



**ANNUAL REPORT TO THE GENERAL ASSEMBLY
ON THE CONSUMER AFFAIRS ACTIVITIES OF THE
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
FOR 2010**

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Commissioner**

Annual Report to the General Assembly on the Consumer Affairs Activities of the
Virginia Department of Agriculture and Consumer Services for 2010

Executive Summary

The Office of Consumer Affairs (OCA) in the Virginia Department of Agriculture and Consumer Services serves as the clearinghouse for the collection, investigation, or referral of consumer complaints. OCA's legal authority to receive and investigate complaints regarding illegal, fraudulent, or deceptive business practices is provided in Title 3.2, Chapter 1 of the Code of Virginia.

OCA is committed to providing timely and professional services to consumers, businesses and regulated entities alike. To facilitate those services, OCA is divided into three functional areas. In addition to complaint intake, consumer counseling and the investigation of consumer complaints, OCA also administers seven regulatory programs, provides dispute resolution services, and conducts consumer awareness and education initiatives.

This report includes key performance indicators including complaint workload, value of consumer recoveries, number of calls to the Consumer Protection Hotline, number of registrations granted and amount of surety held, and consumer education and outreach efforts.

TABLE OF CONTENTS

	Page
Executive Summary	i
I. Legislative Mandate	1
II. General Overview	1
III. Organization and Accomplishments	2

I. LEGISLATIVE MANDATE

This document complies with the provisions of § 3.2-102 of the Code of Virginia which requires the Commissioner of Agriculture and Consumer Services to submit an annual report to the Chairmen of the Senate Committee on Agriculture, Conservation, and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources, on his activities in the following areas:

- a. The establishment of mechanisms by which to receive complaints and related inquiries from consumers involving violations or alleged violations of any law designed to protect the integrity of consumer transactions in the Commonwealth; and
- b. The establishment and administration of programs that facilitate the resolution of such complaints and related inquiries.

II. GENERAL OVERVIEW

The Office of Consumer Affairs (OCA) serves as the clearinghouse for the collection, investigation, and referral of consumer complaints involving illegal, fraudulent, or deceptive business practices. Specific statutes administered by OCA include the *Virginia Consumer Protection Act*, *Automobile Repair Facilities Act*, *Collision Damage Waiver Act*, *Comparison Price Advertising Act*, *Extended Service Contract Act*, *Home Solicitation Sales Act*, *Legal Services Plan Sellers*, *Motor Vehicle Manufacturers' Warranty Adjustment Act*, *Pay-Per-Call Services Act*, *Prizes and Gifts Act*, *Telephone Privacy Protection Act*, *Virginia Anti-Price Gouging Act*, *Virginia Credit Services Businesses Act*, *Virginia Health Spa Act*, *Virginia Lease-Purchase Agreement Act*, *Virginia Membership Camping Act*, *Virginia Solicitation of Contributions Law*, *Public Telephone Information Act*, and the *Virginia Travel Club Act*. OCA also administers seven regulatory programs in the following areas:

- Charitable Solicitations
- Credit Services Businesses
- Extended Service Contracts
- Health Spas
- Legal Services Plan Sellers
- Membership Campgrounds
- Travel Clubs

During the year, OCA received 2,489 new consumer complaints and closed 1,968 complaints, including several carried over from the previous year, which resulted in \$503,376 worth of consumer recoveries.

The ten most-frequent categories of consumer complaints involved credit issues, automobile repairs, automobiles sales, electronics, home improvement, direct sales, furniture purchases, retail purchases, medical billing practices, and Internet sales. The number of formal complaints received by OCA during the last decade and the estimated value of consumer recoveries are as follows:

Year	Complaints	Est. Value of Recoveries
2010	2,489	\$503,376
2009	2,585	\$ 1,044,575
2008	3,656	\$ 808,141
2007	4,278	\$ 1,942,596
2006	3,545	\$ 1,773,546
2005	4,120	\$ 1,913,632
2004	5,217	\$ 1,971,235
2003	4,440	\$ 2,135,801
2002	5,197	\$ 1,663,817
2001	4,605	\$ 1,565,291
2000	4,470	\$ 2,201,880
Average	4,055	\$ 1,593,081

III. ORGANIZATION AND ACCOMPLISHMENTS

OCA is committed to providing timely and professional services to consumers, to the business community, and to the regulated entities themselves. To facilitate delivery of these services, OCA is divided into three distinct functional areas, as follows.

- COUNSELING AND INTAKE UNIT

The Counseling and Intake Unit handles the initial review and intake of all consumer complaints received by OCA. After all pertinent information is entered into a tracking database, the complaints are either assigned within OCA or referred to the appropriate local, state or federal agency having specific jurisdiction. Complaints are tracked until a final disposition is reached and recorded. Records of closed complaints are maintained for three years.

The Consumer Protection Hotline and LiveHelp

The Consumer Protection Hotline has been in operation since July 1, 1996. Hours of operation are 8:15 AM to 5:00 PM during business days. This function is supported through the use of a modern call handling system. During the year, counselors provided advice and guidance to more than 48,500 callers on a wide range of consumer issues. Consumers can also reach staff through Live Help, a messaging application that is accessible through the agency's website.

