

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

Derek Hall - For The Star-Ledger, 'Laws aim to protect consumers from financial predators', Star-Ledger, The (online),6 Aug 2022 003

end

P.L. 2022, CHAPTER 96, *approved August 5, 2022*
Assembly, No. 1556 (*First Reprint*)

1 AN ACT concerning claims alleging violations of consumer fraud or
2 antitrust, and amending various sections of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1960, c.39 (C.56:8-2) is amended to read as
8 follows:

9 2. The act, use or employment by any person of any
10 **[unconscionable]** commercial practice that is unconscionable¹,
11 abusive or unfair, or that violates State or federal law **]** or abusive¹,
12 deception, fraud, false pretense, false promise, misrepresentation, or
13 the knowing, concealment, suppression, or omission of any material
14 fact with intent that others rely upon such concealment, suppression or
15 omission, in connection with the sale or advertisement of any
16 merchandise or real estate, or with the subsequent performance of
17 such person as aforesaid, whether or not any person has in fact been
18 misled, deceived or damaged thereby, is declared to be an unlawful
19 practice; provided, however, that nothing herein contained shall apply
20 to the owner or publisher of newspapers, magazines, publications or
21 printed matter wherein such advertisement appears, or to the owner or
22 operator of a radio or television station which disseminates such
23 advertisement when the owner, publisher, or operator has no
24 knowledge of the intent, design or purpose of the advertiser.

25 (cf: P.L.1975, c.294, s.1)

26

27 ¹2. Section 4 of P.L.1960, c.39 (C.56:8-4) is amended to read as
28 follows:

29 4. a. To accomplish the objectives and to carry out the duties
30 prescribed by this act, the Attorney General, in addition to other
31 powers conferred upon him by this act, may issue subpoenas to any
32 person, administer an oath or affirmation to any person, conduct
33 hearings in aid of any investigation or inquiry, promulgate such
34 rules and regulations, and prescribe such forms as may be
35 necessary, which shall have the force of law.

36 b. In an action brought by the Attorney General, any commercial
37 practice that violates State or federal law is conclusively presumed
38 to be an unlawful practice under section 2 of P.L.1960, c.39
39 (C.56:8-2). Nothing in this subsection shall be construed to restrict

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹AssemblyACO committee amendments adopted March 7, 2022.

1 the scope of unlawful practices under Section 2 of P.L.1960, c.39
2 (C.56:8-2) in actions not brought by the Attorney General.¹
3 (cf: P.L.1960, c.39, s.4)
4

5 ¹**[2.] 3.**¹ Section 8 of P.L.1971, c.247 (C.56:8-20) is amended
6 to read as follows:

7 8. Any party to an action asserting a claim, counterclaim or
8 defense based upon violation of this act, or the act hereby amended
9 or supplemented, shall electronically mail to a dedicated address or
10 account established by the Attorney General for this purpose a copy
11 of (i) the initial **[or]**, responsive or amended pleading containing
12 the claim, counterclaim or defense and any dispositive motion on
13 such claim, counterclaim or defense, with any accompanying brief
14 or legal memoranda, and (ii) any Appellate Civil Case Information
15 Statements or appellate brief relating to such a claim, counterclaim
16 or defense to the Attorney General within **[10 days]** 24 hours after
17 the filing of such pleading or document with the court. Upon
18 application to the court wherein the matter is pending, the Attorney
19 General shall be permitted to intervene or to appear in any status
20 appropriate to the matter.

21 (cf: P.L.1971, c.247, s.8)

22

23 ¹**[3.] 4.**¹ Section 12 of P.L.1970, c.73 (C.56:9-12) is amended to
24 read as follows:

25 12. a. Any person who shall be injured in his business or
26 property by reason of ¹**[a]** anticompetitive conduct in¹ violation of
27 the provisions of **[this act]** P.L.1970, c.73 (C.56:9-1 et seq.) may
28 sue therefor and shall recover a sum of not less than \$1,000 or
29 threefold the damages sustained by him and interest on the damages
30 from date of complaint, whichever amount is greater, together with
31 reasonable attorneys' fees, filing fees and reasonable costs of suit;
32 provided that indirect purchasers injured by an illegal overcharge
33 shall be entitled to recover only compensatory damages, together
34 with reasonable attorneys' fees, filing fees, and reasonable costs of
35 suit in actions not brought under subsection b. of this section.
36 Reasonable costs of suit may include, but shall not be limited to the
37 expenses of discovery and document reproduction.

