

New York State Legislature Passes FAIR Business Practices Act

June 26, 2025

On June 18, 2025, the New York State Legislature passed the [Fostering Affordability and Integrity through Reasonable Business Practices Act](#) (the “Act”). The legislation revises New York’s primary consumer protection law for the first time in 45 years. If signed by Governor Kathy Hochul, the Act will expand liability of businesses under New York General Business Law § 349 (“GBL § 349”) beyond “deceptive” acts to include both “unfair” and “abusive” practices. It will also expand the categories of commercial activity to which the law applies.

I. Overview

The stated purpose of the Act is to protect New Yorkers from unfair, deceptive and abusive business practices by adopting a comprehensive unfair or deceptive acts or practices statute that gives the New York Attorney General the tools to address such alleged harms. Further, the Act aims to protect New Yorkers against harmful commercial conduct by eliminating exceptions imposed by courts limiting prohibited conduct to acts that are “consumer-oriented” conduct that have an impact on the public at large. It is the intention of the legislature that GBL § 349 be applied expansively, with limits imposed only in accordance with its text, without additional restrictions.

Under the Act, the New York State Attorney General may seek restitution and civil penalties against businesses that use abusive, deceptive or unfair practices.

II. Key Changes to GBL § 349

Abusive and Unfair Business Acts and Practices

Currently, GBL § 349 only applies to “deceptive” business acts and practices. If signed into law, the Act will add “abusive” and “unfair” business practices to GBL § 349. An act or practice would be considered “abusive” when (i) it materially interferes with the ability of a person to understand a term or condition of a product or service; or (ii) it takes unreasonable advantage of a lack of understanding on the part of a person of the material risks, costs, or conditions of a product or service, the inability of a person to protect their interests in selecting or using a product or service, or the reasonable reliance by a person on a person covered by GBL § 349 to act in the relying person’s interest. An act or practice would be considered “unfair” when it causes or is likely to cause a person substantial injury which is not reasonably avoidable by such person and is not outweighed by countervailing

benefits to consumers or to competition.

Please note that the Act's definition of "unfair" is based on the Federal Trade Commission Act's definition (see 15 U.S.C. § 45(n)) and, similarly, the Act's definition of "abusive" practices is based on the Consumer Financial Protection Act's definition (see 12 U.S.C. § 5531(d)), but expands the scope.

Additionally, the Act states that the New York Attorney General's consumer protection responsibility "extends to protecting businesses and non-profits as well as individuals," which is reflected in the Act's definitions of "unfair" and "abusive" practices.

Consumer-Oriented Conduct

Another key provision of the Act expands the reach of GBL § 349 beyond merely "consumer-oriented" conduct. Under the existing legal landscape, courts have developed a narrow consumer-oriented doctrine that limits actionable conduct to those impacting the public at large or part of a broader or recurring pattern. The Act abolishes this "consumer-oriented" judicial doctrine with explicit statutory language that an act or practice made unlawful by GBL § 349 is actionable by the Attorney General regardless of whether or not that act or practice is consumer-oriented.

Examples

In a [press release](#) regarding the passage of the Act, New York Attorney General Letitia James identified examples of unfair and abusive acts that the Act is intended to address, such as:

- Mortgage servicers charging unnecessary high fees;
- Student loan servicers that steer borrowers into the most expensive repayment plans;
- Car dealers that refuse to return a customer's photo ID until a deal is finalized and charge for add-on warranties that the customer did not actually purchase;
- Nursing homes that routinely sue relatives of deceased residents for their unpaid bills despite not having any basis for liability;
- Companies that take advantage of consumers with limited English proficiency and obscure pricing information and fees;
- Debt collectors that collect and refuse to return a senior's Social Security benefits, even though they are exempt from debt collection; and
- Health insurance companies that use long lists of in-network doctors who turn out not to accept the insurance.

III. Businesses Impacted by the Act

The Act will impact all businesses engaged in trade or commerce or in the furnishing of any service in New York, regardless of size or industry. This includes, but is not limited to, lenders, mortgage servicers, student loan servicers, health care companies, and debt collectors, as stated in the above examples.

Financial institutions doing business in New York may face heightened scrutiny from the New York Attorney General due to the inclusion of "abusive" and "unfair" acts and practices in GBL § 349, prompting an increase in

investigations from the state office. Additionally, the removal of the “consumer-oriented” doctrine will empower the New York Attorney General to enforce the law against financial institutions in the context of private transactions that nonetheless have significant public consequences. As a result, financial institutions should be ready to adapt their practices to ensure compliance with the Act.

Please also note that the acts and practices of non-profit entities are also covered by the Act, and nonprofits are protected to the same extent as businesses are by any of the Act’s protections or defenses.

IV. Conclusion

The expansion of GBL § 349 is representative of the broader efforts by certain states to bolster their consumer protection powers and jurisdiction in response to less aggressive enforcement at the federal level. Businesses subject to GBL § 349 should assess the impact of the Act and evaluate what measures must be implemented to ensure compliance if the Act is signed into law.

This advisory is a general overview of the Act and is not intended as legal advice. If you have any questions about the Act or GBL § 349 in general, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at jsimon@cullenllp.com, Elizabeth A. Murphy at (516) 296-9154, or via email at emurphy@cullenllp.com, David Curatolo at (516) 357-3733 or via email at dcuratolo@cullenllp.com, or Gabriela Morales at (516) 357-3850 or via email at gmorales@cullenllp.com.

This advisory provides a brief overview of the most significant changes in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient.

Practices

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