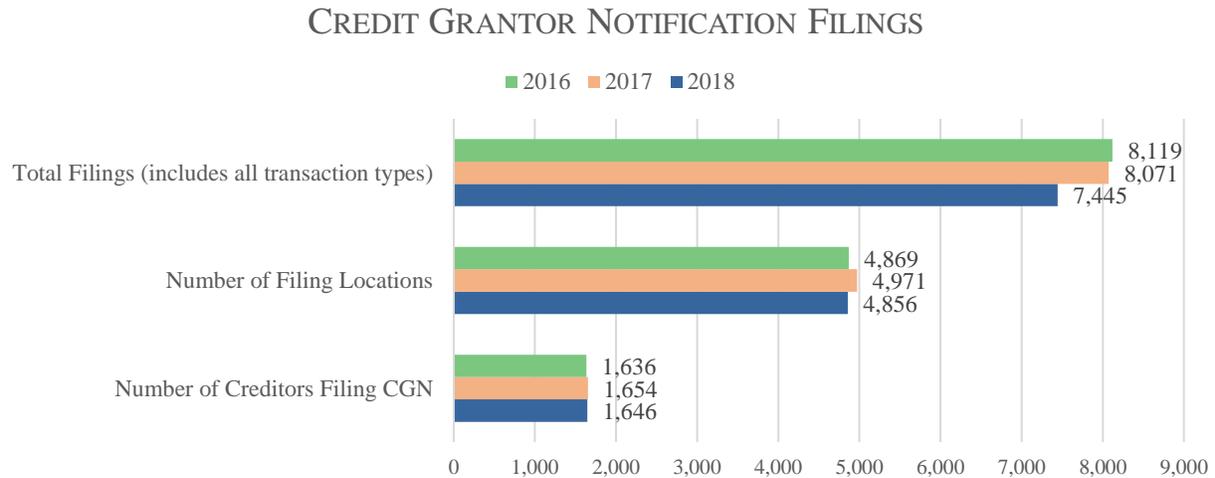
⁸ S.C. Code Ann. § 37-1-301(12) (2015), available at <http://www.scstatehouse.gov/code/t37c001.php>.

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>.

Figure 1



Maximum Rate Schedules

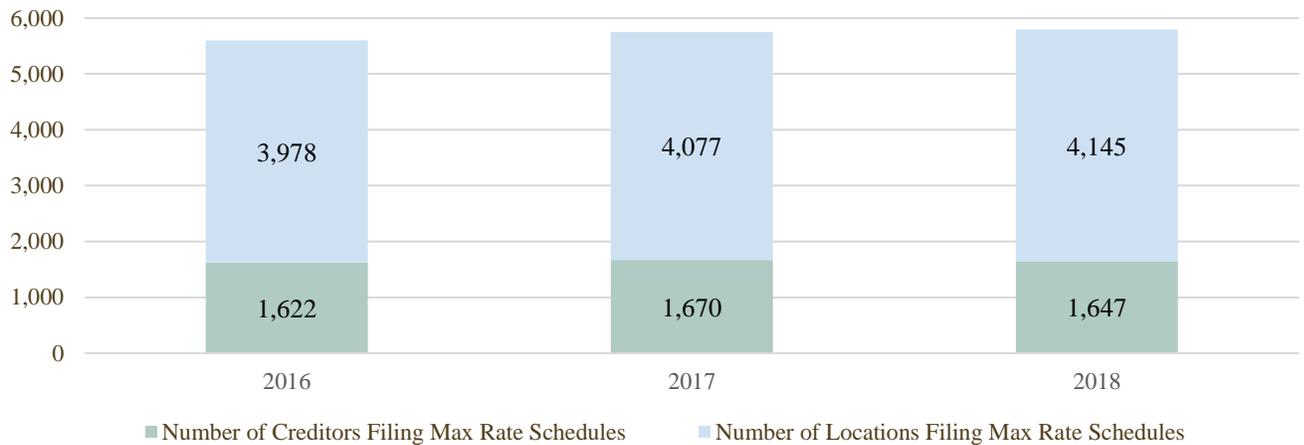
In South Carolina, creditors intending to charge more than 18% APR must first file the rate with the Department and post that same rate in its place of business. These maximum rate schedules are self-imposed limits set by each creditor, and must be filed for each credit category the creditor engages in, which can include: (1) unsecured, (2) secured other than those secured by real estate, (3) secured by real estate, (4) open-end (revolving), and (5) other. Additionally, maximum rate schedule filings can vary by: rate type (fixed or variable); transaction type (credit sales or consumer loans); and creditor type (auto, bank, supervised lender, etc.). 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 the Department are posted at the creditor's business location and on the agency's website.¹²

Creditors submit filings by location; however, a creditor who provides more than one category of credit to consumers (e.g., secured vs. unsecured) at a single location may file a different maximum rate for each of those categories. Thus, some creditors may have multiple maximum rate filings for an individual location. For filing year 2018, 1,647 creditors filed maximum rate schedules ranging from less than 1% to 780% for 4,145 locations, a slight increase in the number of locations from 2017 (*Figure 2*).

¹² <http://www.consumer.sc.gov/consumer/Pages/LicenseeLookup.aspx>.

Figure 2

NUMBER OF MAX RATE FILINGS BY CREDITOR & LOCATION

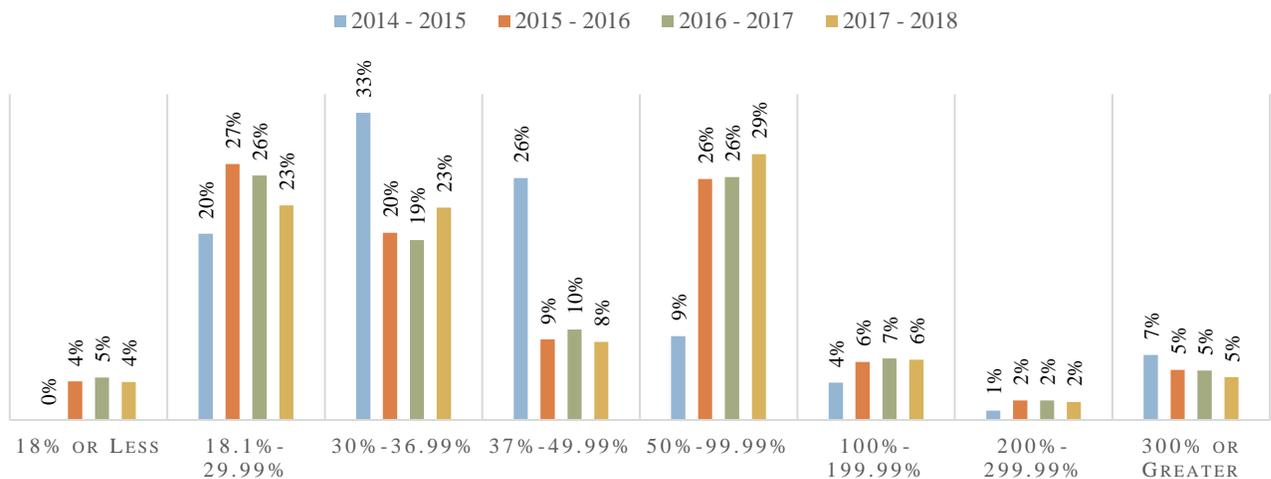


In 2018, half of creditors filed rates of 36.99% or less, consistent with 2017 filings. In 2018, and for the third consecutive year, the number of creditors filing rates of 200% or greater remained unchanged (Figure 3). The number of rates filed between 100% and 199.99% increased only marginally in 2018 (Figure 3).

From 2015 to 2018, the starkest changes in rate ranges occurred between 2015 and 2016, for rates between 30% and 99.99% (Figure 3). For example, in 2016, the number of filings in the 30%-36.99% range dropped 13% from 2015. However, this decrease was eclipsed by the 17% decline in the 37%-49.99% range for the same period. Conversely, 2016 realized a 16% increase in the 50%-99.99% range (Figure 3). Following 2016, filing ranges have fluctuated only slightly, varying by no more than 4% from year to year.

Figure 3

MAX RATE FILINGS BY APR RANGE (2015 - 2018)



Similar to credit grantor notification filings, creditors submit max rate schedule filings by location; however, the filing may include APR ranges dependent on the category of consumer credit transaction entered into. Secured transactions are the most common for credit sales and consumer loan filings alike; however, consumer loan filings are more evenly dispersed across

categories than credit sales. For example, while the number of secured consumer loan filings comprises 36% of all consumer loan transactions, the number of secured credit sales filings accounts for approximately 75% of all credit sales transaction filings (*Figure 5*).

