

CLIENT ALERT



Proposed New York Consumer Protection Law Signals the Future of State Enforcement

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On May 15, 2025, the New York General Assembly introduced the Fostering Affordability and Integrity through Reasonable Business Practices Act (FAIR Act), which will strengthen New York's consumer protection law to "protect New Yorkers from unfair, deceptive and abusive business practices."^[1] With the federal government rolling back protections for consumers and small businesses, the FAIR Act authorizes the New York Attorney General and individual consumers to seek civil penalties and restitution against businesses.^[2] Trying to fill the enforcement void left by inactive federal regulators, the FAIR Act endeavors to align with Consumer Financial Protection Bureau (CFPB) guidance to states to strengthen their consumer protection regimes and strongly suggests that states and private litigants will become increasingly active in enforcing consumer protection laws.

If enacted, the FAIR Act will amend New York General Business Law § 349, the state's deceptive-acts-and-practices statute. The Act would update New York law to prohibit abusive and unfair practices, broadening the statute's scope and aligning it more closely with federal law.^[3]

In addition to incorporating prohibitions on abusive and unfair practices into New York law, the FAIR Act expands the enforcement abilities of both the state and private litigants. The Act expands the New York Attorney General's enforcement authority to permit actions against any entity doing business with New York consumers or small businesses.^[4] For private litigants, the FAIR Act removes the requirement to prove monetary injuries, broadening "injury" to mean "any impairment of a person's interests,"^[5] and broadens the rights to recovery for class actions alleging statutory violations.^[6] By lowering these threshold requirements to private enforcement, the FAIR Act would likely incentivize a suite of private class actions if enacted.

Not only would the FAIR Act increase the frequency of consumer protection enforcement actions, but it would also increase the severity of penalties imposed in such actions. In suits brought by the attorney general, the FAIR Act increases the civil penalty for willful or knowing violations to the greater of \$15,000 or three times the value of restitution.^[7] For private suits, the Act creates rights to \$1,000 in statutory damages,^[8] treble damages for willful or knowing violations,^[9] and additional penalties for violations harming "vulnerable persons."^[10]

FOLLOWING THE CFPB'S LEAD

The FAIR Act's proposals largely follow the CFPB's January 14, 2025 guidance to states to strengthen their consumer protection laws.^[11] While federal regulators continue to pull back, we have previously written that states

and private litigants will likely play a greater role in enforcing consumer protection laws. The FAIR Act signals that such increased enforcement is coming sooner rather than later. Financial institutions should continue to closely monitor updates to state consumer protection laws and prepare for increased action in this space.

[1] Fostering Affordability and Integrity through Reasonable Business Practices Act, A08427, 2025 State Assemb. (N.Y. 2025). The bill's progress can be tracked at <https://legiscan.com/NY/bill/A08427/2025>.

[2] Press Release, N.Y. Att'y Gen., "Attorney General James Takes Action to Protect New York Consumers and Small Businesses" (Mar. 13, 2025); Press Release, N.Y. Att'y Gen., "Attorney General James Advances Legislation to Protect Small Businesses and Consumers" (Mar. 21, 2025).

[3] *Supra* note 1 at 4.

[4] *Id.* at 6.

[5] *Id.* at 5.

[6] *Id.* at 10–11.

[7] *Id.* at 17.

[8] *Id.* at 8.

[9] *Id.*

[10] The FAIR Act defines "vulnerable persons" to mean persons under 18 or over 65; veterans and active-duty servicemembers; persons with substantial physical and mental impairments; and persons with limited English-language proficiency. *Id.* at 14–15.

[11] Consumer Fin. Prot. Bureau, "Strengthening State-Level Consumer Protections" (Jan. 14, 2025); see *also* Caitlin Mandel, Patrick Doerr, and Hollie Albin, "CFPB Helps Guide States to Fill Gaps in Protection Framework," Bloomberg (Feb. 21, 2025).

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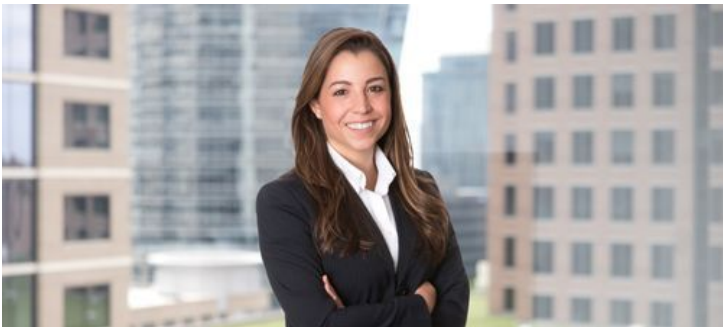
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