

New York State Assembly | Sheldon Silver, Speaker



committee on

Consumer Affairs and Protection

Audrey I. Pheffer, Chair

December 15, 2009

Honorable Sheldon Silver
Speaker of the Assembly
State Capitol, Room 349
Albany, New York 12248

Dear Speaker Silver:

It is my pleasure to forward to you the 2009 Annual Report of the Assembly Standing Committee on Consumer Affairs and Protection.

The work accomplished during the 2009 Legislative Session reflects the Committee's dedication to and concern for consumers' basic rights, safety, and interests. This year the Committee advanced legislation addressing a wide range of consumer issues. Five of these initiatives have been enacted into law and several passed the Assembly and are awaiting action in the Senate.

Chapter 278 of the Laws of 2009 will strengthen protections for New York consumers by removing an exemption from the existing retail store return policy disclosure law that allowed certain retailers to avoid the return policy disclosure requirement, requiring retailers to make a written copy of the store's return policy available upon request, and requiring a store's return policy posting to include whether returns will be subject to any fees. Chapter 280 of the Laws of 2009 will expand the free trial offer law, which previously applied only to those transactions involving a credit card, by requiring entities offering free trials to notify consumers of the deadline to cancel the offer regardless of payment method. Chapter 247 of the Laws of 2009 will encourage creditors to maintain accurate billing systems by increasing the penalty for billing errors. Legislation aimed at protecting vehicle owners from deceptive automobile warranty policy solicitations and a measure making improvements and technical corrections to last year's landmark Children's Product Safety and Recall Effectiveness Act were also enacted (Chapters 421 and 483 of the Laws of 2009).

I would like to take this opportunity to thank the Committee members for their continued contributions to this past year's achievements. I would also like to express my appreciation for the assistance that the Committee received from the Committee staff in the course of our work. Finally, Mr. Speaker, I commend you for your continued leadership and support of our legislative initiatives to better protect New York State consumers.

Sincerely,

Audrey I. Pfeffer, Chair

2009 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON CONSUMER AFFAIRS AND PROTECTION

AUDREY I. PHEFFER, CHAIR

MAJORITY

Peter J. Abbate, Jr.
Michael R. Benedetto
Karim Camara
Michael DenDekker
Ginny Fields
Dennis H. Gabryszak
Michael N. Gianaris
Ellen Jaffee
Micah Kellner
Margaret M. Markey
Peter M. Rivera

MINORITY

Peter D. Lopez,
Ranking Minority Member
Tony Jordan
David G. McDonough
Annie Rabbitt

COMMITTEE STAFF

Joanne Barker, Assistant Secretary for Program and Policy
Jeffrey O'Donnell, Senior Legislative Analyst
John Gerken, Associate Counsel
Eric Jacobsen, Committee Assistant
Kimberly A. Lease, Committee Clerk
Kathleen Quackenbush, Program and Counsel Secretary

Table of Contents

I. COMMITTEE RESPONSIBILITIES AND GOALS	1
II. 2009 COMMITTEE ACCOMPLISHMENTS.....	2
A. Protecting Personal Privacy	2
Automatic Identification Technology Privacy Task Force.....	2
Reducing the Unnecessary Disclosure of Social Security Numbers	2
Temporary State Commission on Personal Privacy.....	3
B. Improving Business Practices.....	3
Unlawful Trial Offers	3
Store Refund Policies.....	3
Credit Billing Errors	4
Deceptive Solicitation of Motor Vehicle Warranty Policies	4
Unsolicited Telemarketing Sales Calls	4
Debtor's Bill of Rights	5
Requiring Debt Collectors and Buyers to Obtain a License.....	5
Improper Debt Collection Practices.....	5
Energy Service Company Bill of Rights.....	6
Magazine Subscription Expiration Notices	7
Protecting the Relatives of Deceased Debtors from Aggressive Collection Efforts	7
Unordered Goods	7
Internet Dating Safety Act	8
Important Information Regarding Weight Loss Services	8
Rental Purchase Agreements	8
C. Protecting Consumer Health and Safety.....	9
Children's Product Safety and Recall Effectiveness	9
Warnings on Roller Skates and Skate Boards	9
Labeling Sunscreen Products.....	9
Hotel Balconies.....	10
D. Enhancing Motor Vehicle Safety	10
Air Bags	10
E. Increasing Consumer Recourse.....	10
Victims of Price Gouging	10
III. HEARINGS AND ROUNDTABLES	11
A. Hearing on Debt Management and Debt Settlement	11
B. Food Safety Consumer Protections/Budget Hearing.....	11
IV. OUTLOOK AND GOALS FOR 2010	12
<u>APPENDIX A</u>	13
<u>APPENDIX B</u>	14
<u>APPENDIX C</u>	16