Figure 4

TOTAL MAX RATE FILINGS BY TRANSACTION TYPES

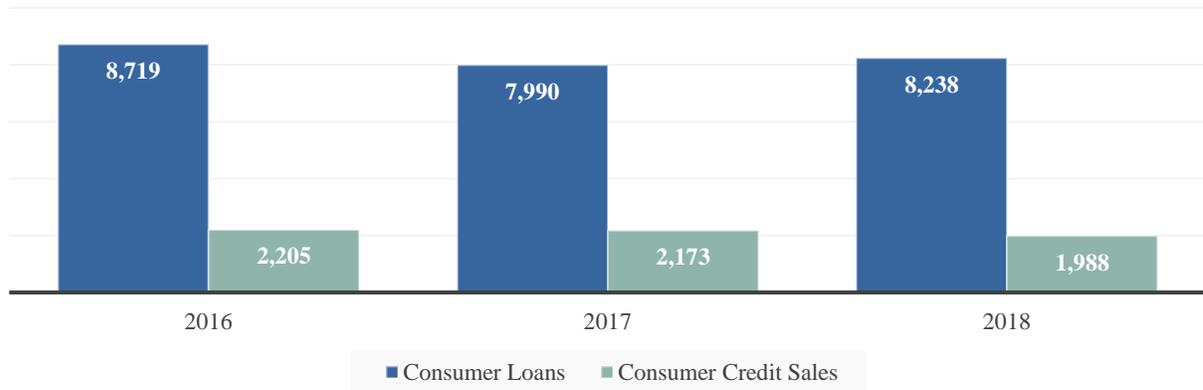
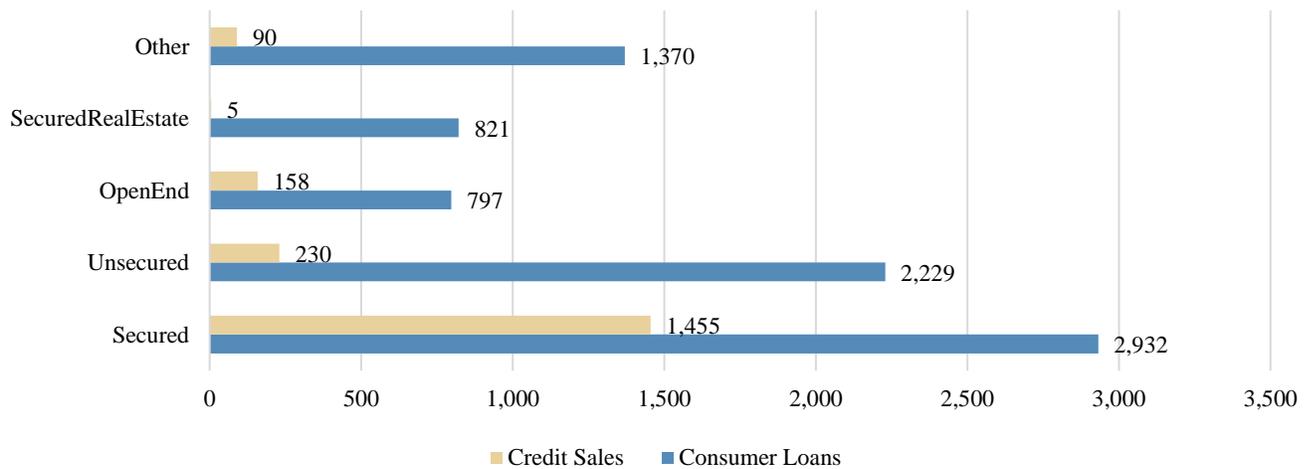


Figure 5

NUMBER OF MAX RATE FILINGS BY TYPE (2018)



Fixed maximum rate schedules can vary widely depending on the transaction type, with the average of fixed max rate filings for consumer loans roughly forty-two percent higher than the average for consumer credit sales (*Figure 6*). Whereas the average of variable max rate filings only differs by approximately 1% between the two transaction types.

While the average of fixed max rate filings exceeds the average of variable max rate filings by more than 40% for consumer loan transactions, there is only a 1.2% (approximate) difference between the average of fixed and variable rate filings for credit sales transactions (*Figure 6*).

Figure 6

AVERAGE OF MAX RATE FILINGS BY TRANSACTION TYPE (FIXED & VARIABLE APRS) 2018



Maximum rate filings also fluctuate based on the transaction type and category together. The highest average of max rate filings for consumer loans was in the secured category, and the highest average of max rate filings for consumer credit sales was in the other category (Figure 7). The lowest max rate filed on average for consumer loans was secured by real estate; for consumer credit sales, open end transactions had the lowest max rate filing on average in 2018 (Figure 7).

Figure 7

AVERAGE OF FIXED APR FILED BY TYPE & CATEGORY (2017 & 2018)

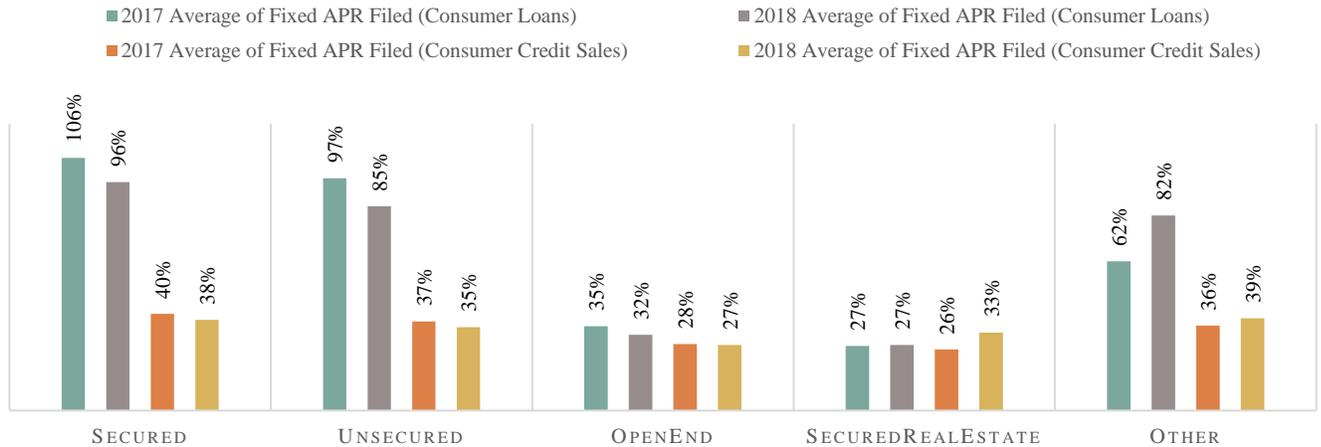
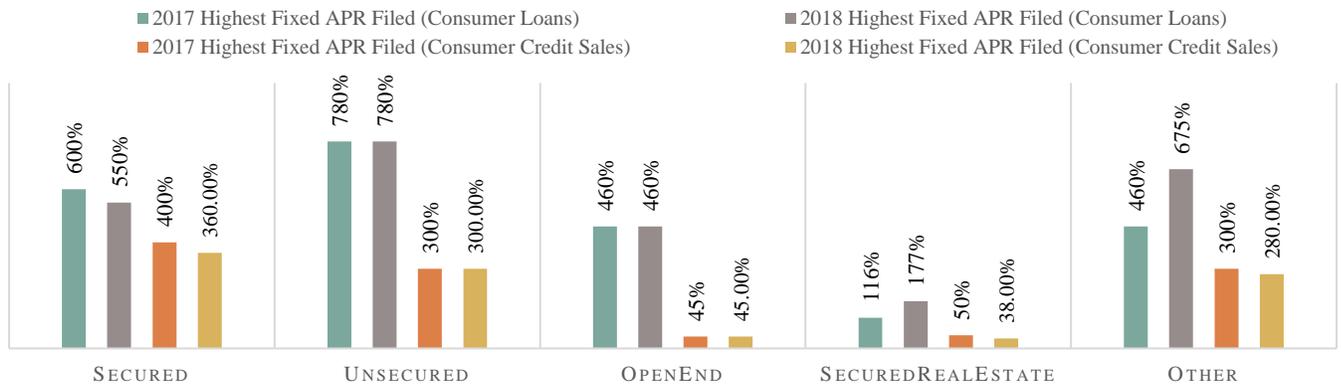


Figure 8

HIGHEST APR FILED BY TYPE & CATEGORY (2017 & 2018)

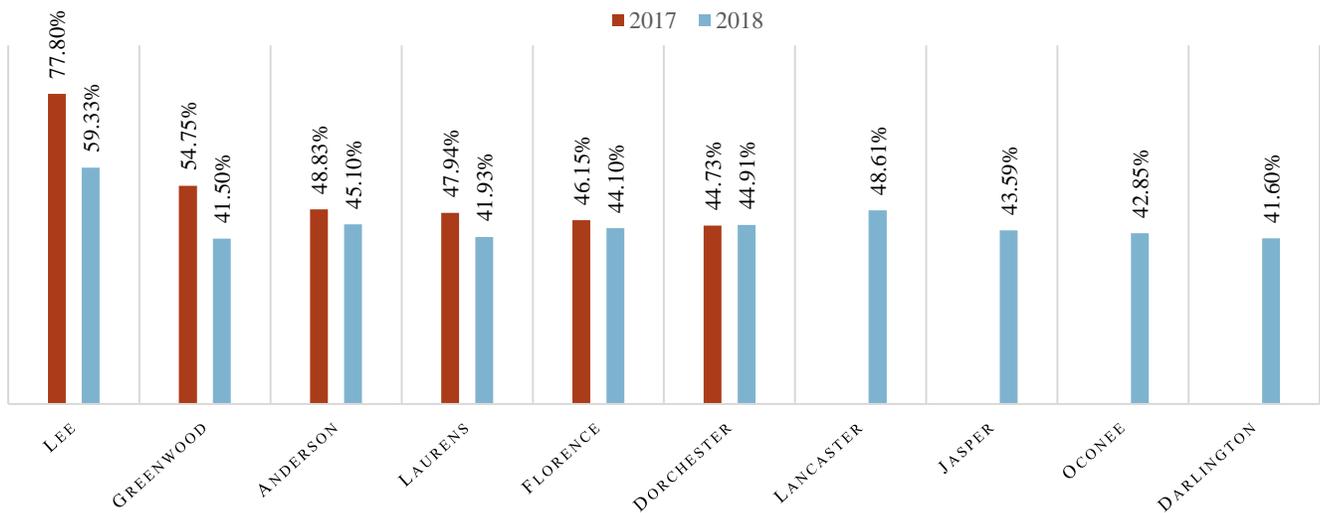


Maximum rates also vary by geography. The ten counties with the highest averages of max rate filings for credit sales ranged from 41.50% (Greenwood County) to 59.33% (Lee County) (*Figure 9*). Lee County had the largest change in 2018, decreasing by roughly 18% from 2017. This change results almost entirely from one creditor who filed a maximum rate of 150% in 2017, but did not renew in 2018. Without this change, the average of max rates filed (consumer credit sales) in Lee County would be less than 0.5%.