38 b. The State and any of its political subdivisions and public
39 agencies shall be deemed a person within the meaning of this
40 section. The Attorney General, on behalf of the State or any of its
41 political subdivisions or public agencies, or the political subdivision
42 or public agency at the direction of or with the permission of the
43 Attorney General, may institute an action to recover the damages
44 provided for by this section or by any comparable provisions of
45 Federal law, together with reasonable attorneys' fees, filing fees
46 and reasonable costs of suit.

1 c. In any action pursuant to P.L.1970, c.73 (C.56:9-1 et seq.),
2 the fact that the State, or any political subdivision or public agency
3 of the State or any political subdivision, or any person who has
4 sustained damages by reason of violation of P.L.1970, c.73 (C.56:9-
5 1 et seq.), has not dealt directly with the defendant shall not bar or
6 otherwise limit recovery except as provided in this section. In any
7 action or actions in which claims are asserted against a defendant
8 by both direct and indirect purchasers, the court may take such steps
9 as the court deems appropriate to avoid duplicate recovery of
10 damages and to obtain substantial fairness. In any action in which
11 both direct and indirect purchasers are involved, a defendant shall
12 be entitled to prove as a partial or complete defense to a claim for
13 damages that the illegal overcharge has been passed on to others¹,
14 including the defendant,¹ who are themselves entitled to recover, so
15 as to avoid duplication of recovery of damages.

16 d. In the event damages in a class action or an action instituted
17 by the Attorney General remain unclaimed by, or undistributed to,
18 the direct or indirect purchasers, the class representative or the
19 Attorney General, as applicable, the Attorney General may apply to
20 the court and such funds shall escheat to the State upon showing
21 that reasonable efforts made by the State to distribute the funds
22 have been unsuccessful.

23 (cf: P.L.1970, c.73, s.12)

24
25 ¹**[4. Sections 1 and 3 of this act shall take effect immediately and**
26 **section 2 shall take effect on the first day of the third month next**
27 **following enactment.]¹**

28
29 ¹5. Sections 1, 2, and 4 of this act shall take effect immediately
30 and section 3 shall take effect on the first day of the third month next
31 following enactment.¹

32
33
34
35 Updates notice requirements for actions alleging consumer fraud
36 violations and adds indirect purchasers as parties who can receive
37 damages for antitrust violations.

ASSEMBLY, No. 1556

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

SYNOPSIS

Updates certain notice requirements for actions alleging consumer fraud violations and adds indirect purchasers as parties who can receive damages for antitrust violations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/7/2022)

A1556 MORIARTY, STANLEY

2

1 AN ACT concerning claims alleging violations of consumer fraud or
2 antitrust, and amending various sections of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1960, c.39 (C.56:8-2) is amended to read as
8 follows:

9 2. The act, use or employment by any person of any
10 **【unconscionable】** commercial practice that is unconscionable,
11 abusive or unfair, or that violates State or federal law, deception,
12 fraud, false pretense, false promise, misrepresentation, or the
13 knowing, concealment, suppression, or omission of any material
14 fact with intent that others rely upon such concealment,
15 suppression or omission, in connection with the sale or
16 advertisement of any merchandise or real estate, or with the
17 subsequent performance of such person as aforesaid, whether or not
18 any person has in fact been misled, deceived or damaged thereby,
19 is declared to be an unlawful practice; provided, however, that
20 nothing herein contained shall apply to the owner or publisher of
21 newspapers, magazines, publications or printed matter wherein
22 such advertisement appears, or to the owner or operator of a radio
23 or television station which disseminates such advertisement when
24 the owner, publisher, or operator has no knowledge of the intent,
25 design or purpose of the advertiser.

26 (cf: P.L.1975, c.294, s.1)

27

28 2. Section 8 of P.L.1971, c.247 (C.56:8-20) is amended to read
29 as follows:

30 8. Any party to an action asserting a claim, counterclaim or
31 defense based upon violation of this act, or the act hereby amended
32 or supplemented, shall electronically mail to a dedicated address or
33 account established by the Attorney General for this purpose a copy
34 of (i) the initial **【or】**, responsive or amended pleading containing
35 the claim, counterclaim or defense and any dispositive motion on
36 such claim, counterclaim or defense, with any accompanying brief
37 or legal memoranda, and (ii) any Appellate Civil Case Information
38 Statements or appellate brief relating to such a claim, counterclaim
39 or defense to the Attorney General within **【10 days】** 24 hours after
40 the filing of such pleading or document with the court. Upon
41 application to the court wherein the matter is pending, the Attorney
42 General shall be permitted to intervene or to appear in any status
43 appropriate to the matter.