Consumer Education and Fraud Prevention Efforts

OCA seeks to prevent consumer victimization through the distribution of educational materials via a network of consumer science instructors and speakers. OCA staff also participates in outreach activities that are part of a larger effort to reduce the incidence of economic crime

and improve the ability of the public to make more informed buying decisions. During the year, OCA conducted 29 significant public outreach efforts, including presentations to civic associations, professional organizations, and senior citizen groups. Notably, in November, VDACS joined the Office of the Attorney General (OAG), the Virginia Bankers Association, and the Consumer Federation of America in launching a consumer education program to protect consumers and financial institutions from fake check scams.

Consumer Affairs Advisory Committee

The Consumer Affairs Advisory Committee (CAAC) was established in 1997. Members include citizens, representatives from other state agencies, representatives from local government entities that have consumer affairs programs in their respective localities, and a member from the Board of Agriculture and Consumer Services. The members communicate the views and interests of Virginians on issues related to the agency's consumer education and fraud prevention programs. CAAC members also help promote National Consumer Protection Week, a consumer awareness effort spearheaded in February of each year by the Federal Trade Commission. The theme for 2010 was "Dollars & Sense: Rated 'A' For All Ages."

- DISPUTE RESOLUTION AND INVESTIGATIONS UNIT

The unit offers alternative dispute resolution methods such as early neutral evaluation, conciliation, mediation, and arbitration. Unit staff participates actively in the promotion of dispute resolution programs at colleges and community conflict resolution centers throughout Virginia. The unit also investigates violations of the Virginia Consumer Protection Act and, if necessary, requests that legal officials bring action to enjoin such violations. The Act gives broad powers to the Attorney General and local legal officials, and prohibits numerous misrepresentations and deceptions in transactions between suppliers and individual consumers. The Act also provides for the enforcement of other consumer protection laws by declaring violations of those statutes as prohibited practices. During the year, staff provided alternative dispute resolution services in 1,117 cases and investigated 556 complaints.

Unit staff works closely with the OAG and local Commonwealth's Attorneys to obtain Assurances of Voluntary Compliance to stop illegal activities, and to pursue civil and criminal prosecutions. As necessary, investigators submit summaries of their findings along with supporting documentation and exhibits and provide testimony during trials.

Unit staff participates in the Foreclosure Rescue Scam Task Force, an effort that is coordinated by the OAG and which includes representatives from the Bureau of Financial Institutions at the State Corporation Commission. The Task Force provides a forum for the exchange of information regarding foreclosure rescue scams and the organizations behind them.

In July 2010, the OAG filed suit in the Virginia Beach Circuit Court against two mortgage modification companies, Nationwide Loan Modification Bureau, LLC, and Real Estate Solutions,

LLC, alleging violations of the Virginia Foreclosure Rescue law and the Virginia Consumer Protection Act. Both companies allegedly charged consumers upfront fees prior to performing services to prevent foreclosure, and engaged in deceptive practices. The lawsuits are pending. During 2010, OCA received 10 complaints against Nationwide Loan Modification Bureau, LLC and one complaint against Real Estate Solutions, LLC. In November, the OAG filed similar action in Chesapeake Circuit Court against another mortgage modification company, American Neighborhood Housing Foundation (ANHF). In December, the OAG reached a settlement agreement with ANHF in which ANHF agreed to refund consumers a total of \$94,388. During 2010, OCA received two complaints against ANHF.

In December 2010, Virginia and 49 other states signed an Assurance of Voluntary Compliance with DIRECTV. The agreement settled claims alleging that the satellite TV provider and its third-party retailers engaged in deceptive and unfair sales practices. DIRECTV agreed to pay approximately \$13.25 million to be divided up among the participating states, and to modify its marketing practices. During 2010, OCA received 56 complaints against DIRECTV.

Unit staff also continued to meet with top management of several companies to seek voluntary resolution of complaints. This strategy has expedited the resolution of numerous complaints. Staff also worked closely with the Department of Professional and Occupational Regulation, the State Corporation Commission, the Motor Vehicle Dealer Board, and Fairfax County consumer protection officials in the referral and investigation of complaints.

- REGULATORY PROGRAMS UNIT

OCA's regulatory activities include the oversight of all registrations, surety management, and related investigations involving legal services plan sellers, professional solicitors, health spas, extended service contract providers, membership campgrounds, travel clubs, and credit services businesses. During the year, the unit:

- Granted 7,139 registrations to various regulated entities.
- Maintained approximately \$41.2 million in surety posted by regulated entities. The surety may be used to refund consumers for the unused portion of their contracts if the regulated entities go out of business.
- Monitored 38 openings and 50 closures of health spas.
- Granted 5,314 registrations to sellers of legal services plans.
- Responded to 172 public inquiries regarding 835 charitable organizations in order to help individuals make informed donations.

Unit staff made numerous referrals of questionable documents involving non-profit organizations to the IRS' Exempt Organizations Classification Unit, and issued three warnings to the public during the year regarding unregistered charitable organizations.