Of the ten highest counties in 2018, six counties were also in the top ten counties in 2017 (*Figure 9*). Of these six, only Dorchester County had an increase in 2018 (*Figure 9*). Overall, the average of max rate filings for the top ten counties decreased, with the 10th highest at 41.50%, a slight drop from 2017 where the 10th highest county (Dorchester) had an average max rate of 44.73%.¹³

Figure 9

**AVERAGE OF MAX RATES FILED (CREDIT SALES):
TEN HIGHEST COUNTIES BY AVERAGE IN 2018**

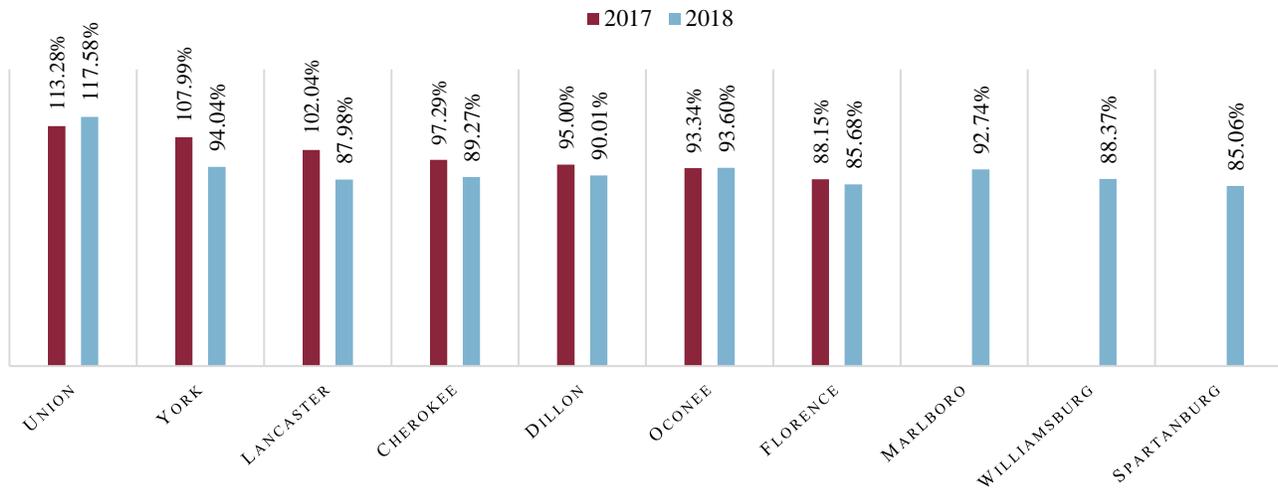


The highest averages of max rate filings by county varied more sharply for consumer loans than for credit sales (*Figure 10*). These averages ranged from 85.06% (Spartanburg County) to 117.58% (Union County) in 2018. Lancaster County had the greatest change in average of max rate filings in 2018, decreasing by more than 14% from 2017 (*Figure 10*). This variation is almost entirely attributable to filing changes made by three supervised lenders who filed high rates in 2017; in 2018, these three lenders cumulatively decreased the number of high rate filings by more than half. While counties with the ten highest averages of credit sales filings are spread across the state, seven of the top ten counties border North Carolina for consumer loan max rate filings.

¹³ See 2018 SOCR, available at consumer.sc.gov.

Figure 10

AVERAGE OF MAX RATES FILED (CONSUMER LOANS):
TEN HIGHEST COUNTIES BY AVERAGE IN 2017 & 2018



While the analysis above focuses on filings by South Carolina creditors (operating at physical locations or online), it is important to note that, consistent with 2017, the highest average of max rate filings (148.03% APR), and the overall highest max rate filed (780% APR), for consumer loans were made by lenders located outside South Carolina and operating as online lenders. A complete listing of highest and average maximum rate filed by county can be found in Appendix C (credit sales) and Appendix D (loans).

CONSUMER LENDING

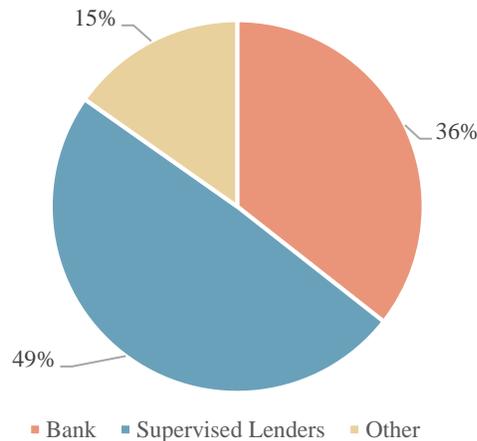
Consumer loan transactions, which account for the majority of maximum rate filings, are comprised of various industries, or registered creditor types. While the Code contains provisions for consumer loans similar to those for credit sales, rent-to-own transactions and leases, additional requirements and consumer protections are contained in Chapter Three with which lenders must comply.¹⁴ This includes specific regulation of lenders offering loans in excess of 12% APR.¹⁵ Some consumer loan products, however, are regulated by other titles, including deferred presentment and pawn transactions.¹⁶

Lender types for consumer loan transactions are dominated by supervised lenders and banks (Figure 11). In Figure 11, “other” largely consists of credit unions and savings and loan companies, which together only constitute approximately 1% of lender types. The average of max rate filings varies widely by lender type, with banks having the lowest average of these lender types at 31.57%. The average of max rate filings for supervised lenders (112.43%) is

¹⁴ S.C. Code Ann. § 37-3-101 et seq. (2015), available at <http://www.scstatehouse.gov/code/t37c003.php>.
¹⁵ S.C. Code Ann. § 37-3-500 through 515 (2015), available at <http://www.scstatehouse.gov/code/t37c003.php>.
¹⁶ 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>.

approximately 81% higher than the average for banks. Supervised lenders are discussed in more detail below.

Figure 11
NUMBER OF MAX RATE FILINGS BY LENDER TYPE



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.¹⁷ A supervised lender is a person who is authorized to make or take assignments of supervised loans.¹⁸ These lenders are licensed and examined by the South Carolina Board of Financial Institution’s Consumer Finance Division.¹⁹ 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.²⁰ 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 34-29-140.²¹ As a result, traditionally these lenders rarely offer loans under \$601.00 and are often referred to as “601 lenders.”

The range of maximum interest rates supervised lenders filed with the Department in 2018 as compared to the number of non-supervised lender location filings received are illustrated in *Figure 12*. Approximately 25% of supervised lender filings intended to impose rates in excess of 100% APR, a sharp contrast to non-supervised lender filings, of which only 3% (approximately) filed rates in excess of 100% APR.²² Further, the supervised lending industry accounts for the majority of filings for APRs in excess of 49.99%. Across rate ranges as a whole, the number of filings by non-supervised lender filers decreased slightly in 2018, while the number of filings by supervised lenders increased slightly. The number of filings by both types of filers trended upward marginally in the 30% - 36.99% and 50% - 99.99% ranges.

¹⁷ S.C. Code Ann. § 37-3-501(1) & (2) (2015), available at <http://www.scstatehouse.gov/code/t37c003.php>.

¹⁸ S.C. Code Ann. §§ 37-6-201 to 204 (2015), available at <http://www.scstatehouse.gov/code/t37c006.php>.

¹⁹ S.C. Code Ann. § 37-29-20 (2015), available at <http://www.scstatehouse.gov/code/t37c029.php>.

²⁰ 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>.

²¹ S.C. Code Ann. § 37-3-201(2)(a) (2015), available at <http://www.scstatehouse.gov/code/t37c003.php>.

²² See *Figure 5*, State of Credit Report 2017.

Additionally, the number of non-supervised lender filings also increased in the 100% - 199.99% range (Figure 12).

Supervised lenders offer a variety of financial products, including installment loans and title loans. The most frequent interest rates imposed by supervised lenders fluctuates greatly depending on the amount advanced (Figure 13).

In 2017, the highest APR charged (weighted averages), approximately 172%, occurred where credit extended was between \$600.01 and \$2,500, and the most frequent APR charged for this credit range was also over 100% (Figure 13). Rates charged for loans \$2,500 or less increased in 2017, including a more than 40% increase for the highest rates charged (weighted average) for loans between \$600.01 and \$2,500 (Figure 13). Loans of more than \$2,500 saw decreases in highest and most frequent rates charged (weighted averages) in 2017 (Figure 13).

