



## Florida's System for Handling Consumer Complaints Could Be Improved

### *at a glance*

Most state agencies receive consumer complaints and have developed generally consistent mechanisms to help consumers resolve these complaints. In addition, two agencies—the Department of Agriculture and Consumer Services and the Office of the Attorney General—have a broader role, handling complaints against entities not regulated by the state, violations of Government in the Sunshine Laws, and economic crimes. However, comprehensive, enterprise-wide information about the consumer complaint services provided by agencies is not centrally collected and reported to policymakers.

Florida law requires agencies to coordinate with each other through a statutorily mandated referral process, to ensure that state government is responsive to consumers. Although they do engage in some informal coordination, agencies often do not implement all provisions of the consumer services laws.

The state's consumer complaint resolution process could be improved by increasing communication among agencies, providing the Legislature more comprehensive information about agencies' complaint-related activities, and reducing duplication.

### Scope

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As directed by the Legislature, OPPAGA examined consumer complaint resolution services provided by state agencies. The report addresses five questions.

- What state agencies provide consumer complaint resolution services?
- What processes do agencies use to resolve consumer complaints?
- How do agencies that handle consumer complaints coordinate their activities?
- Is there duplication among the agencies that handle consumer complaints?
- What options exist for improving the consumer complaint resolution process?

### Background

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Florida government offers a wide variety of programs and services, including regulating certain businesses and professions and providing information and resources for consumers. State agencies provide information to help consumers make informed decisions, such as licensure status and number of times the state has received complaints against a business or professional. Agencies also provide help to consumers who feel they have been aggrieved in the marketplace and are seeking state assistance to resolve a complaint against a business or professional.

To facilitate contact with government agencies, the state provides information services to help Floridians, businesses, and visitors understand the division of responsibility within state government and who they should contact to receive assistance. State-provided information services include a directory assistance service that provides telephone numbers for state agencies, and the Myflorida.com website, which contains links to all state agencies as well as answers to frequently asked questions. In addition, state agency websites frequently contain detailed information on the areas they regulate. For example, citizens desiring information about food and lodging establishments can access the Department of Business and Professional Regulation's website to review reports of restaurant and hotel sanitation and safety inspections.

Despite the availability of these information services, a 2004 Florida Senate review found that the existing information infrastructure may not be effective in helping consumers identify where to turn for assistance.<sup>1</sup> The review questioned the functionality of state information portals and pointed out that consumers generally are not aware that the Department of Agriculture and Consumer Services' Division of Consumer Services serves as a clearinghouse for consumer services and complaints.<sup>2</sup>

## Questions and Answers —

### *What state agencies provide consumer complaint services?*

Most state agencies receive consumer complaints, with a small number receiving the vast majority. Typically, agencies receive complaints regarding the services they provide and businesses and professions they regulate. Two agencies—the Department of Agriculture and Consumer Services and Office of the Attorney General—have a broader role, accepting complaints related to unregulated entities, Sunshine Law violations,

and economic crimes.<sup>3,4</sup> However, comprehensive, enterprise-wide information about the consumer complaint services provided by these agencies is not centrally collected and reported to policymakers.

Five agencies receive the majority of complaints. Seventeen of Florida's 29 state agencies reported that they received consumer complaints in Fiscal Year 2004-05.<sup>5,6</sup> For example, the Department of Financial Services reported receiving 38,205 complaints regarding insurance agents, funeral homes, financial institutions, and other types of businesses and professions it regulates, while the Department of Business and Professional Regulation reported receiving 34,572 consumer complaints related to barbers, accountants, electricians, condominium associations, and other types of businesses and professions it regulates.<sup>7</sup> The Office of the Attorney General reported receiving at least 32,111 complaints, with some related to areas of responsibility such as price gouging and government in the sunshine.<sup>8</sup> Similarly, the Public Service Commission reported receiving 24,962 complaints related to regulated utilities. In total, the 17 agencies reported handling over 200,000 complaints in Fiscal Year 2004-05 (see Exhibit 1).

<sup>3</sup> The Office of the Attorney General is also known as the Department of Legal Affairs.

<sup>4</sup> The Executive Office of the Governor's consumer hotline also receives inquiries and complaints from citizens about issues related to a wide array of government agencies and services. However, the office reported receiving only nine complaints in Fiscal Year 2004-05 (see Exhibit 1).

