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New York Legislature Aims to Fill Federal Consumer Protection Void

March 18, 2025

On March 13, 2025, New York legislators introduced a bill backed by New York Attorney General Letitia James to expand the state's current consumer protection law to cover "unfair" and "abusive" practices, and not just "deceptive" practices. If enacted, the Fostering Affordability and Integrity through Reasonable Business Practices Act (FAIR Business Practices Act) would give the New York attorney general authority to bring unfair, deceptive, and abusive acts and practices (UDAAP) claims similar to those that could be brought by the Consumer Financial Protection Bureau (CFPB), which has been hamstrung thus far under the Trump administration.

The FAIR Business Practices Act would prohibit a broader range of practices

New York's current consumer protection law prohibits only deceptive business acts and practices, such as making false advertising claims or using misleading contract terms. The FAIR Business Practices Act would amend existing law to prohibit both "unfair" and "abusive" acts and practices, the definitions of which mirror those found in the Consumer Financial Protection Act administered by the CFPB.

The FAIR Business Practices Act also would permit the attorney general to bring claims against entities that engage in even only a single instance of unfair, deceptive or abusive activity stemming from a single transaction. The preamble to the bill explicitly provides that the act was meant to counter any textual exceptions that could implicate only conduct that impacts the public at large. The FAIR Business Practices Act would extend protections beyond only consumers and encompass small businesses harmed by such acts or practices.

Law would enhance financial implications of noncompliance

The FAIR Business Practices Act would empower the attorney general to assess heightened civil penalties and collect restitution on behalf of consumers. Any defendant who violates the act's prohibitions would be liable for a civil penalty of $5,000 per violation or, for knowing or willful violations, the greater of $15,000 or three times the amount of restitution for each violation.

The legislation also contemplates enhanced civil penalties for harm to a "vulnerable person," which includes any person under 18 or over 65, active duty servicemembers and veterans, physically or mentally impaired persons, or any person with limited English proficiency.

Looking ahead

With the Trump administration largely having paused CFPB enforcement of consumer protection laws, state attorneys general and financial regulators are expected to – and have already begun to – fill what many perceive as a regulatory void. Although state attorneys general and financial regulators have authority to enforce aspects of the federal Consumer Financial Protection Act, legislative initiatives like the FAIR Business Practices Act would give state enforcers clearer authority to obtain penalties for violations and could even expand the scope of protected persons under such laws.

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