


[House Consumer Affairs](#)

House Consumer Affairs Committee

4/15/15, 9:45 a.m., B31 Main Capitol

By Kimberly Hess

Committee(s):	House Consumer Affairs Committee
Audio:	 (click here) (Note: Depending on your audio player and the length of the hearing this could take a few minutes to load.)
Meeting type:	Informational meeting
Subject:	Office of the Attorney General Bureau of Consumer Protection
Bills discussed:	(N/A)
Keyword(s):	scams, Lemon Law, contractors, builders, seniors, consumer protection
Testimony:	Basil Merenda, chief deputy Attorney General and Director of the Bureau of Consumer Protection in the Office of Attorney General (OAG)
Members Present:	Chairman Bob Godshall (R-Montgomery), Minority Chairman Pete Daley (D-Washington), and Representatives Marty Flynn (D-Lackawanna), Rob Kauffman (R-Cumberland), Pam Snyder (D-Greene), Marcy Toepel (R-Montgomery), Rob Matzie (D-Beaver), Mike O'Brien (D-Philadelphia), Tina Davis (D-Bucks) Tina Pickett (R-Bradford), Tom Killion (R-Delaware), Warren Kampf (R-Chester), Mark Longietti (D-Mercer), Brandon Neuman (D-Washington), and Sheryl Delozier (R-Cumberland).

The committee held an informational meeting with [Basil Merenda](#), chief deputy Attorney General and director of the [Bureau of Consumer Protection](#) in the Office of Attorney General (OAG).

Chairman Godshall pointed out the bureau is responsible for enforcing a number of laws under the purview of the committee.

Merenda discussed the bureau's mission to protect Pennsylvania consumers and Attorney General Kathleen Kane's renewed approach to consumer protection to benefit consumers and businesses. In context of OAG, he said, the bureau is often consumers' point of contact with OAG. He said his priority is to make the bureau more accessible, responsible and accountable to the legislature and the public and to ensure residents know where to go for relief. He also remarked on the importance of assuring businesses that the bureau will work to keep the playing field level. Merenda said public education, dispute mediation, investigation of consumer complaints, and litigation when all else fails are the four main functions of the bureau.

Regarding Kane's restructuring of the bureau, Merenda explained the bureau was reorganized into two units and the review of consumer complaints was streamlined, with specific timelines to reach a fair resolution of a complaint within 45 days. He noted the bureau can consider litigation if a complaint is not resolved, and recognized instances where it is the best option but there has been a reluctance to litigate in the past. He reported Kane is working to change that reluctance, within the constraints of the law. He stressed the duty of the bureau to close a case when

litigation is not merited. Merenda opined a fair settlement must include fair consumer restitution, an injunctive provision which ends the unlawful conduct and addresses the failures, a reasonable penalty, and reimbursement of the taxpayer for the cost of litigation and investigation. He said the litigation statistics demonstrate that this approach is working.

Lastly, Merenda highlighted legal action that the bureau has pursued. He first discussed enforcement efforts of the Home Improvement Consumer Protection Act (HICPA) of 2009 and said the bureau has successfully mediated more than 3,300 complaints and returned an estimated \$380,000 to consumers. Further, the bureau has stepped up the number of audits of contractors, is cooperating with county consumer protection officers and conducting undercover operations, and recently met with counterparts in New Jersey to discuss their best practices and ultimately enact HICPA regulations. He also thanked the committee for a recent change that requires contractors to notify the bureau of changes in their registration.

Merenda then discussed how the bureau dealt with electric generation suppliers, noting the bureau received thousands of complaints in 2014 following winter rate spikes. The bureau brought five lawsuits as a result of the complaints.

Next, he discussed efforts to ban solicitation scams and protect senior citizens. Merenda stated this is a "never ending battle" that occurs via telephone, mail, email, and on front doorsteps and primarily target seniors. He said the biggest obstacle to fighting the scams "is the ingenious way these scammers hide their tracks...makes them effectively untraceable." He noted many spoof telephone numbers or originate outside of the country. Merenda stated the bureau is fighting the scams with education. He said common scams include IRS scams, energy cost scams, home improvement scams, and motor vehicle repair scams.