I. COMMITTEE RESPONSIBILITIES AND GOALS

The Assembly Consumer Affairs and Protection Committee (the "Committee") is responsible for developing legislation aimed at protecting consumers' rights and ensuring the public's ability to make informed choices in the marketplace. Generally, the Committee has jurisdiction over legislation that amends certain sections of the General Business and Personal Property Laws and parts of the Agriculture and Markets and Education Laws. The broad interests of the Committee reflect the fact that today's consumers can be victims of fraud, misinformation, or lack of information that is vital to their health, safety, and welfare.

To protect consumers' rights and help them make informed choices, the Committee works with consumer groups and state and federal agencies. At the State level, these agencies include: the Department of Law; the Consumer Protection Board; the Department of Education; the Department of Environmental Conservation; the Department of Health; the Department of Agriculture and Markets; and the Department of State. The federal government agencies with which the Committee works include: the Federal Trade Commission (FTC); the Food and Drug Administration (FDA); the Federal Communications Commission (FCC); the Consumer Product Safety Commission (CPSC); and the National Highway Traffic Safety Administration (NHTSA). The Committee also works with local agencies, such as the New York City Department of Consumer Affairs, local consumer affairs offices, numerous Better Business Bureaus, and bar associations throughout the State.

In addition, the Committee works to help consumers in the development of legislation under the jurisdiction of other Assembly standing committees. Such committees include the committees on Banks; Transportation; Corporations, Authorities, and Commissions; Economic Development, Job Creation, Commerce, and Industry; Agriculture; and Insurance.

II. 2009 COMMITTEE ACCOMPLISHMENTS

A. Protecting Personal Privacy

The Assembly has traditionally been a strong advocate for the protection of consumers' rights, including the protection of personal privacy. As technology continues to evolve, the potential for misuse of personal information has risen dramatically. The public is increasingly aware that it has less control over its personal and sensitive information. Privacy issues include a number of very broad topics, such as: the theft of identity; credit reporting; and telecommunications.

The Committee has taken great strides in promoting legislation that would protect the privacy of New York State's consumers.

New York State Automatic Identification Technology Privacy Task Force (A.275-A, Pheffer)

Automated systems used to identify, track, record, store, and transfer data, commonly referred to as automatic identification systems, are increasingly being used by public and private entities, including retailers, manufacturers, and hospitals. As the price of automatic identification technology decreases, the employment of this technology is expected to increase rapidly. Several major retailers are moving rapidly to add one type of automatic identification technology, Radio Frequency Identification (RFID) tags, to products they sell. This new technology has privacy implications, including the potential for the tracking of movements of a person who possesses or handles objects containing radio frequency identification tags and the profiling of consumers without their consent.

This bill would authorize and direct the establishment of the New York State automatic identification privacy task force. The task force would assess various privacy issues associated with the use of automated identification systems by public and private entities and determine the need for the State to regulate this technology in order to ensure personal privacy. **(Passed Assembly)**

Reducing the Unnecessary Disclosure of Social Security Numbers (A.235, Greene)

The purpose of this bill is to restrict the dissemination and collection of Social Security numbers in order to increase consumer privacy and prevent identity theft.