44 (cf: P.L.1971, c.247, s.8)

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 3. Section 12 of P.L.1970, c.73 (C.56:9-12) is amended to read
2 as follows:

3 12. a. Any person who shall be injured in his business or
4 property by reason of a violation of the provisions of **[this act]**
5 P.L.1970, c.73 (C.56:9-1 et seq.) may sue therefor and shall recover
6 a sum of not less than \$1,000 or threefold the damages sustained by
7 him and interest on the damages from date of complaint, whichever
8 amount is greater, together with reasonable attorneys' fees, filing
9 fees and reasonable costs of suit; provided that indirect purchasers
10 injured by an illegal overcharge shall be entitled to recover only
11 compensatory damages, together with reasonable attorneys' fees,
12 filing fees, and reasonable costs of suit in actions not brought under
13 subsection b. of this section. Reasonable costs of suit may include,
14 but shall not be limited to the expenses of discovery and document
15 reproduction.

16 b. The State and any of its political subdivisions and public
17 agencies shall be deemed a person within the meaning of this
18 section. The Attorney General, on behalf of the State or any of its
19 political subdivisions or public agencies, or the political subdivision
20 or public agency at the direction of or with the permission of the
21 Attorney General, may institute an action to recover the damages
22 provided for by this section or by any comparable provisions of
23 Federal law, together with reasonable attorneys' fees, filing fees
24 and reasonable costs of suit.

25 c. In any action pursuant to P.L.1970, c.73 (C.56:9-1 et seq.),
26 the fact that the State, or any political subdivision or public agency
27 of the State or any political subdivision, or any person who has
28 sustained damages by reason of violation of P.L.1970, c.73 (C.56:9-
29 1 et seq.), has not dealt directly with the defendant shall not bar or
30 otherwise limit recovery except as provided in this section. In any
31 action or actions in which claims are asserted against a defendant
32 by both direct and indirect purchasers, the court may take such steps
33 as the court deems appropriate to avoid duplicate recovery of
34 damages and to obtain substantial fairness. In any action in which
35 both direct and indirect purchasers are involved, a defendant shall
36 be entitled to prove as a partial or complete defense to a claim for
37 damages that the illegal overcharge has been passed on to others
38 who are themselves entitled to recover, so as to avoid duplication of
39 recovery of damages.

40 d. In the event damages in a class action or an action instituted
41 by the Attorney General remain unclaimed by, or undistributed to,
42 the direct or indirect purchasers, the class representative or the
43 Attorney General, as applicable, the Attorney General may apply to
44 the court and such funds shall escheat to the State upon showing
45 that reasonable efforts made by the State to distribute the funds
46 have been unsuccessful.

47 (cf: P.L.1970, c.73, s.12)

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1556

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 7, 2022

The Assembly Consumer Affairs Committee adopts amendments to Assembly Bill No. 1556.

As amended by the committee, this bill updates various provisions of the consumer fraud act and the “New Jersey Antitrust Act,” in part to enhance the enforcement authority of the Division of Consumer Affairs in the Department of Law and Public Safety.

Under the bill, language in the consumer fraud act on prohibited commercial practices is expanded to include commercial practices that are unconscionable or abusive. Also, the bill adds language to declare that in an action brought by the Attorney General, any commercial practice that violates State or federal law is conclusively presumed to be an unlawful practice under the consumer fraud act. In addition, the bill also adds language regarding the notice of private lawsuits based on violations of the consumer fraud act. Notice is to be sent electronically to a dedicated address established by the Office of the Attorney General, and requires certain legal filings to be sent as part of the notice. The bill stipulates notice is to be sent to the Attorney General within 24 hours of filing rather than 10 days, as is required under current law.

Finally, the bill amends the current State antitrust law to allow parties, including municipalities and the State, who are harmed by anticompetitive conduct to file suit even if the alleged harmed party is an indirect purchaser who did not deal directly with the defendant. The bill also stipulates that a defendant is entitled to prove that as a partial or complete defense to a claim for damages, an illegal overcharge has been passed on to others, including the defendant, who are entitled to recover, so as to avoid duplicate recovery damages. The bill clarifies that a person seeking treble damages may do so if there is an alleged violation of State antitrust law that demonstrates anticompetitive conduct. Moreover, the bill states that in the event damages awarded as a result of a class action or an action instituted by the Attorney General remain unclaimed or undistributed, the Attorney General may apply to the court and have such funds escheat to the State upon showing that reasonable efforts were made by the State to distribute the funds but were unsuccessful.