<sup>5</sup> OPPAGA sent questionnaires to 29 state agencies, requesting information on the number of complaints received during Fiscal Year 2004-05. Seventeen agencies provided estimated numbers of complaints with six agencies reporting not receiving any complaints that met our definition. The remaining six agencies may have received complaints but either reported not tracking complaints or did not respond to the survey.

<sup>6</sup> As used in this report, the term 'consumer complaint' refers to a consumer's formal request (through written letters/e-mail/complaint forms/telephone calls/etc.) for state assistance resolving a disagreement between the consumer and a business or professional. It does not include complaints made against a state agency or a state agency's contractor, or inquiries that are resolved by the state agency providing the consumer relevant information.

<sup>7</sup> For a list of businesses and professions regulated by the various agencies, see Florida Government Accountability Report (FGAR) profiles of state government agencies and programs at <http://www.oppaga.state.fl.us/government/using.asp> or agency websites at <http://www.myflorida.com/taxonomy/government/>.

<sup>8</sup> The Office of the Attorney General reported receiving at least 32,111 consumer complaints out of the 108,036 information requests and complaints it received in Fiscal Year 2004-05.

<sup>1</sup> [Accessing Consumer Services of State Government](#), The Florida Senate Committee on Commerce and Consumer Services, Interim Project Report 2005-113, November 2004.

<sup>2</sup> Department officials reported that they requested \$200,000 in additional funds during the last two legislative sessions to expand consumer outreach services.

**Exhibit 1**

**Seventeen State Agencies Reported Receiving Consumer Complaints in Fiscal Year 2004-05**

Agency Handling Consumer Complaint	Estimated Number of Complaints
Department of Agriculture and Consumer Services	44,496
Department of Financial Services	38,205
Department of Business and Professional Regulation	34,572
Office of the Attorney General	32,111 <sup>1</sup>
Public Service Commission	24,962
Agency for Health Care Administration	8,192
Department of Elder Affairs	7,985
Department of Highway Safety and Motor Vehicles	4,865
Department of Education	3,501
Department of Children and Family Services	1,981
Department of Environmental Protection	810
Department of State	226
Department of Transportation	206
Fish and Wildlife Conservation Commission	114
Agency for Workforce Innovation	103
Department of Community Affairs	18
Executive Office of the Governor	9
<b>TOTAL</b>	<b>202,356</b>

Agency Handling Consumer Complaint	Estimated Number of Complaints
Department of Veterans' Affairs	0
Department of Citrus	0
Department of Corrections	0
Department of Juvenile Justice	0
Department of Lottery	0
Department of Revenue	0
Supreme Court	Not Tracked
Department of Health	Not Tracked
Department of Law Enforcement	Not Tracked
Agency for Persons with Disabilities	Did not respond to OPPAGA request for information
Department of Management Services	Did not respond to OPPAGA request for information
Department of Military Affairs	Did not respond to OPPAGA request for information

<sup>1</sup>The Office of the Attorney General reported receiving at least 32,111 consumer complaints out of the 108,036 information requests and complaints it received in Fiscal Year 2004-05.

Source: OPPAGA compilation of information provided by state agencies.

As shown in Exhibit 1, five agencies—the Departments of Agriculture and Consumer Services, Financial Services, Business and Professional Regulation, Office of the Attorney General, and Public Service Commission—received the bulk (86%) of the consumer complaints. This reflects regulatory and other functions of these agencies. In contrast, agencies with largely non-regulatory functions, such as the Department of State, handle a smaller number of complaints.

Two agencies have a broader role in consumer complaint resolution. While most state agencies process complaints related solely to the individuals or entities they regulate, two agencies—the Department of Agriculture and Consumer Services and the Office of the Attorney General—have a broader role. In addition to handling consumer complaints related to motor vehicle repair facilities, health studios and other businesses and professions it regulates, the Department of Agriculture and Consumer Services serves as a state

clearinghouse for consumer complaints.<sup>9</sup> As such, the department attempts informally to mediate consumer disputes in areas that do not fall within the jurisdiction of other federal, state or local agencies, such as landlord/tenant, satellite, or internet services.

While the Office of the Attorney General does not regulate any business or profession, it handles complaints related to Florida's Government in the Sunshine laws (Chapters 119 and 286, *Florida Statutes*), which ensure public access to state, county, and municipal records as well as access to most meetings of public boards, commissions and other governing bodies. The office's Open Government Mediation Program is an alternative to legal action when an individual feels his or her rights have been violated.