This bill would require all entities that request an individual's Social Security number to inform such individual if such disclosure is required under federal or state law or regulation and how the number is intended to be used. The bill would also prohibit entities from requiring an individual to disclose his or her Social Security number or from refusing any service, privilege, or right based on an individual's refusal to disclose such number, unless such disclosure is required under federal or state law or regulation. **(Passed Assembly)**

Temporary State Commission on Personal Privacy (A.8156-A, Kavanagh)

This bill would establish a temporary state commission to be known as the “Commission on Personal Privacy.” The roles of the Commission would include assessing the level of citizen concerns about personal privacy and the incidence of privacy intrusions, examining the practices of government agencies and businesses related to personal information, assessing the effectiveness of existing privacy protection laws, and recommending legislative and administrative reforms related to the collection and maintenance of personal information by the state and businesses. The Commission would be required to make a report to the Governor and the Legislature on its findings and recommendations no later than November 1, 2011. **(Passed Assembly)**

B. Improving Business Practices

Unlawful Trial Offers (Chapter 280 of the Laws of 2009, Pheffer)

The purpose of this new law is to improve New York’s free trial offer law, which requires entities offering free trials to clearly and conspicuously disclose the terms of the offer, obtain the express consent of the consumer to accept the offer, and provide adequate notice to consumers regarding the deadline to cancel a free trial offer, after which a credit card is billed.

This new law will provide that entities offering free trials must provide the required notice regarding the deadline to cancel the offer regardless of payment method. Exception is made for free trial offers in which a debit or credit card is not being charged and the consumer is sent an invoice requesting payment which includes instructions on how to cancel the free trial offer.

Store Refund Policies (Chapter 278 of the Laws of 2009, Pheffer)

New York law requires retailers to post their return policies. However, this law, which has remained unchanged since its enactment in 1977, has failed to keep pace with changes in the retail market. Many return policies are quite lengthy and can involve several restrictions and fees, such as restocking fees. As a result, consumer confusion regarding these policies has increased in recent years. Over the past four years, the Consumer Protection Board has fielded over 2,000 inquiries and complaints from consumers about retail store return policies. This new law will remove an exemption that allows retailers that provide cash refunds or credit an account within twenty days of the purchase to avoid the return policy disclosure requirement; extend the time period during which a store that violates the disclosure requirement must provide a customer with a full refund or credit; require retailers to make available a written copy of the return policy; and require a store’s return policy posting to include the amount of any fees.

Credit Billing Errors (Chapter 247 of the Laws of 2009, Jeffries)

Consumers with “open end” credit accounts, such as credit card and department store charge card accounts, are advised to check their monthly billing statements carefully for billing errors, which can lead to unwarranted fees and finance charges. Under current law, creditors found to have committed billing errors are liable to the consumer for an amount equal to the sum of any actual damages sustained, twice the amount of the billing error up to \$100 (a punitive penalty), and the costs of the legal action, including attorney's fees. This new law will increase the punitive portion of the penalty from a maximum of \$100 to a maximum of \$400, thereby encouraging creditors to maintain accurate billing systems.

Deceptive Solicitation of Motor Vehicle Warranty Policies (Chapter 421 of the Laws of 2009, Zebrowski)

Consumer complaints regarding deceptive motor vehicle warranty solicitations skyrocketed in 2009. It has been estimated that tens of thousands of consumers have been targeted by fraudulent enterprises that employ autodialing systems and direct mailings containing deceptive statements designed to lure motor vehicle owners into purchasing “extended warranty” products. Many of these products are more accurately referred to as service contracts, which are intended to reimburse consumers for automobile repairs. Companies offering these contracts often fail to provide the level of coverage promised, and, in some cases, go out of business, leaving the consumer with no coverage and limited recourse to recover their previous payments.