This bill was pre-filed for introduction in the 2022-2023 session pending technical review. As amended, the bill includes the changes required by technical review, which has been performed.

As amended, this bill is identical to Senate Bill No. 901 (1R).

COMMITTEE AMENDMENTS

The committee amended the bill to:

1) update the type of commercial practice that is considered unlawful under the consumer fraud statute;

2) add language to the provision governing actions that may be taken by the Attorney General to stipulate that in an action brought by the Attorney General, any commercial practice that violates State or federal law is conclusively presumed to be an unlawful practice under the consumer fraud statute;

3) clarify that a violation of the New Jersey Antitrust Act that leads to a person injured in business or property is to be a violation as a result of anticompetitive conduct;

4) allow a defendant, in any action brought as a result of violations of the New Jersey Antitrust Act in which a direct and indirect purchaser is involved, to include themselves as a party who can claim damages for an illegal overcharge;

5) clarify that nothing in the bill is to be construed as restricting the range of unlawful practices included in the consumer fraud act for which private actions may be brought; and

6) change the effective date of the bill to reflect additional amendments made to the bill.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1556

STATE OF NEW JERSEY

DATED: MAY 9, 2022

The Assembly Consumer Affairs Committee reports favorably and with committee amendments adopted on March 7, 2022, Assembly Bill No. 1556 (1R).

As reported by the committee, this bill updates various provisions of the consumer fraud act and the “New Jersey Antitrust Act,” in part to enhance the enforcement authority of the Division of Consumer Affairs in the Department of Law and Public Safety.

Under the bill, language in the consumer fraud act on prohibited commercial practices is expanded to include commercial practices that are unconscionable or abusive. Also, the bill adds language to declare that in an action brought by the Attorney General, any commercial practice that violates State or federal law is conclusively presumed to be an unlawful practice under the consumer fraud act. In addition, the bill also adds language regarding the notice of private lawsuits based on violations of the consumer fraud act. Notice is to be sent electronically to a dedicated address established by the Office of the Attorney General, and requires certain legal filings to be sent as part of the notice. The bill stipulates notice is to be sent to the Attorney General within 24 hours of filing rather than 10 days, as is required under current law.

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SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1556

STATE OF NEW JERSEY

DATED: JUNE 27, 2022

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1556 (1R).

Under the bill, language in the consumer fraud act on prohibited commercial practices is expanded to include commercial practices that are unconscionable or abusive. Also, the bill adds language to declare that in an action brought by the Attorney General, any commercial practice that violates State or federal law is conclusively presumed to be an unlawful practice under the consumer fraud act. In addition, the bill also adds language regarding the notice of private lawsuits based on violations of the consumer fraud act. Notice is to be sent electronically to a dedicated address established by the Office of the Attorney General, and requires certain legal filings to be sent as part of the notice. The bill stipulates notice is to be sent to the Attorney General within 24 hours of filing rather than 10 days, as is required under current law.

As reported by the committee, Assembly Bill No. 1556 (1R) is identical to Senate Bill No. 901 (1R) which was also reported by the committee on this date.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

SENATE, No. 901

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 27, 2022

Sponsored by:
Senator NELLIE POU
District 35 (Bergen and Passaic)

SYNOPSIS

Updates notice requirements for actions alleging consumer fraud violations and adds indirect purchasers as parties who can receive damages for antitrust violations.

CURRENT VERSION OF TEXT

As introduced.



S901 POU

2

1 AN ACT concerning claims alleging violations of consumer fraud or
2 antitrust, and amending various sections of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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8 follows:

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14 concealment, suppression or omission, in connection with the sale
15 or advertisement of any merchandise or real estate, or with the
16 subsequent performance of such person as aforesaid, whether or not
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24 design or purpose of the advertiser.

25 (cf: P.L.1975, c.294, s.1)

26

27 2. Section 4 of P.L.1960, c.39 (C.56:8-4) is amended to read as
28 follows:

29 4. a. To accomplish the objectives and to carry out the duties
30 prescribed by this act, the Attorney General, in addition to other
31 powers conferred upon him by this act, may issue subpoenas to any
32 person, administer an oath or affirmation to any person, conduct
33 hearings in aid of any investigation or inquiry, promulgate such
34 rules and regulations, and prescribe such forms as may be
35 necessary, which shall have the force of law.