<sup>9</sup>For additional information on functions handled by the Department of Agriculture and Consumer Services' Division of Consumer Services, see *Justification Review: General Revenue Savings Possible in Consumer Protection Program*, OPPAGA Report No. 01-51, November 2001.

Moreover, while the Office of the Attorney General is prohibited by law from representing individuals, it investigates and prosecutes economic crimes that involve multiple complaints occurring in more than one area of the state, i.e., it looks for business activity that systematically violates Florida law and affects the broad public interest.<sup>10</sup> When examining patterns of activity that may indicate the need for formal investigation or action, the Attorney General may use consumer complaint information collected through its Citizen Services Office as well as complaint information collected by other state agencies.

The Office of the Attorney General and the Department of Agriculture and Consumer Services share enforcement responsibility for some economic crimes. For example, if a charity is engaging in false and deceptive trade practices, both the Department of Agriculture and Consumer Services and the Office of the Attorney General have the authority to pursue legal actions. The two agencies also share responsibility for price-gouging violations and Lemon Law disputes.<sup>11</sup>

Comprehensive information about state agency consumer complaint services is not collected. No single agency tracks information on the number of consumer complaints filed with the state and the resolution of such complaints. While 17 agencies reported handling 202,356 complaints during Fiscal Year 2004-05, some of the remaining state agencies (e.g., the Department of Law Enforcement) reported that they do not track information on the complaints they receive. Since agencies are not required to track or forward all complaint information to the Department of Agriculture and Consumer Services, the department cannot fulfill its statutory duty to compile summaries and analyses of consumer complaints.<sup>12</sup>

Moreover, there is no statewide data on the cost of processing consumer complaints as these expenses are included within broader areas of program

budgets. For example, the Department of Agriculture and Consumer Services combines complaint processing costs with the cost of its other consumer service functions such as providing information about procedures for renewing licenses issued by the department.

Without comprehensive, enterprise-wide information about state agency consumer complaint resolution activities being compiled and reported, it is difficult for agency officials and policymakers to evaluate the quality of services, identify areas in need of improvement, and make informed decisions about program resources and priorities. It is also difficult to compare the cost-effectiveness of complaint processing among the various state agencies.

Establishing a centralized system to provide comprehensive enterprise-wide information on state consumer complaint activities has advantages and disadvantages. A fully centralized system would receive all complaints, refer them to the appropriate agency for resolution, and track dispositions and associated costs. This would require development of a centralized database to accept and report multi-agency information.

Such a system would provide the advantage of serving as a mechanism to monitor state agency responsiveness to citizen requests for assistance, and as a method of identifying problems in the consumer protection area and informing decision makers about such problems. However, the primary disadvantage is that the system would require agencies to redesign their business processes and information systems, which would likely be costly.

### ***What processes do agencies use to resolve consumer complaints?***

While there is some variation in procedures, state agencies generally follow a three-step process for addressing consumer complaints: intake, processing, and resolution.

- Intake. Upon receiving a consumer request for assistance, agencies typically gather information about the nature of the complaint and the action the consumer is requesting. Agencies then determine whether the complaint falls within their jurisdiction, or if the complaint needs to be referred elsewhere.

<sup>10</sup> Examples of economic crimes include Medicaid fraud, misleading advertising, and violations of state racketeering laws.

<sup>11</sup> Some counties, through local ordinances, also have enforcement authority for price-gouging violations. In addition, the local state attorneys offices handle price-gouging complaints.

<sup>12</sup> While s. 570.544(9), *F.S.*, requires the Department of Agriculture and Consumer Services to compile summaries and analyses of consumer complaint information, the law does not require the department to provide the information to decision makers.

- Processing. After accepting a formal complaint from a consumer, agencies generally investigate the facts by requesting a response from the business or professional as well as additional information from the consumer, as needed.
- Resolution. When agencies' investigations find sufficient evidence, they generally determine if the business or professional violated applicable statutes and rules. If a violation is determined to have occurred, agencies impose remedies within their regulatory authority (e.g., fines, license suspension or revocation). Depending on their authority, agencies may use alternative dispute resolution methods, such as mediation, to resolve complaints.<sup>13</sup>

For businesses and professionals not regulated by the state, Florida law gives the Department of Agriculture and Consumer Services' Division of Consumer Services the authority to engage in informal methods of conciliation to resolve consumer complaints. The most common approach used by the division is writing letters notifying the business or professional of the complaint and how the consumer wants to resolve it. The division uses this conciliatory approach because it does not have the statutory authority to enforce settlement of complaints. In Fiscal Year 2004-05, the division handled 16,019 complaints related to unregulated businesses and professions. With the assistance of the division, consumers received \$1.2 million of the \$3.7 million requested to resolve these complaints.