Another area the bureau has been active in, Merenda said, is the Pennsylvania Lemon Law, which he pointed out does not cover a number of vehicles, including used, off-road, and recreational types. He provided an overview of the requirements of the law and explained consumers are required to contact the manufacturer and go to arbitration. If displeased with the ruling, consumers can go to court but the bureau is not legally permitted to represent the consumer. Merenda said the bureau is very active in the used car sales arena.

A fifth area of activity is in landlord/tenant relations, Merenda reported. He particularly discussed a case in Pittsburgh.

Rep. Longietti remarked his office hears a number of complaints about telephone scams as well and agreed it is difficult to track down the scammers. He asked if OAG can work with the telephone carriers to address the problem. Merenda offered to reach out to the carriers to see what technology is available to address the scams. He said the most effective way the bureau can address the scams is consumer education and offered to visit Rep. Longietti's district.

Rep. Longietti then asked what recourse consumers have to rescind a contract. Merenda confirmed there is a lot of confusion about the right of rescission and the three-day right of recession that occurs when a contract is entered into in the home. He said except for the in-home circumstances, there likely is not a right of rescission in a contract.

Lastly, Rep. Longietti described his process for submitted consumer complaints and asked if it is the correct process. Merenda confirmed it was.

Rep. Toepel asked about Merenda's statement that the bureau cannot initiate litigation unless there is a pattern of misconduct. Merenda confirmed that is the law. Rep. Toepel asked if that means an egregious act that is not a pattern would not be pursued. Merenda said the bureau

would look at such an act and remarked that it is likely that a pattern would exist. He said the bureau's attorneys know how to use the law to go after bad actors.

Rep. Davis asked if state legislators are notified of investigations in their district. Merenda said investigations are confidential. Rep. Davis asked what she should do when a person comes to her for help. Merenda suggested she call OAG.

Rep. Pickett asked what percentage of contractors register. Merenda confirmed a number "fly under the radar screen," but could not quantify the number. He said agents are actively tracking contractors that do not register. Rep. Pickett asked about the bureau's position on municipal registration. Merenda said his understanding is the state statute preempts local registration and said he could look into the issue. It was further noted that the bureau has notified every municipality of the provisions of the law.

Chairman Godshall said the law was passed specifically to address the problem of municipal registration and suggested "it would not hurt" to remind the municipalities of the law. Merenda agreed the bureau could send "a gentle reminder," but noted the law does not apply to permits like plumbing or electric permits.

Chairman Godshall asked "how low in the scale do we go" for contractors that must register. Merenda replied \$5,000 is the trigger.

Rep. Snyder asked if the bureau has jurisdiction over home builders. Merenda replied HICPA does not apply to home builders, but could, depending on the specifics, reach the conduct through consumer protection. He urged anyone have a problem to submit a complaint with as much detail as possible and the bureau would see what it could do. It was confirmed action has been taken under the Consumer Protection Law.

Rep. Matzie questioned if Pennsylvania's Lemon Law is similar to that of other states. Merenda confirmed it is "pretty much the same." Rep. Matzie commented it would be nice for the consumer to have the ability to go to the state's attorney for some help to fight a manufacturer.

Rep. Delozier asked if a situation in her district about a developer who is looking to withdraw before the development is complete would be subject to the bureau's jurisdiction. Merenda encouraged her to submit as much information possible. It was noted the situation could be convoluted because the township is also involved.

Chairman Godshall discussed the problems that stemmed from the polar vortex and opined the five being charged does not touch what happened. He asked what the restitution was for those five companies. Merenda said the bureau is in the process of determining that number for the one company that a settlement has been reached with. He offered to provide the information once the number is determined. Chairman Godshall lamented it will be a small part of the number of people that were slammed. "Somehow there has to be a little bit better way of trying to regulate those suppliers," he commented.

As the meeting concluded, Chairman Daley presented Chairman Godshall a Pirates hat and Steelers satchel, explaining that hopefully those accessories will help him hail a taxi in Pittsburgh.