36 b. In an action brought by the Attorney General, any commercial
37 practice that violates State or federal law is conclusively presumed
38 to be an unlawful practice under section 2 of P.L.1960, c.39
39 (C.56:8-2).

40 (cf: P.L.1960, c.39, s.4)

41

42 3. Section 8 of P.L.1971, c.247 (C.56:8-20) is amended to read
43 as follows:

44 8. Any party to an action asserting a claim, counterclaim or
45 defense based upon violation of this act, or the act hereby amended

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 or supplemented, shall electronically mail to a dedicated address or
2 account established by the Attorney General for this purpose a copy
3 of (i) the initial **【or】**, responsive or amended pleading containing
4 the claim, counterclaim or defense and any dispositive motion on
5 such claim, counterclaim or defense, with any accompanying brief
6 or legal memoranda, and (ii) any Appellate Civil Case Information
7 Statements or appellate brief relating to such a claim, counterclaim
8 or defense to the Attorney General within **【10 days】** 24 hours after
9 the filing of such pleading or document with the court. Upon
10 application to the court wherein the matter is pending, the Attorney
11 General shall be permitted to intervene or to appear in any status
12 appropriate to the matter.
13 (cf: P.L.1971, c.247, s.8)

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15 4. Section 12 of P.L.1970, c.73 (C.56:9-12) is amended to read
16 as follows:

17 12. a. Any person who shall be injured in his business or
18 property by reason of **【a】** anticompetitive conduct in violation of
19 the provisions of **【this act】** P.L.1970, c.73 (C.56:9-1 et seq.) may
20 sue therefor and shall recover a sum of not less than \$1,000 or
21 threefold the damages sustained by him and interest on the damages
22 from date of complaint, whichever amount is greater, together with
23 reasonable attorneys' fees, filing fees and reasonable costs of suit;
24 provided that indirect purchasers injured by an illegal overcharge
25 shall be entitled to recover only compensatory damages, together
26 with reasonable attorneys' fees, filing fees, and reasonable costs of
27 suit in actions not brought under subsection b. of this section.
28 Reasonable costs of suit may include, but shall not be limited to the
29 expenses of discovery and document reproduction.

30 b. The State and any of its political subdivisions and public
31 agencies shall be deemed a person within the meaning of this
32 section. The Attorney General, on behalf of the State or any of its
33 political subdivisions or public agencies, or the political subdivision
34 or public agency at the direction of or with the permission of the
35 Attorney General, may institute an action to recover the damages
36 provided for by this section or by any comparable provisions of
37 Federal law, together with reasonable attorneys' fees, filing fees
38 and reasonable costs of suit.

39 c. In any action pursuant to P.L.1970, c.73 (C.56:9-1 et seq.),
40 the fact that the State, or any political subdivision or public agency
41 of the State or any political subdivision, or any person who has
42 sustained damages by reason of violation of P.L.1970, c.73 (C.56:9-
43 1 et seq.), has not dealt directly with the defendant shall not bar or
44 otherwise limit recovery except as provided in this section. In any
45 action or actions in which claims are asserted against a defendant
46 by both direct and indirect purchasers, the court may take such steps
47 as the court deems appropriate to avoid duplicate recovery of
48 damages and to obtain substantial fairness. In any action in which

1 both direct and indirect purchasers are involved, a defendant shall
2 be entitled to prove as a partial or complete defense to a claim for
3 damages that the illegal overcharge has been passed on to others,
4 including the defendant, who are themselves entitled to recover, so
5 as to avoid duplication of recovery of damages.

6 d. In the event damages in a class action or an action instituted
7 by the Attorney General remain unclaimed by, or undistributed to,
8 the direct or indirect purchasers, the class representative or the
9 Attorney General, as applicable, the Attorney General may apply to
10 the court and such funds shall escheat to the State upon showing
11 that reasonable efforts made by the State to distribute the funds
12 have been unsuccessful.

13 (cf: P.L.1970, c.73, s.12)

14

15 5. Sections 1, 2, and 4 of this act shall take effect immediately
16 and section 3 shall take effect on the first day of the third month
17 next following enactment.

18

19

20

STATEMENT

21

22 This bill updates various provisions of the consumer fraud act
23 and the “New Jersey Antitrust Act,” in part to enhance the
24 enforcement authority of the Division of Consumer Affairs in the
25 Department of Law and Public Safety.