This new law will prohibit any person, firm, or corporation from making false, misleading, or deceptive statements in regards to such person's, firm's, or corporation's affiliation with a vehicle owner's current warranty policy provider or the possession of information regarding the vehicle owner's current warranty policy provisions, including the expiration of such vehicle owner's policy. The law will provide the court with the discretion to impose civil penalties of \$500 for each statement made to a consumer in violation.

Unsolicited Telemarketing Sales Calls (A.8839-A, Pheffer)

Despite the success of the “Do Not Call” law, the Consumer Protection Board continues to receive more consumer inquiries and complaints regarding telemarketing than any other business category. In recent years, the telemarketing industry has increasingly employed new technologies, including systems that transmit prerecorded “robocall” messages, which have been the subject of numerous complaints. The Board has also received complaints regarding telemarketing solicitations that involve “negative option features,” in which a consumer is provided a free product or service for a limited time. Consumers who are not adequately informed of the need to affirmatively decline the continued receipt of such products or services are often frustrated when they realize that they unknowingly signed onto a long term commitment.

This bill would provide the Board with the authority to enforce existing statutory restrictions prohibiting telemarketers from calling consumers after 9:00 p.m. and before 8:00 a.m. and requiring telemarketers to provide consumers with the identity of the telemarketer and seller, the purpose of the call, and the identity and cost of the goods or services being offered. The bill would also require telemarketers to disclose all terms and conditions related to offers that include a negative option feature and clarify that prerecorded calls and messages delivered to a consumer's voicemail or answering machine are subject to the requirements of the Do Not Call law. These changes would conform New York law to the Federal Trade Commission's Telemarketing Sales Rule. **(Passed Assembly)**

Debtor's Bill of Rights (A.271, Pheffer)

Consumers contacted by debt collectors are often in a vulnerable position. Some unscrupulous collectors take advantage of this fact and practice methods and tactics that violate New York law, such as calling debtors late at night and threatening to have the consumer arrested if they do not pay the alleged debt, even though there is no legal basis for such threat. This bill would increase consumer knowledge of their rights within New York State debt collection practices law by requiring debt collectors to provide consumers with a "Debtor's Bill of Rights" with each initial correspondence regarding a past due debt. **(Passed Assembly)**

Requiring Debt Collectors and Buyers to Obtain a License (A.3926-C, Pheffer)

While many of those engaged in the business of debt collection are honest and ethical in their dealings, there are unscrupulous collection agencies that practice abusive tactics. It is imperative that the State protect the interests, reputations, and fiscal well-being of its citizens against those agencies that abuse their privilege of operation.

This bill would require third party debt collection agencies and debt buyers to obtain a license from the Department of State. Debt collection agencies and debt buyers would also be required to obtain surety bonding in an amount between \$10,000 and \$75,000, depending on the number of people employed by the agency. **(Passed Assembly)**

Improper Debt Collection Practices (A.8840-B, Pheffer)

Many consumers today are finding themselves the subjects of debt collection proceedings. Creditors and debt collectors in pursuit of collection often fail to inform the consumers of the important details related to the debt, such as where the debt originated, or the name and address of the original creditor. Debts are often sold to third parties without consumers' knowledge, and consumers are left to determine the validity of collection claims from unknown entities. This creates a frustrating process for a debtor who disputes all or part of the claimed debt. In addition, consumers are sometimes subjected to persistent and abusive debt collection tactics. In the past four years, the Consumer Protection Board has received approximately 3,894 debt collection complaints and/or inquiries.