Figure 12²³

2017 & 2018 MAX RATE FILINGS BY RANGE: SUPERVISED LENDERS & NON-SUPERVISED LENDERS

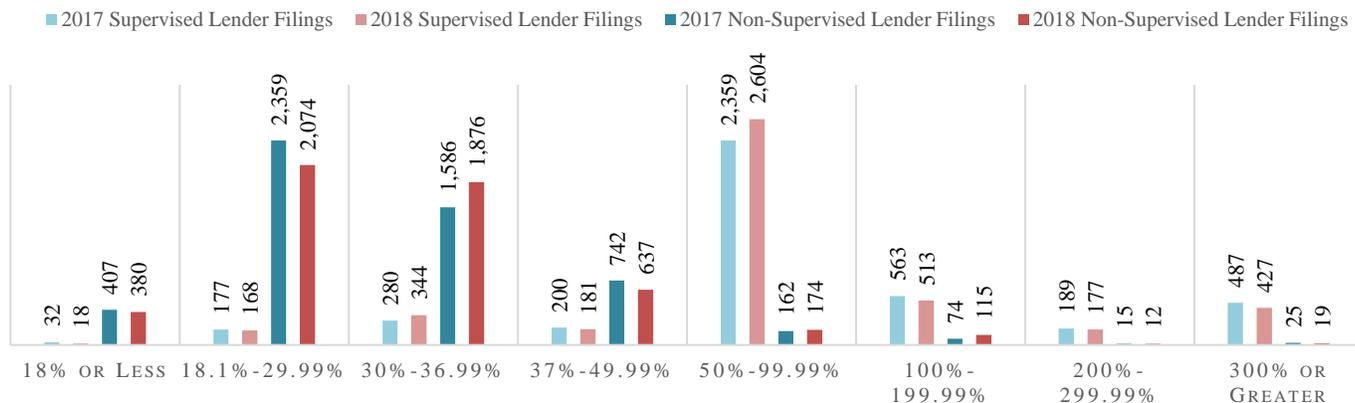
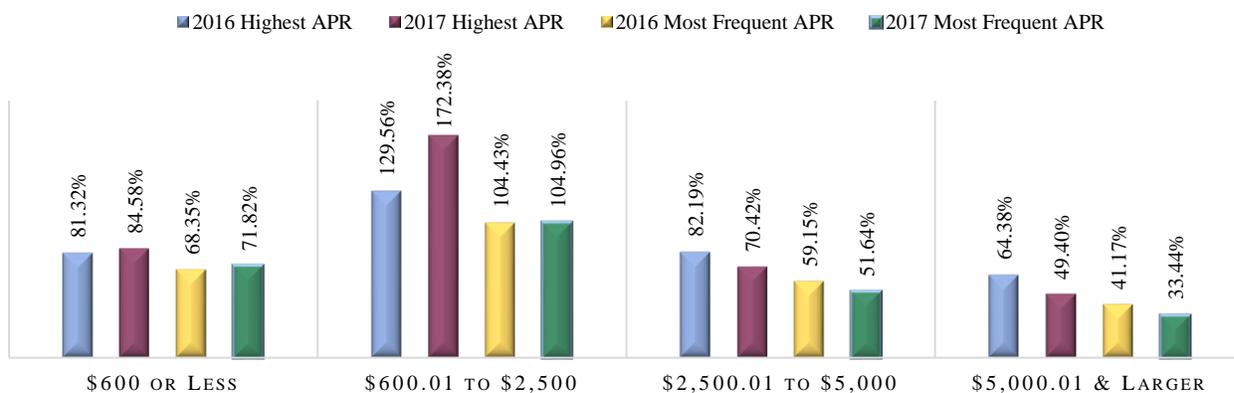


Figure 13²⁴

2016 & 2017 HIGHEST & MOST FREQUENT APR CHARGED BY RANGE (WEIGHTED AVERAGES)



²³ Supervised lenders may make multiple maximum rate filings depending on loan products offered and/or the amount advanced.

²⁴ In 2018, the South Carolina Board of Financial Institutions (BOFI) made adjustments to its Supervised Lending Report, including the consolidation of loan amount ranges, as indicated in Figure 12. Loan amount ranges used in

While the number of licensed supervised lenders in 2017 remained at 1,495, equal to the number of licensees in 2016, the number of transactions continued to decline, decreasing nearly 2% from 2016, and by roughly 16.4% since 2014. Despite this, the total amount advanced increased approximately 7.22% from 2016, and has only decreased by approximately 0.22% from 2014 (*Table 1*).

Table 1
2014 TO 2017 SUPERVISED LENDING DATA

Year	Transactions	Total Advance Amount	Total # of Debtors Filing for Bankruptcy
2014	1,565,961	\$ 2,361,560,291	14,219
2015	1,453,747	\$ 2,201,151,922	14,283
2016	1,334,143	\$ 2,197,607,121	14,277
2017	1,309,184	\$ 2,356,257,785	13,870

Deferred Presentment

Deferred presentment is commonly referred to as a “payday loan.” A “payday loan” means a transaction pursuant to a written agreement whereby the service provider (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.²⁵ These high rate lenders often charge at or above 300% APR.²⁶ In the late 1990s and early 2000s, these loan products increased their presence nationwide. In response, nearly all states, including South Carolina, passed laws updating regulations of the industry to varying degrees.

The overall downward trend for this industry continued in 2017, and is illustrated by the rate of change for industry activity in *Figures 14 – 16*. The number of transactions decreased at a higher rate than the total advance amount and total fees in 2017, dropping by roughly 9.7% (79,000) from 2016 (*Table 2; Figure 14*). The total advance amount and total fees dropped at nearly the same rate in 2017, falling approximately 8.4% from 2016 (*Table 2; Figures 15 – 16*). The rates of change for all three industry activity measures in 2017 surpassed the rate of change decrease in 2015, making 2017 the largest rate of decrease in two consecutive years since 2010, the first year the database for tracking such transactions was added to the South Carolina Deferred Presentment Services Act.²⁷ This higher rate of decrease at least partly results from a slowed rate of decline between 2015 and 2016. Approximately 10.4% of borrowers entered into an extended payment plan in 2017, which was largely unchanged from the 10.7% of borrowers who entered into an extended payment plan in 2016 (*Table 2*).

prior BOFI Annual Supervised Lending Reports included: \$150 or less; \$150.01 to \$600; \$600.01 to \$1,000; \$1,000.01 to \$2,500; \$2,500.01 to \$4,000; \$4,000.01 to \$5,000; and \$5,000.01 and larger. See also 2018 SOCR.

²⁵ S.C. Code Ann. § 34-39-120(3) (Supp. 2016), available at <http://www.scstatehouse.gov/code/t34c039.php>.

²⁶ *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/pcs/content-level_pages/fact_sheets/stateratelimitsfactsheetpdf.pdf.

²⁷ S.C. Code Ann. § 34-39-120(3) (Supp. 2016), available at <http://www.scstatehouse.gov/code/t34c039.php>.

Table 2
2014 TO 2016 MARKET DATA ON DEFERRED PRESENTMENT TRANSACTIONS

Year	Transactions	Total Advance Amount	Total Fees	Borrowers Entered Into An Extended Payment Plan
2014	948,545	\$ 385.2 million	\$ 57.8 million	11.8%
2015	876,985	\$ 359.9 million	\$ 53.9 million	10.9%
2016	818,699	\$ 339.3 million	\$ 51.1 million	10.7%
2017	739,622	\$ 310.8 million	\$ 46.8 million	10.4%

Figure 14

DEFERRED PRESENTMENT *TOTAL NUMBER OF TRANSACTIONS*: RATE OF CHANGE 2014 - 2017



Figure 15

DEFERRED PRESENTMENT *TOTAL ADVANCE AMOUNT*: RATE OF CHANGE 2014 - 2017

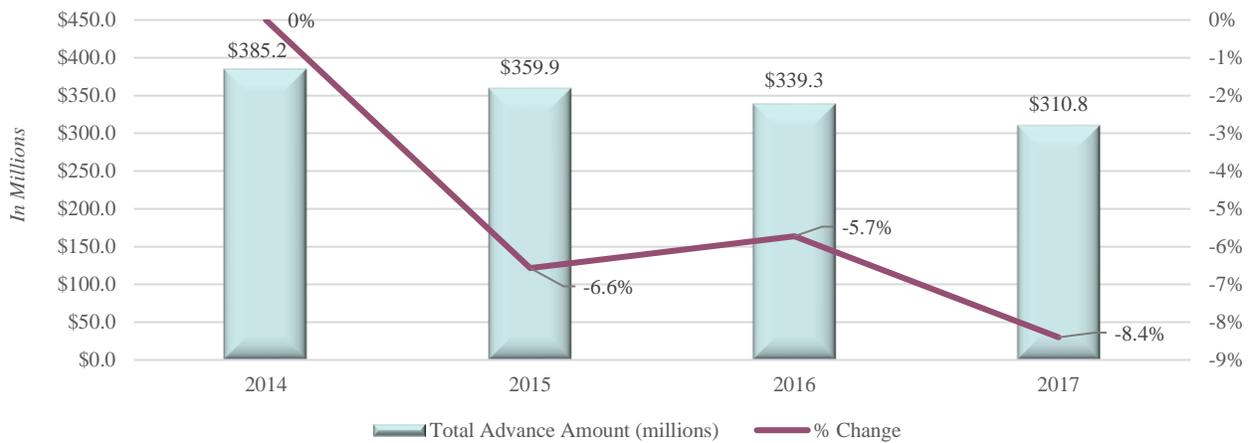
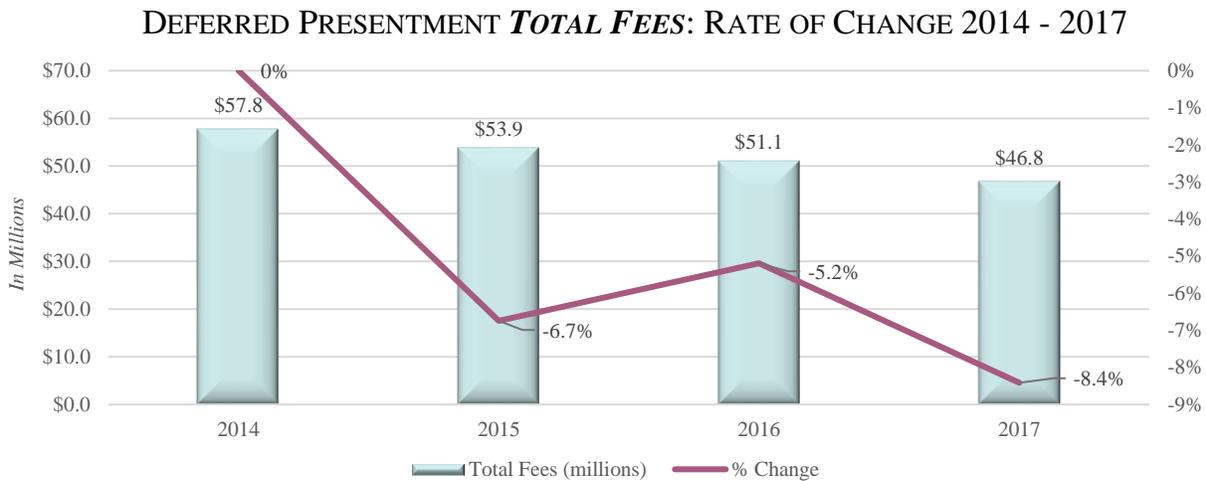