The Office of the Attorney General takes a civil enforcement approach to the consumer complaints it receives, rather than the regulatory or conciliatory approach used by other state agencies. When dealing with false and deceptive trade practices, the office investigates business and professional activities and takes legal action in the court system, if needed, to protect the broad public interest. The office pursued 375 such investigations in Fiscal Year 2004-05, including 194

new cases. The office reports that it resolved 138 cases during the year and that consumers received \$30.7 million in restitution from these resolved cases.

### ***Do agencies that handle consumer complaints adequately coordinate their activities?***

Section 570.544, *Florida Statutes*, requires state agencies to coordinate with each other through a statutorily mandated referral process, to ensure that state government is responsive to consumers who dispute the fairness of business and professional practices. The law provides that agencies refer complaints to the Department of Agriculture and Consumer Services' Division of Consumer Services when they are outside the agency's jurisdiction. The law also directs state agencies to report violations of consumer protection laws to enforcement agencies. We determined that agencies do not implement all of these provisions. Moreover, agencies no longer participate in a consumer roundtable to facilitate and coordinate the referral of complaints.

Florida law requires agencies to use several coordination mechanisms. The Department of Agriculture and Consumer Services' Division of Consumer Services is designated by law as a clearinghouse for matters relating to consumer protection, consumer information, and general consumer services. This role involves receiving complaints and grievances from consumers and transmitting them to the appropriate agency. If a complaint is outside the jurisdiction of any agency, the division accepts and processes the complaint. The division also receives complaints from other state agencies, which are required by law to refer complaints they receive that are outside their own jurisdiction to the division. The division's clearinghouse role also includes responsibility for compiling summaries and analyses of consumer complaints they receive. This information may serve as a basis for recommendations to the Legislature and state regulatory agencies on needed changes in law or procedure that could improve consumer protection.

Florida's consumer services law contains one additional coordination mechanism. Agencies are required to transmit the complaint and

<sup>13</sup> Alternative dispute resolution refers to resolving disputes using methods other than having a judge decide the case in a court of law. Such mechanisms include mediation, arbitration, and the issuing of citations. For additional information on the use of alternative dispute resolution methods to resolve complaints, see *OPPAGA Report: Greater Use of Alternative Resolution Could Aid Consumer Protection*, [Report No. 05-15](#), March 2005.

supporting evidence to the Office of the Attorney General or other appropriate enforcement agency if the matter of the complaint cannot be settled at the administrative level or appears to present a case for criminal prosecution.<sup>14</sup>

Agencies do not follow all required coordination provisions. While agencies follow some of the statutory procedures for coordination, coordination is lacking in that agencies do not fully use the clearinghouse feature of the Division of Consumer Services to refer consumers to the agency with the authority to handle complaints.<sup>15</sup>

As a designated state clearinghouse for consumer complaint services, the Division of Consumer Services has developed procedures to direct complaints it receives to other appropriate agencies. However, there is no mechanism to ensure that other agencies appropriately refer complaints to the Division of Consumer Services when they receive complaints they do not have the authority to handle. Many of the state agencies we contacted reported that they bypass the clearinghouse and refer consumers directly to an agency they believe has the authority to handle a complaint, which could lead to incorrect referrals.

This may in part be due to recent changes in the division's role as a clearinghouse for consumer services. The Legislature removed the division's clearinghouse designation in 2003, but restored this role in 2004.<sup>16</sup> Consumer protection managers from one agency reported that they were not aware that the Legislature had re-designated the Division of Consumer Services as a clearinghouse for consumer complaint services. As a result, when contacted by consumers with a complaint in an area not regulated by the agency, consumers may not be referred to the clearinghouse for assistance.

Incorrectly referring a consumer complaint to another state agency or not referring a complaint dealing with an unregulated area to the Division of Consumer Services could cause the complaint to remain unaddressed and not be properly resolved.

Agencies no longer participate in the consumer roundtable. An interagency consumer roundtable was established in 2002. The primary purposes of the roundtable were to provide a forum for exchanging information on agency complaint-related services and to facilitate and coordinate the referral of complaints between agencies. The Department of Agriculture and Consumer Services and the Office of the Attorney General participated in roundtable meetings. However, agency staff reported that from its inception the roundtable met sporadically, and has not met since February 2005 due to increased agency workload resulting from hurricanes.