This bill would provide consumers with adequate recourse to address the kinds of improper practices described in those complaints, while still allowing businesses to collect upon the debts owed to them. It would require that debt collectors provide notice to consumers when their debt is sold. Furthermore, it would incorporate several provisions of the Fair Debt Collection Practices Act into state law that governs how and when a debt collector may communicate with a debtor, require debt collectors to provide the debtor with a written notice titled “debtor’s rights,” and provide consumers with a private right of action. **(Passed Assembly)**

Energy Service Company Bill of Rights (A.1558-B, Gianaris)

For the past decade, New York State has allowed Energy Service Companies (ESCO) to sell electricity and/or natural gas to utility customers. Consumers who switch to an ESCO purchase their electricity and gas from the ESCO, but continue to have their energy delivered by their existing utility. Recently, the Consumer Protection Board and the New York City Department of Consumer Affairs reported an increase in consumer complaints related to ESCO marketing practices.

This bill would protect consumers from unscrupulous practices related to the marketing of energy services by regulating marketing practices and restricting certain terms and conditions in ESCO contracts. Specifically, this bill would prohibit any person who sells or offers for sale any energy services for or on behalf of an ESCO from failing to properly identify himself or herself and the energy services company or companies that he or she represents and from engaging in any deceptive acts or practices in the marketing of energy services, or from failing to provide each prospective customer with a copy of the "ESCO consumers bill of rights" developed by the Public Service Commission and the Long Island Power Authority. It would require the salesperson to explain that he or she does not represent a distribution utility.

The bill would also prohibit ESCO contracts from including provisions requiring prepayment for energy services or authorizing a fee for termination or early cancellation of the contract in excess of \$100 or twice the estimated bill for energy services for an average month. To charge a fee greater than \$100, an ESCO would be required to provide the customer or business with an estimated average monthly bill for energy services when the contract is offered. The ESCO would not be allowed to change the terms or duration of any contract for energy services without the express consent of the customer or business. **(Passed Assembly)**

Magazine Subscription Expiration Notices (A.2642-B, Pheffer)

In recent years, the Committee has received complaints regarding magazine publishers' failure to disclose subscription expiration dates in written renewal offers, or to disclose such dates in a clear and conspicuous manner, as required by section 335-a of the General Business Law. This bill would encourage compliance with existing law by providing for increased penalties and strengthen the law by stipulating that publishers that package renewal notices with an issue of a magazine must point subscribers to the expiration date disclosure on the mailing label on such notices. The bill would further protect consumers by extending the subscription expiration date disclosure requirement to for-profit third-party magazine subscription solicitors, including publication clearinghouses and their agents. **(Passed Assembly)**

Protecting the Relatives of Deceased Debtors from Aggressive Collection Efforts (A.7889-B, Rosenthal)

Recent investigations have shown that some debt collectors pursue payments from the relatives of deceased debtors. Relatives of deceased debtors are not required by law to assume their loved ones' debts but collection agencies often omit this information when they ask the relatives to make payments on alleged debts.

This bill would require any creditor or debt collector attempting to collect a debt incurred by a deceased debtor from a person who is not obligated to pay such debt to disclose such fact to the person contacted. Creditors and debt collectors would also be prohibited from making any misrepresentation about such person's obligations to pay such debt. **(Passed Assembly)**

Unordered Goods (A.8049, Zebrowski)

In order to boost sales, some companies have been known to ship unordered goods, such as a book or pocket knife, to consumers and then demand payment unless the goods are returned at the consumer's expense. This marketing technique is restricted under state and federal law, which provide that consumers who receive unordered goods may treat the merchandise as a free gift that does not have to be returned. Despite these existing protections, consumers continue to report instances in which they received unordered goods.

Currently, New York's unordered goods statute authorizes the Attorney General to seek an injunction to restrain the sending of additional unsolicited goods. This bill would further authorize the Attorney General or any person adversely affected by a violation to bring an action against a violator to recover the greater of actual damages or up to \$500 for each instance in which goods were sent in violation. **(Passed Assembly)**

Internet Dating Safety Act (A.5180-A, Pheffer)

While the use of Internet dating services has resulted in countless happy couples, this new method of meeting potential mates can pose unique safety risks to participants. This bill would require Internet dating services to post a safety awareness notification, which would include a list of recommended safety measures users should take to ensure safe dating. This information would be provided to users when they register for the service and via a link on the main website of the service. **(Passed Assembly)**

Important Information Regarding Weight Loss Services (A.3302, Cook)

Millions of New Yorkers have tried or are trying to lose weight for medical and cosmetic reasons. It is estimated that dieters across the nation are spending as much as \$33 billion each year on diet programs and products.