Figure 16



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.”²⁸ No person may engage in the business of a pawnbroker without first obtaining a Certificate of Authority from the Department for each location.²⁹ As a regulated industry, pawnbrokers must keep certain records as required by law,³⁰ including documentation of every pawn or purchase transaction by a pawnbroker.³¹

In 2018, the number of licensed pawnbrokers dropped by approximately 13% (196 to 170) from 2017, and roughly 16% since 2016 (*Figure 17*). Although the decrease between 2016 and 2018 is substantial, such changes have precedent in the pawnbroker industry. For example, between 2010 and 2012, the number of licensed pawnbrokers decreased by approximately 25%, then increased by roughly 50% from 2012 to 2013 (*Figure 17*).

This reporting year also marks the first year pawnbrokers have reported certain data involving pawn transactions and financial information. Of the 170 pawnbrokers, SCDC has received this data from roughly 81% of licensees, which is the basis for this analysis.

Through 441,215 total transactions, licensees advanced approximately \$45.5 million to consumers and collected roughly \$15.3 million in total interest. The largest loan amount for a single transaction ranged from \$100.00 to \$15,000.00. Active pawnbrokers are located in 38 counties throughout the state, with the highest number of locations (16) by county situated in Spartanburg County.³²

²⁸ S.C. Code Ann. § 40-39-10(2) (2001 & Supp. 2016), available at <http://www.scstatehouse.gov/code/t40c039.php>.

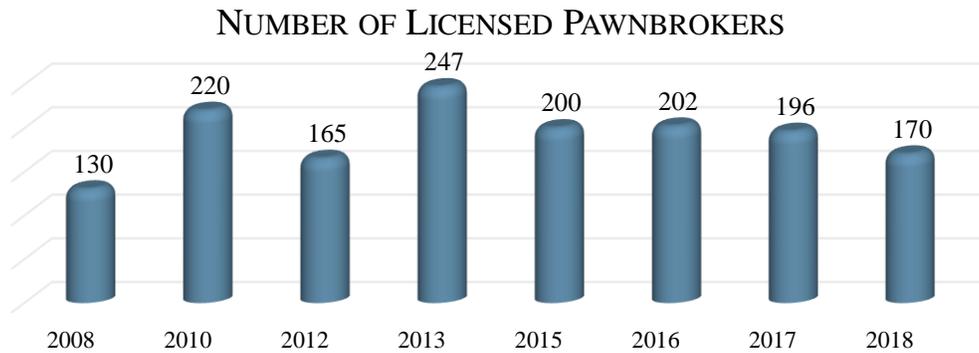
²⁹ S.C. Code Ann. §§ 40-39-20 and 40-39-30 (Supp. 2016), available at <http://www.scstatehouse.gov/code/t40c039.php>.

³⁰ S.C. Code Ann. §§ 40-39-20 and 40-39-70 (Supp. 2016), available at <http://www.scstatehouse.gov/code/t40c039.php>.

³¹ S.C. Code Ann. § 40-39-70 (Supp. 2016), available at <http://www.scstatehouse.gov/code/t40c039.php>.

³² Counties with no active pawnbroker locations include: Bamberg, Calhoun, Fairfield, Hampton, Jasper, Marion, McCormick, and Saluda.

Figure 17



MORTGAGE LENDING

The Department has regulated mortgage loan brokers since 1988, and mortgage loan originators since 2005,³³ 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 the Department’s website³⁴.

Mortgage lending in 2017 showed a decrease in housing prices, but an increase in the average interest rate charged.³⁵ The average value of homes/property purchased decreased approximately 5.9%, to \$220,522 (*Figure 18*). In 2017, the average credit score dropped slightly as the average APR increased from the 2016 averages (*Figure 19*). The loan purpose trends in South Carolina correlate with the trends nationally, as home purchases increased and refinance loans trended downward (*Figure 21*).³⁶ Conversely, mortgage loan types in South Carolina strayed from national trends as reported by the Consumer Financial Protection Bureau; as conventional loans decreased in South Carolina but increased nationally (*Figure 22*).³⁷

³³ Act 544 of 1988; Act 42, effective January 1, 2004.

³⁴ http://www.consumer.sc.gov/Regulatory/licensing_registration/MortgageBroker/Pages/default.aspx.

³⁵ Interest rates nationwide hovered slightly above the historical lows of late 2012 through early 2013.

³⁶ See Data Point: 2017 Mortgage Market Activity and Trends, available at https://files.consumerfinance.gov/f/documents/bcfc_hmda_2017-mortgage-market-activity-trends_report.pdf.