***Is there duplication among the agencies that handle consumer complaints?***

There is some shared responsibility between state agencies for the resolution of consumer complaints, and consumers sometimes provide the same information to multiple agencies.

The Office of the Attorney General and Department of Agriculture and Consumer Services share authority for some functions. Both agencies have responsibilities related to implementing Florida's Lemon Law. New car owners who are not satisfied with manufacturers' efforts to resolve their vehicle problems can request to have the vehicle declared a "lemon" by the Florida New Motor Vehicle Arbitration Board.<sup>17</sup> The board, which is administered by the Lemon Law Arbitration Program within the Office of the Attorney General, conducts a hearing of the consumer's case, determines if the vehicle is a 'lemon,' and also determines if the consumer who owns the 'lemon' should be awarded a replacement vehicle or a refund.

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<sup>14</sup> The 2006 Legislature eliminated an additional coordination mechanism. Chapter 2006-165, *Laws of Florida*, eliminates the requirement that agencies receiving a complaint from the Division of Consumer Services report back to the division on the status and disposition of the complaint.

<sup>15</sup> Of the 29 state agencies surveyed for this report, 14 agencies reported forwarding complaints directly to the agencies that regulate the complaint area, rather than using the state clearinghouse.

<sup>16</sup> Chapter 2003-399, *Laws of Florida*.

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<sup>17</sup> Chapter 681, *F.S.*

The Department of Agriculture and Consumer Services also has a role in handling Lemon Law complaints. It is responsible for receiving the initial complaint from dissatisfied motor vehicle owners, and screening the complaints for eligibility for arbitration. After forwarding all complaints along with the determination of eligibility for arbitration to the Lemon Law Arbitration Program, that office duplicates the eligibility review before scheduling hearings for those consumers qualifying for arbitration.

A prior OPPAGA report recommended eliminating duplication in the Lemon Law Program by consolidating the eligibility review function within a single agency.<sup>18</sup>

The two agencies also share responsibility for enforcing price-gouging regulations. During a state of emergency called by the Governor, state law directs that the price of commodities (e.g., ice, water, food, fuel, and lumber) as well as the rental or lease of dwellings or self-storage facilities cannot be increased.<sup>19</sup>

The Office of the Attorney General and the Department of Agriculture and Consumer Services both have responsibility for enforcing the price-gouging statute. Both agencies publicize their telephone numbers for reporting cases of price gouging, and also accept, investigate, and prosecute complaints. The two agencies reported that they informally coordinate their price-gouging regulatory activities to prevent unnecessary duplication, and feel that sharing resources enhances the states ability to investigate price-gouging activities. For example, the Office of the Attorney General handles price-gouging complaints involving certain large businesses (e.g., department and home improvement stores), while the Department of Agriculture and Consumer Services handles other price-gouging complaints such as those involving overcharging for gasoline. As shown in Exhibit 2, the agencies reported receiving over 20,000 price-gouging complaints between July 2004 and January 2006.

**Exhibit 2**  
**The Office of the Attorney General and Department of Agriculture and Consumer Services Received Over 20,000 Price-Gouging Complaints Between July 2004 and January 2006**

	Office of the Attorney General	Department of Agriculture and Consumer Services	Total
Number of price-gouging complaints received <sup>1</sup>	14,341	7,633	21,974
Number of complaints investigated <sup>2</sup>	11,828	7,633	19,461
Percentage of complaints investigated	82.5%	100%	88.6%
Number of cases prosecuted <sup>3</sup>	80	21	101

<sup>1</sup> Includes complaints received by one agency and transferred to the other for investigation.

<sup>2</sup> Office of the Attorney General staff stated that some complaints received were not investigated as an initial review determined that the complaint did not meet investigative criteria.

<sup>3</sup> According to the agencies, relatively few of the price-gouging complaints they receive meet legal requirements for prosecution. In addition, a single case may involve several complaints.

Source: OPPAGA analysis of information provided by the Office of the Attorney General and the Department of Agriculture and Consumer Services.

Consumers sometimes provide duplicate information to multiple agencies. In addition to handling complaints related to open public records, the Florida Lemon Law and price-gouging, the Office of the Attorney General has broad responsibilities related to economic crimes. The office uses consumer complaint information when investigating these crimes and thus may collect information from consumers that also is collected by other state agencies.