The purpose of this bill is to provide consumers with information by requiring any person, firm, or corporation offering weight loss services and/or products to post a conspicuous warning notice of the risks associated with rapid weight loss and the consumer's need to consult their doctors prior to starting any weight loss program or using diet medications or formulas. **(Passed Assembly)**

Rental Purchase Agreements (A.3083-C, Pheffer)

Merchants that lease personal property under rental purchase or rent-to-own agreements provide a unique transaction that is popular with many consumers. New York's "Rent to Own Program Law" (Article 11 of the Personal Property Law) was enacted in 1986 and has not been updated since that time. The law caps the total amount a consumer must pay in order to acquire ownership of rental merchandise at twice the "cash price" of the merchandise, which is defined as the price at which the merchant would sell the merchandise to the consumer for cash. According to memoranda issued at the time of the law's enactment, several consumer groups, as well as Attorney General Robert Abrams, voiced concern that rent-to-own merchants could abuse their authority to set cash prices. According to recent reports and testimony received at the September 20, 2006, and October 5, 2006, Assembly public hearings on financial services for low-income consumers, rent-to-own merchants often sidestep the intent of the law by setting cash prices as high as twice the price found for the same merchandise at nearby retail outlets.

This bill would make significant changes to the Rent to Own Program Law by providing for enhanced disclosures and providing for a comprehensive study of rent-to-own pricing, the rent-to-own business model, and fair and reasonable price controls to be performed by the Attorney General, in conjunction with the Consumer Protection Board and the Department of Economic Development, that would serve as the basis for improving the law's price control provisions. **(Advanced to Rules Committee)**

C. Protecting Consumer Health and Safety

Children's Product Safety and Recall Effectiveness (Chapter 483 of the Laws of 2009, Pheffer)

This new law will make several amendments to the Children's Product Safety and Recall Effectiveness Act of 2008 (the Act) to conform the Act to similar provisions contained in the United States Children's Product Safety Improvement Act of 2008 and the federal Consumer Product Safety Act and the United States Consumer Product Safety Commission's (CPSC) rules.

Specifically, the new law will limit the definition of children's products to items primarily intended for use by a child under twelve years of age; amend the definitions of "durable juvenile product," "product safety owner's card," "retailer," and "knowledge;" require that all children's products and durable juvenile products contain labels, as prescribed by 15 U.S.C. 2063 and CPSC rules, on such product or product packaging; and clarify that retailers shall initiate the corrective actions specified in the Act upon knowledge of a recall or warning, as opposed to upon receipt of a recall or warning notice. **(Passed Assembly)**

Warnings on Roller Skates and Skate Boards (A.4285-A, Greene)

According to the American Academy of Pediatrics, an estimated 17.7 million youth under the age of eighteen participate in in-line skating, roller skating, and skateboarding. A majority of the reported injuries were to wrists, arms, and legs. In addition, according to the American Academy of Pediatrics, skateboarding injuries account for an estimated 50,000 hospital visits each year.