³⁷ *Id.*

Figure 18

AVERAGES: BORROWER'S INCOME, PROPERTY APPRAISED VALUE, & LOAN AMOUNT

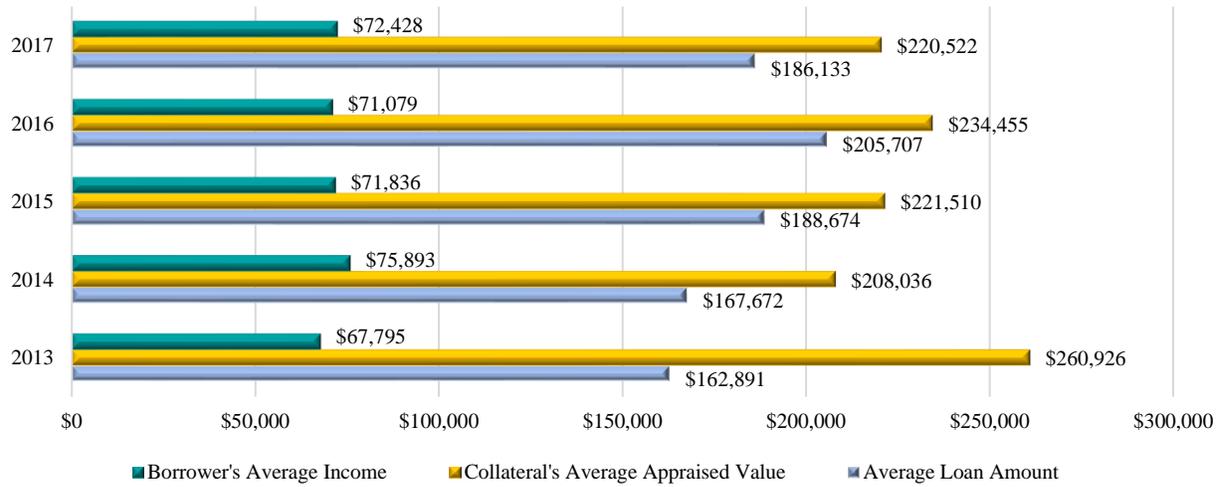


Figure 19

Average APR & Credit Score

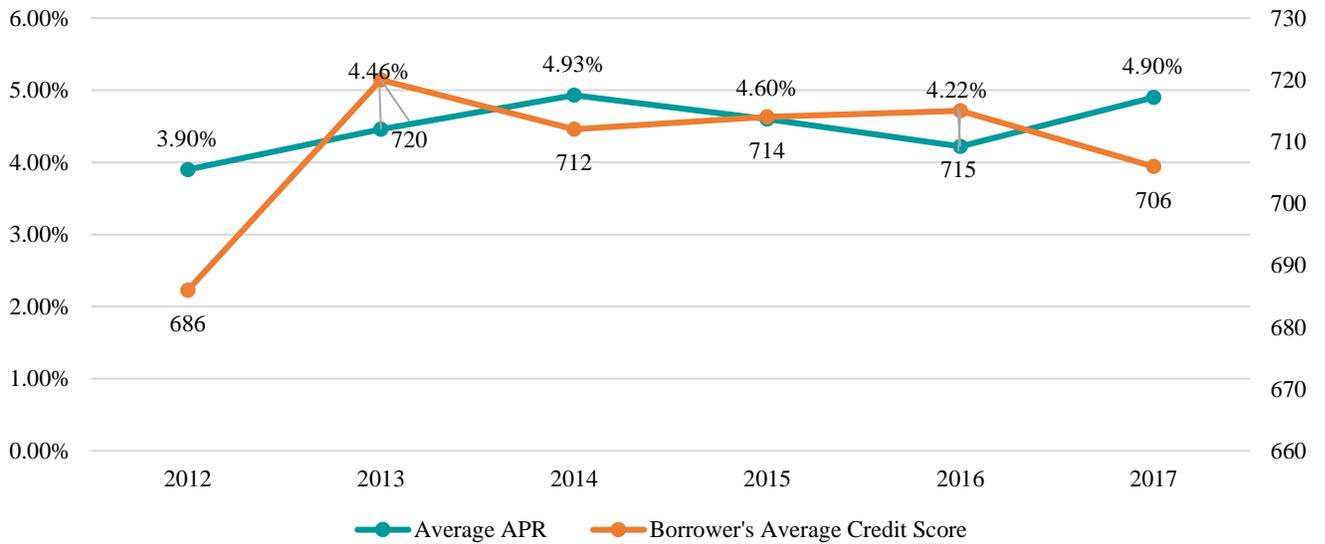


Figure 20

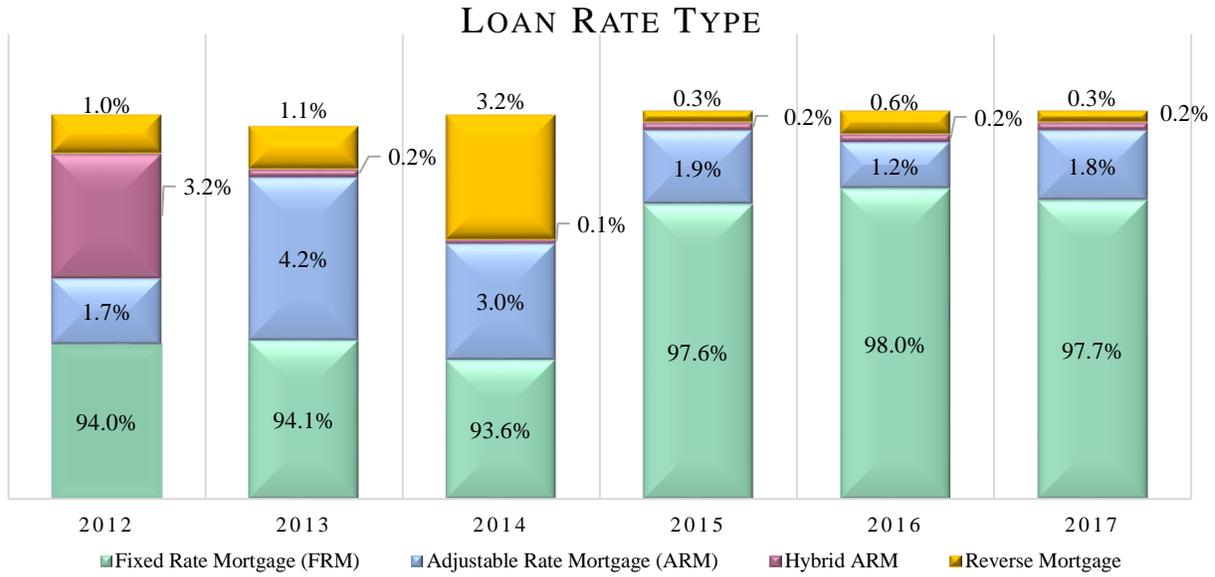


Figure 21

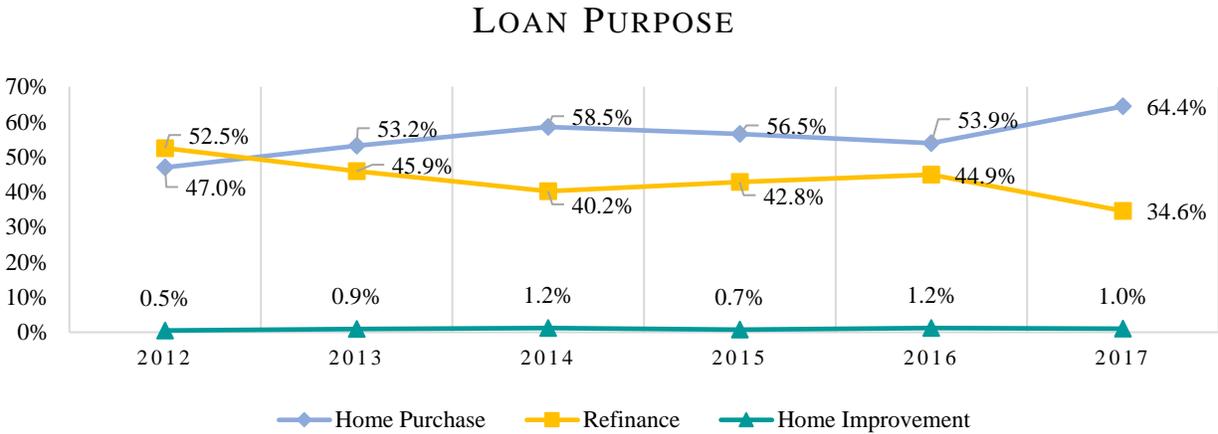
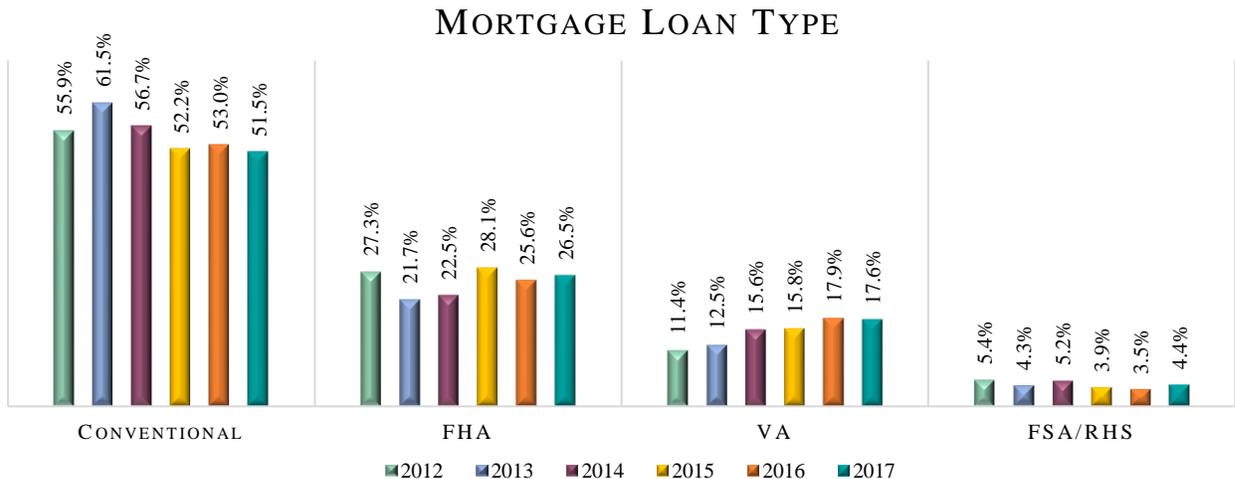


Figure 22



CREDIT COUNSELING

The Consumer Credit Counseling Act (the “CCCA”) went into effect on December 2, 2005.³⁸ The need for a law protecting consumers experiencing financial hardship became apparent as lawsuits and investigations revealed misleading and deceptive tactics used by some businesses in this industry.³⁹ 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 the Department for each location.⁴⁰ Employees of these organizations who are involved with providing the credit counseling services, “credit counselors” under the CCCA, must also obtain a license.⁴¹ 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.⁴²

Consumer credit counseling organizations must file an annual report with the Department pursuant to section 37-7-115(A). The report covers information regarding the credit counseling business conducted with South Carolina consumers during the prior calendar year. The Department compiles this information and publishes the “Consumer Credit Counseling Annual Report Data” each year, offering a perspective of consumer debt in our state. *Table 3* provides a synopsis of credit counseling activity over the past four years. Of note in 2017 was the average amount of debt per consumer, \$16,442, the lowest amount since 2013 (\$15,789). While the average amount of debt decreased from 2016, the money paid to consumer’s creditors increased slightly in 2017.

Table 3
CREDIT COUNSELING ANNUAL ACTIVITY DATA

	2017	2016	2015	2014
Number of Licensed CC Organizations	50	46	52	43
Total # of Consumer Contracts	30,029	49,203	40,068	10,233
Average Length of Contract (Months)	33	33	34	37
Average Amount of Debt per Consumer	\$16,442	\$18,049	\$19,060	\$17,544
Money Paid to Consumer’s Creditors	\$29,735,935	\$28,520,498	\$30,780,102	\$35,182,461
Percent of Completed Contracts	32%	36%	33%	35%

There are two types of credit counseling organizations currently operating in South Carolina: debt management companies and credit repair companies. In 2017, debt management companies accounted for roughly 72% of licensed credit counseling organizations, and credit repair companies comprised approximately 28% of licensees. Debt management companies contact creditors on a consumer’s behalf in an attempt to stop any late penalties, decrease interest

³⁸ S.C. Code Ann. § 37-7-101 *et seq.* (2015), available at <http://www.scstatehouse.gov/code/t37c007.php>.