To assist in gathering information on economic crimes, the Office of the Attorney General's Office of Citizen Services maintains a call center that, in addition to serving as a department switchboard, accepts calls from citizens with complaints against businesses and professionals. Citizens who contact the call center are asked to provide detailed information about their complaints. This information, in turn, is made available to investigators in the office's Economic Crimes section who may pursue an investigation.

<sup>18</sup> *Justification Review: General Revenue Savings Possible in Consumer Protection Program*, OPPAGA [Report No. 01-51](#), November 2001.

<sup>19</sup> Section 501.160 *F.S.*, prohibits prices exceeding the average price for the item or service in the 30 days immediately prior to the declaration of the state of emergency. Price increases are allowed, however, based on national and international market trends.

However, unless a formal written complaint is filed, the information collected by the call center is not always forwarded to agencies with the authority to take action to resolve the consumer's dispute with the business or professional. While consumers who contact the Office of Citizen Services may be advised to contact the agency with the authority to resolve their complaints, after providing extensive information to the office, consumers may mistakenly believe they have filed a complaint with an agency that can assist in resolving their dispute. However, to receive state assistance with a complaint, consumers must file a formal complaint by taking the additional step of contacting the appropriate agency and providing duplicate information.

Filing a consumer complaint in a timely manner is important because some administrative remedies are time-sensitive. For example, some sellers of travel are required to post security such as a bond with the Department of Agriculture and Consumer Services. A consumer who is allegedly injured through fraud or other violation of the Sellers of Travel Act (Ch. 559, *Florida Statutes*) may file a claim against this security. The consumer must file a claim with the department within 120 days after the alleged injury has occurred or is discovered to have occurred. Consumers who file a complaint with a state agency other than the Department of Agriculture and Consumer Services and are not aware of the 120-day time requirement of filing with the Department of Agriculture and Consumer Services run the risk of not being allowed to share in the security proceeds.

***What options exist for improving the consumer complaint resolution process?***

The state's consumer complaint resolution process could be improved by increasing communication among agencies, providing the Legislature enterprise-wide information about agency complaint resolution activities, and reducing duplication.

Increase communication. The Legislature should consider formalizing the interagency consumer roundtable. This would facilitate communication among agencies, improve the complaint resolution process, and enhance the quality of information about the complaint

resolution activities of state agencies. The roundtable, under the leadership of the Department of Agriculture and Consumer Services' Division of Consumer Services, should include all agencies that handle consumer complaints, and meet regularly to share information and solve problems related to consumer complaint resolution processes.<sup>20</sup>

Provide enterprise-wide information. The Legislature also should consider directing state agencies to provide the Division of Consumer Services with summary information about their complaint resolution activities. Information could include the number, subject, type, cost to process, and disposition of complaints received as well as the extent to which these complaints are transferred between agencies for resolution and recommendations for improving consumer protection laws.<sup>21</sup> The interagency consumer roundtable could be charged with creating a simple, uniform, and cost-effective framework for agencies to gather and report the information.

To assist agencies and the Legislature in making decisions related to the state's consumer complaint services, the Legislature should consider requiring the Division of Consumer Services to

- compile the summary information described above to document the scope of the state's consumer complaint activities and identify areas in need of improvement; and
- submit the information to the Legislature and state agencies biennially.

As an alternative, the Legislature could require agencies to provide this information via annual legislative budget requests. To facilitate this reporting mechanism the legislative budget request instructions would need to be revised accordingly.

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<sup>20</sup> A formalized interagency roundtable also would assist agencies in meeting the Florida Customer Service Standards Act requirements for conducting interdepartmental discussions on improving the handling of customer complaints and having statistical data on these complaints.

<sup>21</sup> Asking state agencies for the cost to process complaints is consistent with s. 216.1826, *F.S.*, which states that agencies should be able to generate a unit cost for each activity. Provisions of Ch. 2006-146, *Laws of Florida*, require the development of budget request instructions for agencies regarding the computation of agency and unit cost information to be included in legislative budget requests under s. 216.023(4), *F.S.*; the law also requires that agency complaint information be considered during the Sunset review process.

Requiring compilation and reporting of this summary information is a cost-effective alternative to establishing a centralized system to track the receipt and disposition of all consumer complaints. Compiling summary information would not require agencies to redesign their business processes and information systems, but would instead require that they use a standardized form to report high-level complaint-related information.

Reduce duplication. We recommend that the steps discussed below be taken to reduce duplication within Florida's consumer complaint resolution system.