This bill would prohibit manufacturers, assemblers, and sellers of roller skates and skate boards from manufacturing, assembling, selling, offering to sell, or distributing roller skates or skate boards unless such items include a warning advising consumers to wear full protective gear, including helmets, wrist guards, elbow pads, and knee pads. **(Passed Assembly)**

Labeling Sunscreen Products (A.6367, Weisenberg)

According to the American Cancer Society, over 800,000 new skin cancer cases of curable basal cell or squamous cell cancers are diagnosed each year. Since 1973, the incidence of skin cancer has increased about four percent per year. Many consumers use sunscreen products to prevent the risk of skin cancer. In light of how important these products are in combating skin cancer, it is important that the consumer be aware that sunscreen does not protect against the sun's rays after a certain shelf life. This legislation would increase consumer awareness of sunscreen product effectiveness by requiring all products to be labeled with a "best if used before date" and storage recommendations. **(Passed Assembly)**

Hotel Balconies (A.8358, Fields)

This bill would require operators of hotels, motels, and motor courts that have balconies or other structures that are not in compliance with the requirements in the NYS Uniform Fire Prevention and Building Code or the Building Code of the City of NY for open guards, or that were grandfathered under those codes, to post a notice at eye level on any door in such facility that may be used to provide access to a balcony. The notice shall warn that there is a possibility for young children to slip through the spaces between the balusters or ornamental patterns of such guards. **(Passed Assembly)**

D. Enhancing Motor Vehicle Safety

Air Bags (A.3319, Pheffer)

This bill would require airbags to be sold without such sale being tied to the sale of other goods and services. The requirements under this bill are applicable to new motor vehicles only and would not apply to airbags required to be installed by federal law. A motor vehicle dealer would not be in violation of this section if the dealer, after due diligence, is unable to acquire from the manufacturer a vehicle equipped with airbags as an option without the purchase of a package of options. **(Passed Assembly)**

E. Increasing Consumer Recourse

Victims of Price Gouging (A.278, Pheffer)

Price gouging occurs when businesses take unfair advantage of consumers during abnormal market disruptions caused by natural or man-made disasters by charging grossly excessive prices for essential consumer goods and services. Unscrupulous businesses that gouge consumers during difficult times must be held accountable. Currently, only the State Attorney General is empowered to bring legal action against violators of the price gouging statute. This bill would leave the Attorney General's powers intact, but would also permit individual victims of price gouging to sue the price gougers directly. **(Passed Assembly)**

III. HEARINGS AND ROUNDTABLES

A. Hearing on Consumer Protection in the Debt Collection and Debt Management Industries

On May 14, 2009, the Committee held a joint public hearing to examine how the State can best protect consumers from unfair and deceptive practices in the debt collection and debt management industries.

Consumer complaints against debt collectors continue to rise and recent reports have documented the use of unfair and deceptive practices by certain entities providing debt management services. The New York City Department of Consumer Affairs recently announced that debt collection complaints topped the Department's annual complaint list for the first time in the agency's forty-year history in 2008. In recent years, several reports have raised concerns about the practices of entities offering debt management services, including the failure of certain entities to provide meaningful financial education to clients and the increasing use of the Internet and other advertising media to aggressively market debt management services to consumers.

The Committees heard testimony from almost forty witnesses, including consumers, government agencies, consumer advocacy groups, debt collectors, credit counselors, and debt settlement companies. Witnesses provided comments on several pieces of legislation related to debt collection and debt management, including A.3532-A (Gianaris), A.3926-C (Pheffer), A.7268 (Pheffer), and A.7558-A (Weinstein).

The Committee will continue to work with the Committees on Banks and Judiciary to ensure fair treatment for all New York debtors.

B. Hearing on the Implementation of Food Safety Consumer Protections

On December 8, 2009, the Committee, along with the Committee on Agriculture, held a public hearing to review the implementation of food safety consumer protections by the Department of Agriculture and Markets and the Consumer Protection Board. The hearing also examined whether current funding levels provide the Department of Agriculture and Markets and the Consumer Protection Board with the resources necessary to protect consumers from foodborne illness.

IV. OUTLOOK AND GOALS FOR 2010

The 2010 Legislative Session promises to present many challenges to the Consumer Affairs and Protection Committee. The Committee will pursue many of the issues it addressed during the 2009 Session, and new issues will emerge for consideration. As in the past, the Committee will continue to address issues brought to its attention by legislators, the executive branch, staff, and the people of the State of New York.