³⁹ See e.g., *Federal Trade Commission v. AmeriDebt, Inc., DebtWorks, Inc., Andris Pukke, and Pamela Pukke, also known as Pamela Shuster*. Civil Action No.: PJM 03-3317; *Federal Trade Commission, Plaintiff, v. National Consumer Council, Inc., et al., Defendants*. Civil Action No.: SACV04-0474CJC(JWJX).

⁴⁰ S.C. Code Ann. § 37-7-102 (2015), available at <http://www.scstatehouse.gov/code/t37c007.php>.

⁴¹ S.C. Code Ann. § 37-7-102 (2015), available at <http://www.scstatehouse.gov/code/t37c007.php>.

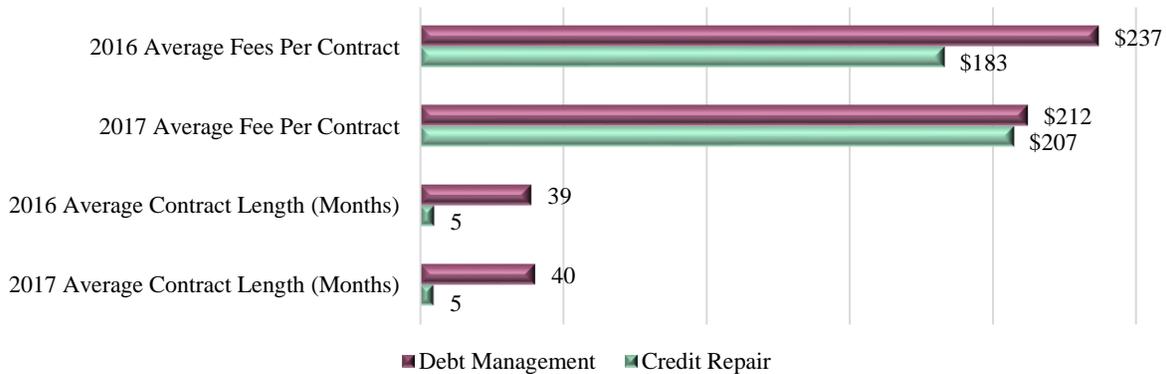
⁴² S.C. Code Ann. § 37-7-101(3) & (7) (2015), available at <http://www.scstatehouse.gov/code/t37c007.php>.

rates, etc. Credit repair companies offer to improve a consumer’s credit file, history, or rating. Federal law requires creditors and credit reporting bureaus to report accurate and timely information, and consumers can dispute inaccurate items on their own for free. Consumers often hire a credit repair company to dispute items on their behalf.

Although credit repair companies account for approximately 27% of credit counseling organizations in South Carolina, these companies are responsible for 86% of all existing contracts with consumers in this State in 2017. The average length of contracts differ greatly between the two types of companies. The average contract length for consumers engaging credit repair companies is 5 months, while the average contract length for consumers engaging the services of a debt management company is approximately 40 months. Despite this, the average contract fee differed by only \$5 for the two organization types in 2017 (*Figure 23*). This minimal difference in average fees per contract for these organization types is a result of changes by both: the average fees per contract for debt management companies decreased by roughly 10.5%, while these fees increased more than 13% for credit repair companies (*Figure 23*).

Figure 23

CREDIT COUNSELING CONTRACTS BY COMPANY TYPE



CONCLUSION

The Department continues to use the data presented in the State of Credit Report when crafting comments to state and federal regulatory agencies during rulemaking processes, determining legislative priorities, establishing consumer and business education initiatives and considering enforcement actions. To adequately present the State of Credit in South Carolina, the Department made adjustments to its backend licensing database for the current year to capture certain data elements in reporting. The changes in the report compilation process as well as proposed revisions to the reporting template will assist DCA with providing a timelier, streamlined and data robust report in coming years. Any suggestions regarding report content may be submitted to scdca@consumer.sc.gov.

APPENDIX A: RECENT ENFORCEMENT ACTIONS

INTRODUCTION

In Fiscal Year (FY) 2018, DCA engaged in 189 enforcement actions. **Overall, the agency's outcome of credits, refunds and adjustments for FY18 through efforts in complaint mediation, enforcement and intervention in insurance rate filings exceeded \$7 million.** This number is double DCA's total budget for that year. Although the agency received about the same number of complaints as the year prior, results from complaint mediation skyrocketed, going from \$1.3 million in FY17 to \$2.4 million in FY18. The increase is attributed to the internal restructuring efforts that brought two complaint analysts to the Legal Division to process complaints against businesses and/or citing issues falling under DCA's jurisdiction.

In FY18, DCA saw an 11% increase in the number of filings and applications submitted by non-depository financial institutions and other regulated industries (27,000). During the same time period, investigators conducted 536 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, which was exceeded by 2% in FY18. 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 the *2017 State of Credit Report*. A listing of recent public enforcement actions can be viewed on the Department's website.⁴³ The Department's FY18 Accountability Report⁴⁴ showing data points related to enforcement and licensing may be viewed on the Department's website along with Administrative Interpretations⁴⁵, none of which were issued in 2018.

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.

⁴³ See http://www.consumer.sc.gov/Pages/Enforcement_Actions.aspx .

⁴⁴ See <http://www.consumer.sc.gov/Pages/AgencyReports.aspx>.

⁴⁵ See <https://consumer.sc.gov/business-resourceslaws/administrative-interpretations>

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 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.
- Retail sales outlets not meeting the exemptions of the statute for the preneed law.

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 Department of the maximum amount of closing fee the dealer intends to charge. The notice must be filed annually. The Department 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. In 2018, Department Investigators performed the most onsite audit visits for dealers charging closing fees above \$225 since the statutory change. 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 Pawnbrokers⁴⁶

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 the Department. 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

⁴⁶ Items listed are recurring issues and remain the same as those listed in the 2016 State of Credit Report.

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 purchasing stolen gift cards.
- Licensed pawnbrokers failing to implement screenings for the Military Lending Act as required by federal statute.
- Licensed pawnbrokers failing to post business hours on the door as required.
- Licensed pawnbrokers failing to post correct rate schedules in conspicuous places as required.

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:

- Unlicensed loan originators that often solicit, negotiate rates, and offer to accept mortgage applications for mortgage loans.
- Unlicensed third-party processors used by licensed mortgage brokers to process applications for mortgage loans.
- 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.⁴⁷
- 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

⁴⁷ 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.

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.

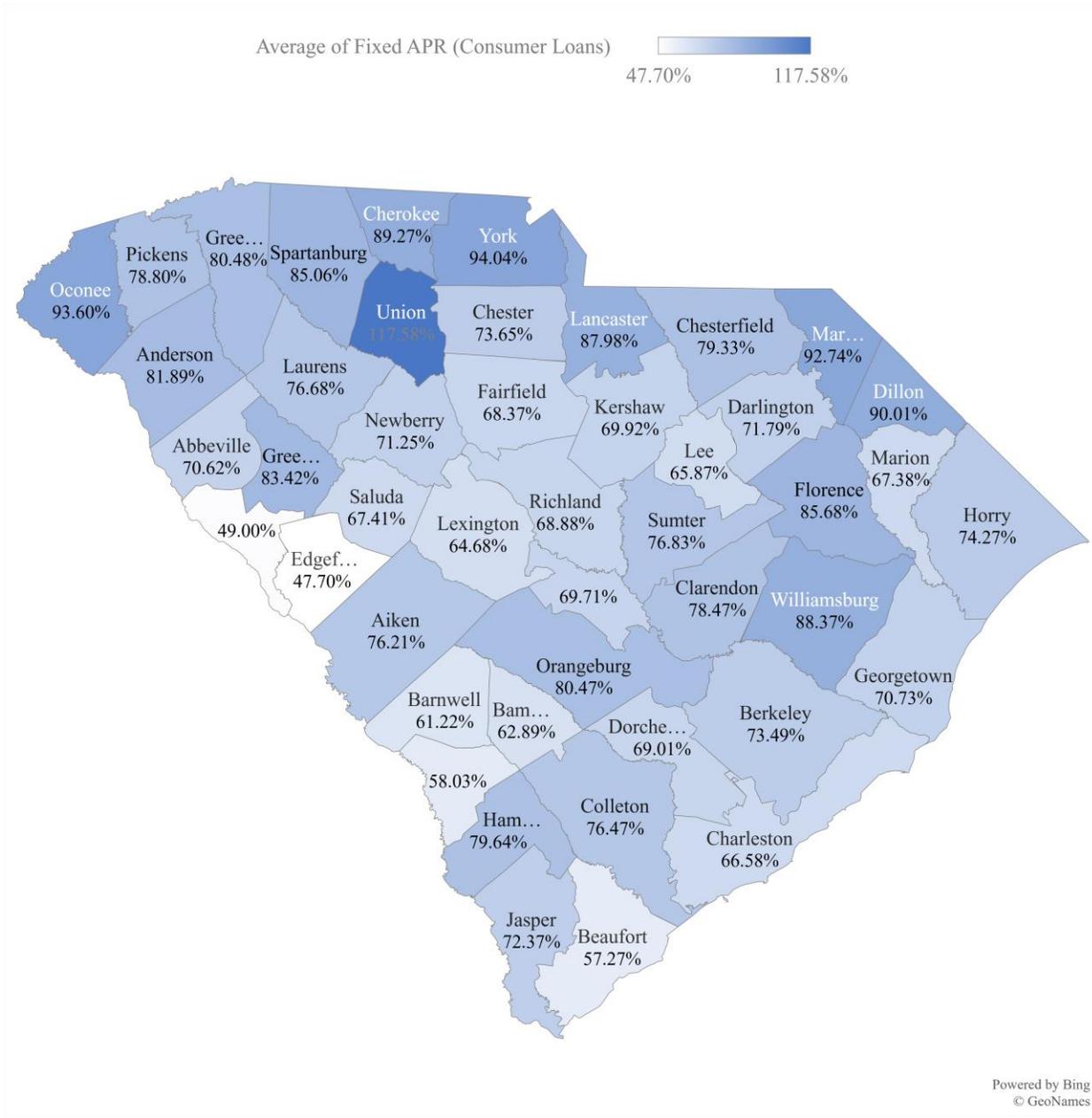
Title 44 Health, Chapter 79 Physical Fitness Services Act

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 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.