- The Legislature should consider revising s. 681.109, *Florida Statutes*, to place full responsibility for screening Lemon Law arbitration requests with the Office of the Attorney General. This would eliminate duplicate eligibility screening currently conducted by both the Office of the Attorney General and the Department of Agriculture and Consumer Services.<sup>22</sup>
- The Office of the Attorney General should adopt a policy of referring all complaint information it receives (that does not deal with Government in the Sunshine and Lemon Law programs) to the Department of Agriculture and Consumer Services for referral to the agency with the authority to resolve the complaint.<sup>23</sup> This would allow the Attorney General to continue to review consumer complaints for possible violations of economic crime laws while eliminating the need for consumers to supply duplicate information about a single incident to the state agency authorized to help resolve the consumer's complaint.

- The Office of the Attorney General and the Department of Agriculture and Consumer Services should formalize, through an interagency agreement or memorandum of understanding, what is now an informal approach to coordinating their efforts to address price-gouging complaints by delineating which price-gouging actions each agency will perform.

## Agency Response

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Office of the Attorney General and the Department of Agriculture and Consumer Services to review and respond. Their written responses have been reproduced in Appendix A, beginning on page 10.

<sup>22</sup> See *Justification Review: General Revenue Savings Possible in Consumer Protection Program*, OPPAGA [Report No. 01-51](#), November 2001.

<sup>23</sup> This referral procedure is consistent with s. 570.44(5)(a), *F.S.*

## Appendix A

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June 12, 2006

Mr. Gary R. VanLandingham, Director  
Office of Program Policy Analysis and  
Government Accountability  
111 West Madison Street, Room 312  
Tallahassee, FL 32399-1475

Dear Mr. VanLandingham:

Thank you for providing the Office of Attorney General with a revised draft copy of OPPAGA's report concerning consumer complaint resolution. We are pleased to respond to its contents.

We are now pleased to respond to the five areas presented in the draft.

**1. What state agencies provide consumer complaint services?**

The Office of the Attorney General does not dispute the findings contained in this area.

**2. What processes do agencies use to resolve consumer complaints?**

The Office of the Attorney General does not dispute the findings contained in this area.

**3. Do agencies that handle consumer complaints adequately coordinate their activities?**

The Office of the Attorney General does not dispute the findings contained in this area.

**4. Is there duplication among the agencies that handle consumer complaints?**

The subsection entitled "Consumers sometimes provide duplicate information to multiple agencies" is accurate, but there is little alternative in the case of the Attorney General's Office of Citizen Services.

Mr. Gary R. VanLandingham, Director  
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It is impossible to determine the proper action to take until the nature of the complaint is obtained. It may take as little as a few seconds or a number of minutes before it is known whether the complaint involves a regulatory issue of another agency, or is unregulated either requiring an investigation or a miscellaneous issue for the Division of Consumer Services.

The policy of Citizen Services is to make it as simple as possible for the caller and have sufficient information in order to avoid taking the wrong action on behalf of the citizen. Those who contact the Attorney General assume that his office is there to assist them and Citizen Services forwards their complaint outside the agency *only* when it is determined that jurisdiction is either shared or lies elsewhere.

While it is regrettable that a caller may be required to tell part of their story twice, the alternative could be multiple referrals if the nature of the complaint is not fully determined.

The Office of the Attorney General does not dispute any of the other findings contained in this area.

**5. What options exist for improving the consumer complaint resolution process?**

The Office of the Attorney General would be pleased to again participate in a revival of the Consumer Roundtable.

The Office of the Attorney would be pleased to accept full responsibility for screening Lemon Law arbitration requests should such a change be made by the Legislature.

The Office of the Attorney General will coordinate with the Division of Consumer Services in order to provide the Division with all complaint information received as recommended. This is already done for complaints involving non-regulated areas.

However, it is our view that this will not eliminate “the need for consumers to supply duplicate information about a single incident...”. The Office of Citizen Services will still require sufficient information to determine whether the complaint falls within Chapter 501 authority before providing to the Division of Consumer Services, but will keep the caller on the telephone for as little time as possible. Those contacting the Attorney General by electronic and postal mail will continue to have the need to supply information only once.

Mr. Gary R. VanLandingham, Director  
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Perhaps a change in 570.544(5)(a) might be considered in order to authorize receiving agencies to forward complaints under the authority of other agencies directly to that agency while notifying the Division of Consumer Services of this action. This could save time for the consumer and resources for the Division.