APPENDIX A

CHAPTERS OF 2009

A.1627-C	Zebrowski	Prohibits any person, firm, or corporation from deceptively soliciting vehicle warranty policies. Chapter 421 of the Laws of 2009
A.4908	Pheffer	Improves New York's free trial offer law. Chapter 280 of the Laws of 2009
A.6633	Pheffer	Makes technical corrections to the children's product safety and recall effectiveness act of 2008. Chapter 483 of the Laws of 2009
A.7562	Pheffer	Requires greater disclosure by stores of their refund policies. Chapter 278 of the Laws of 2009
A.8122	Jeffries	Increases the liability of creditors to consumers for credit billing errors. Chapter 247 of the Laws of 2009

APPENDIX B

2009 BILLS PASSED BY THE ASSEMBLY

A.235	Greene	Would restrict the requirement that a person disclose his or her social security number.
A.271-A	Pheffer	Would require debt collectors to send consumers a written notice of their rights under state law along with their debt collection correspondence.
A.275-A	Pheffer	Would establish a task force on the privacy implications of automatic identification technology.
A.278	Pheffer	Would create a private right of action for unlawful price gouging for injunctive relief and recovery of actual damages or \$1000, whichever is greater.
A.1558-B	Gianaris	Would require energy services companies to provide customers with a consumers' bill of rights as well as other protections.
A.2642-B	Pheffer	Would require that subscription expiration notices for magazines be clearly disclosed in a conspicuous manner.
A.3302	Cook	Would require disclosures to consumers of weight loss services.
A.3319	Pheffer	Would require that airbags not required by federal law that are sold and installed by motor vehicle dealers or manufacturers must be offered as standard or single options.
A.3383-C	Pheffer	Would direct the state Attorney General, Consumer Protection Board, and the Department of Economic Development to conduct a study of the rental purchase industry.
A.3926-C	Pheffer	Would require debt collection agencies to be licensed by the State.
A.4285-A	Greene	Would prohibit the manufacture, assembling, or sale of roller skates and skateboards unless a warning is included advising consumers to wear full protective gear.
A.5180-A	Pheffer	Would require internet dating services to provide a safety awareness notice to consumers in New York.
A.6367	Weisenberg	Would require sunscreen products to be labeled with "best if used before" dates and storage recommendations.

A.7889-A	Rosenthal	Would prohibit debt collectors from collecting or attempting to collect a debt owed by a deceased debtor.
A.8049	Zebrowski	Would authorize the state Attorney General to bring an action for violation of the prohibitions concerning unlawful selling practices.
A.8156	Kavanagh	Would create a temporary state commission on personal privacy.
A.8358	Fields	Would require hotels with balconies to post signs warning guests of certain safety issues.
A.8839	Pheffer	Would provide for enhanced consumer protections against unsolicited telemarketers and enforcement of the do-not-call registry.
A.8840-B	Pheffer	Would provide for greater consumer protections during debt collection proceedings.

APPENDIX C

2009 SUMMARY OF ACTION ON ALL BILLS REFERRED TO
THE ASSEMBLY COMMITTEE ON CONSUMER AFFAIRS AND PROTECTION

Final Disposition of Bills	Assembly Bills	Senate Bills	Total
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	1		1
To Floor; Recommitted and Died			
To Ways and Means	3		3
To Codes	39		39
To Rules	1		1
To Judiciary			
Total	44		44
<u>Bills Having Committee Reference Changed</u>			
To Economic Development	1		1
To Health	1		1
To Codes	1		1
To Cities	1		1
Total	4		4
<u>Senate Bills Substituted or Recalled</u>			
Substituted		1	1
Recalled			
Total		1	1
Bills Defeated in Committee			
Bills Never Reported, Held in Committee	196		196
Bills Having Enacting Clause Stricken	4		4
Motions to Discharge Lost			
Total Bills in Committee	248	14	249
Total Number of Committee Meetings Held	9		