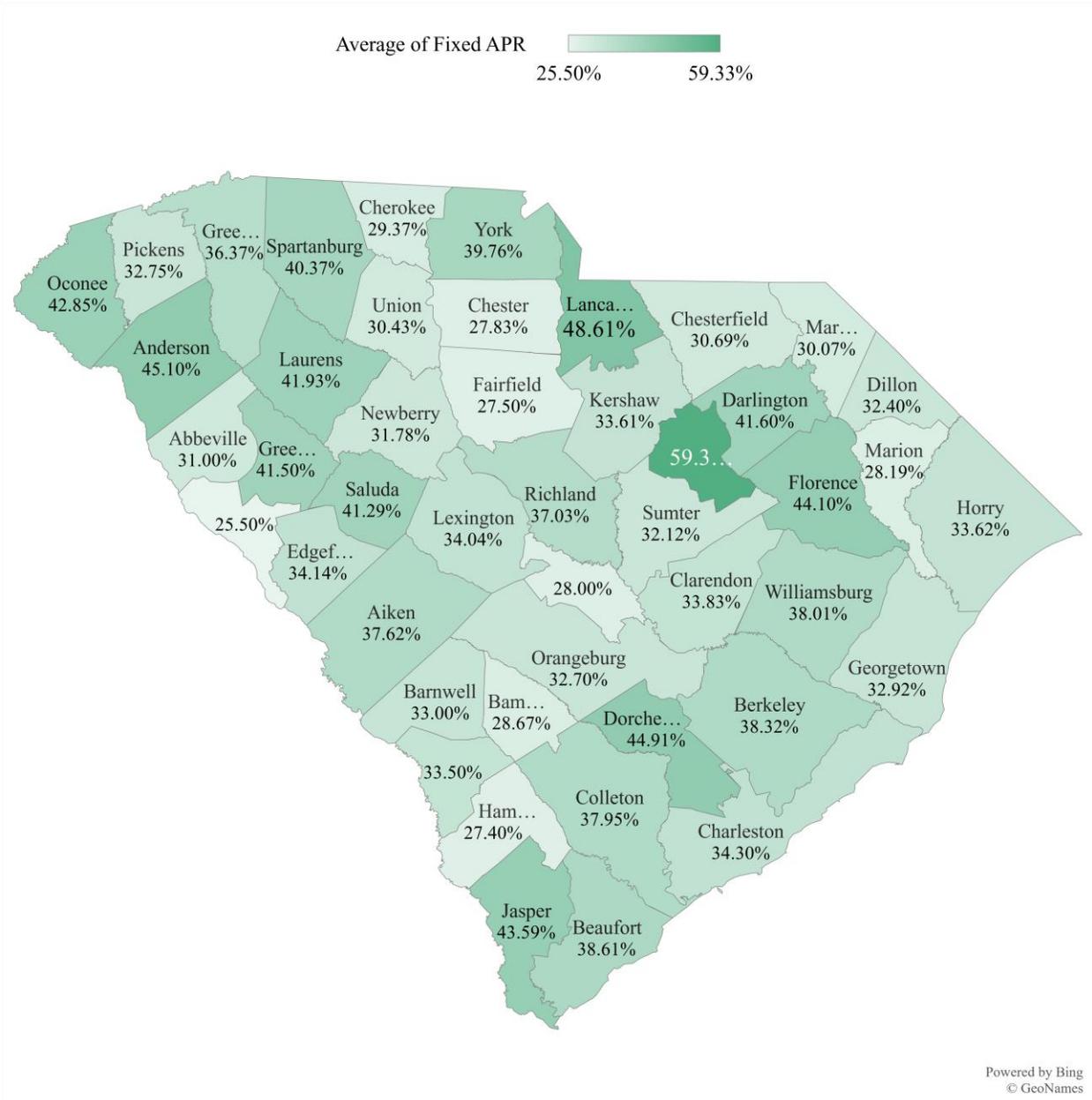
To ensure compliance, investigators reviewed membership contracts, membership account databases, and individual member files. Recurring issues include:

- Physical fitness centers failing to file with the Department for a Certificate of Authority to provide services.
- 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 DCA Investigators with books and records as required by law.
- Licensed physical fitness providers moving physical locations without notifying the Department.
- Existing physical fitness businesses being purchased by new owners and assuming the old certificate of authority would transfer and failing to obtain a new certificate of authority.
- Electronic memberships being utilized that do not contain all the required disclosures as the paper versions the business has submitted to the Department for review.
- Personal trainers working at licensed physical fitness locations but negotiating agreements directly with consumers without obtaining their own certificate of authority.

Appendix B: Average of Fixed APR (Consumer Loans) in 2018



Appendix C: Average of Fixed APR (Consumer Credit Sales) in 2018



Appendix D: HIGHEST & AVERAGE MAX RATE FILED BY COUNTY (CONSUMER LOANS)

Rank	County	Highest Max Rate Filed	Average of Max Rates Filed
1	Outside SC	780%	148.03%
2	Oconee	450%	93.60%
3	Horry	450%	74.27%
4	Georgetown	450%	70.73%
5	Dorchester	450%	69.01%
6	York	400%	94.04%
7	Lancaster	400%	87.98%
8	Florence	400%	85.68%
9	Spartanburg	400%	85.06%
10	Anderson	400%	81.89%
11	Greenville	400%	80.48%
12	Orangeburg	400%	80.47%
13	Chesterfield	400%	79.33%
14	Pickens	400%	78.80%
15	Aiken	400%	76.21%
16	Berkeley	400%	73.49%
17	Richland	400%	68.88%
18	Charleston	400%	66.58%
19	Union	396%	117.58%
20	Marlboro	372%	92.74%
21	Dillon	372%	90.01%
22	Cherokee	372%	89.27%
23	Greenwood	372%	83.42%
24	Sumter	372%	76.83%
25	Colleton	372%	76.47%
26	Lexington	372%	64.68%
27	Beaufort	372%	57.27%
28	Williamsburg	350%	88.37%
29	Newberry	348%	71.25%
30	Hampton	300%	79.64%
31	Clarendon	300%	78.47%
32	Laurens	300%	76.68%
33	Chester	300%	73.65%
34	Darlington	300%	71.79%
35	Abbeville	300%	70.62%
36	Kershaw	300%	69.92%
37	Saluda	300%	67.41%
38	Marion	300%	67.38%
39	Bamberg	300%	62.89%
40	Barnwell	300%	61.22%
41	Jasper	260%	72.37%
42	Calhoun	170%	69.71%
43	Fairfield	150%	68.37%
44	Lee	150%	65.87%
45	Edgefield	129%	47.70%
46	Allendale	93%	58.03%
47	McCormick	93%	49.00%

Appendix E: HIGHEST & AVERAGE MAX RATE FILED BY COUNTY (CONSUMER CREDIT SALES)

Rank	County	Highest Max Rate Filed	Average of Max Rates Filed
1	Anderson	360%	45.10%
2	Dorchester	300%	44.91%
3	Florence	300%	44.10%
4	Lancaster	300%	48.61%
5	Oconee	300%	42.85%
6	York	300%	39.76%
7	Aiken	280%	37.62%
8	Greenville	280%	36.37%
9	Richland	280%	37.03%
10	Beaufort	200%	38.61%
11	Greenwood	180%	41.50%
12	Darlington	150%	41.60%
13	Spartanburg	150%	40.37%
14	Charleston	145%	34.30%
15	Horry	145%	33.62%
16	Lee	118%	59.33%
17	Colleton	100%	37.95%
18	Lexington	100%	34.04%
19	Orangeburg	100%	32.70%
20	Williamsburg	100%	38.01%
21	Berkeley	100%	38.32%
22	Jasper	99%	43.59%
23	Laurens	99%	41.93%
24	Outside SC	95%	31.36%
25	Newberry	59%	31.78%
26	Pickens	55%	32.75%
27	Clarendon	50%	33.83%
28	Saluda	50%	41.29%
29	Union	50%	30.43%
30	Dillon	50%	32.40%
31	Georgetown	50%	32.92%
32	Marion	49%	28.19%
33	Sumter	49%	32.12%
34	Kershaw	48%	33.61%
35	Edgefield	46%	34.14%
36	Barnwell	45%	33.00%
37	Fairfield	45%	27.50%
38	Chester	40%	27.83%
39	Marlboro	40%	30.07%
40	Allendale	39%	33.50%
41	Chesterfield	39%	30.69%
42	Abbeville	38%	31.00%
43	Bamberg	36%	28.67%
44	Cherokee	36%	29.37%
45	Hampton	36%	27.40%
46	Calhoun	35%	28.00%
47	McCormick	30%	25.50%

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