The heretofore informal approach to coordinating price-gouging efforts will be memorialized by a formal document delineating each agency's role.

Again, thank you for the opportunity to comment on the draft report.

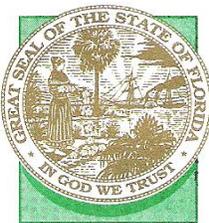
Sincerely,

A handwritten signature in black ink, appearing to read "L. Clayton Roberts". The signature is fluid and cursive, with a long horizontal stroke at the end.

L. Clayton Roberts  
Deputy Attorney General

LCR/dmm

cc: Ms. Melinda Miguel, Inspector General, OAG  
Mr. Derry Harper, Chief Inspector General, Office of the Governor



Florida Department of Agriculture and Consumer Services  
 CHARLES H. BRONSON, Commissioner  
 The Capitol • Tallahassee, FL 32399-0800

June 14, 2006

Please Respond to:

Gary R. VanLandingham, Director  
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 Tallahassee, Florida 32399-1475

Dear Mr. VanLandingham:

This response is provided to the draft report dated May 2006, Florida's System for Handling Consumer Complaints Could Be Improved, which included the Department of Agriculture and Consumer Services. We believe your review supports a conclusion that consumer complaint resolution services are in general being handled well by state agencies without significant coordination problems or duplication of efforts. The following comments address some of the issues and suggestions for improvements presented in your report.

#### Agency Coordination

As clarification, the statutorily mandated referral process applies only to those complaints received by an agency for which the agency does not have jurisdiction (Section 570.544(5)(a), F.S.). In this situation, agencies are required by statute to send those complaints to the Division of Consumer Services who is then responsible for referring them to the appropriate agency for resolution. In reality, most of these complaints are forwarded by the original receiving agency directly to the agency perceived to have jurisdiction; thus, bypassing the Division of Consumer Services. It is our belief that a small portion of total complaints received might fall in this category. Certainly, the failure to follow the required referral process could lead to some misdirection of complaints; however, the extent of such is unknown.

The consumer roundtable was established as an informal forum to discuss consumer complaint guidelines and jurisdictional issues among state agencies. This forum served its purpose and is no longer considered necessary as consumer complaint resolution services have become more refined and effective. Agencies continue to communicate informally on significant consumer complaint service issues.

#### Duplication of Efforts

It is noteworthy that your review identified only one small potential area of duplication in providing consumer complaint services. Lemon Law responsibilities were split between the Department and the Office of the Attorney General to provide segregation of duties between the consumer complaint resolution service and the formal arbitration process. The Division of Consumer Services



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administers a portion of the Florida New Motor Vehicle Warranty Enforcement Act, commonly known as the Lemon Law. The Division maintains a toll-free Lemon Law hotline, distributes educational materials, certifies and audits informal mediation programs established by vehicle manufacturers, and performs the initial screening of applications for state arbitration. Cases certified by the Division are then submitted to the Office of the Attorney General who administers the arbitration process. Although there could be some repetitive review of materials as each agency carries out its respective responsibilities, the Department contends that any overlap in review (screening) activities is not a duplication of efforts but a re-verification by the Office of the Attorney General for arbitration.

Department Statutory Responsibility

We do not agree with the statement that the Department cannot fulfill its statutory duty to compile summaries and analyses of consumer complaints without agencies reporting all their complaint information to the Department. Our statutory responsibility for compiling summaries and analyses extends only to those complaints processed by the Division of Consumer Services. As noted previously, the repeal of Florida Law which required some reporting of complaint information by other agencies to the Division supports our position that we have no statutory duty to compile summaries and analyses that include complaints processed by other entities.

Price Gouging Arrangements

The informal arrangements between our Department and the Office of Attorney General have worked well and contributed to the success of the State in effectively and efficiently pursuing alleged price gouging activities. Your recommendation for documenting those arrangements is appreciated.

Enterprise (statewide) Information

Enterprise information can certainly be worthwhile for decision-making provided the data is recorded and reported in a consistent and comparable manner among organizational entities. We will certainly comply with any additional consumer complaint information requirements established by the Legislature.

I appreciate the interest and efforts of your staff and the professionalism they exhibited in helping improve the operations of state government.

Sincerely,



CHARLES H. BRONSON  
 COMMISSIONER OF AGRICULTURE

CHB/gb



## *The Florida Legislature*

# *Office of Program Policy Analysis and Government Accountability*



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