26 Under the bill, language in the consumer fraud act on prohibited
27 commercial practices is expanded to include commercial practices
28 that are unconscionable or abusive. Additionally, the bill adds
29 language to declare that in an action brought by the Attorney
30 General, any commercial practice that violates State or federal law
31 is conclusively presumed to be an unlawful practice under the
32 consumer fraud act. The bill also adds language regarding the notice
33 of private lawsuits based on violations of the consumer fraud act.
34 Notice is to be sent electronically to a dedicated address established
35 by the office of the Attorney General, and requires certain legal
36 filings to be sent as part of the notice. The bill stipulates notice is to
37 be sent to the Attorney General within 24 hours of filing rather than
38 10 days, as is required under current law.

39 Lastly, the bill amends current State antitrust law by allowing
40 parties, including municipalities and the State, who are harmed by
41 anticompetitive conduct to file suit even if the alleged harmed party
42 is an indirect purchaser who did not deal directly with the
43 defendant. The bill also stipulates that a defendant is entitled to
44 prove that as a partial or complete defense to a claim for damages,
45 an illegal overcharge has been passed on to others, including the
46 defendant, who are entitled to recover, so as to avoid duplicate
47 recovery damages. The bill adds language to clarify that a person
48 seeking treble damages may do so if there is an alleged violation of

S901 POU

5

1 State antitrust law that demonstrates anticompetitive conduct.
2 Moreover, the bill adds provisions stating that in the event damages
3 awarded as a result of a class action or an action instituted by the
4 Attorney General remain unclaimed or undistributed, the Attorney
5 General may apply to the court and have such funds escheat to the
6 State upon showing that reasonable efforts were made by the State
7 to distribute the funds but were unsuccessful.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 901

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 2022

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 901.

As amended, this bill updates various provisions of the consumer fraud act and the “New Jersey Antitrust Act,” in part to enhance the enforcement authority of the Division of Consumer Affairs in the Department of Law and Public Safety.

Under the bill, language in the consumer fraud act on prohibited commercial practices is expanded to include commercial practices that are unconscionable or abusive. Additionally, the bill adds language to declare that in an action brought by the Attorney General, any commercial practice that violates State or federal law is conclusively presumed to be an unlawful practice under the consumer fraud act. The bill also adds language regarding the notice of private lawsuits based on violations of the consumer fraud act. Notice is to be sent electronically to a dedicated address established by the office of the Attorney General, and requires certain legal filings to be sent as part of the notice. The bill stipulates notice is to be sent to the Attorney General within 24 hours of filing rather than 10 days, as is required under current law.

Lastly, the bill amends current State antitrust law by allowing parties, including municipalities and the State, who are harmed by anticompetitive conduct to file suit even if the alleged harmed party is an indirect purchaser who did not deal directly with the defendant. The bill also stipulates that a defendant is entitled to prove that as a partial or complete defense to a claim for damages, an illegal overcharge has been passed on to others, including the defendant, who are entitled to recover, so as to avoid duplicate recovery damages. The bill adds language to clarify that a person seeking treble damages may do so if there is an alleged violation of State antitrust law that demonstrates anticompetitive conduct. Moreover, the bill adds provisions stating that in the event damages awarded as a result of a class action or an action instituted by the Attorney General remain unclaimed or undistributed, the Attorney General may apply to the court and have such funds escheat to the

State upon showing that reasonable efforts were made by the State to distribute the funds but were unsuccessful.

COMMITTEE AMENDMENTS

The committee amended the bill to clarify that nothing in the bill is to be construed as restricting the range of unlawful practices included in section 2 of the consumer fraud act for which private actions may be brought.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 901

STATE OF NEW JERSEY

DATED: JUNE 27, 2022

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 901 (1R).

Under the bill, language in the consumer fraud act on prohibited commercial practices is expanded to include commercial practices that are unconscionable or abusive. Additionally, the bill adds language to declare that in an action brought by the Attorney General, any commercial practice that violates State or federal law is conclusively presumed to be an unlawful practice under the consumer fraud act. The bill also adds language regarding the notice of private lawsuits based on violations of the consumer fraud act. Notice is to be sent electronically to a dedicated address established by the office of the Attorney General, and requires certain legal filings to be sent as part of the notice. The bill stipulates notice is to be sent to the Attorney General within 24 hours of filing rather than 10 days, as is required under current law.

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As reported by the committee, Senate Bill No. 901 (1R) is identical to Assembly Bill No. 1556 (1R) which was also reported by the committee on this date.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

Governor Murphy Signs Package of Bills Targeting Predatory Financial Practices

08/5/2022

New Laws Include Measure that Will Toughen New Jersey's Antitrust Laws

TRENTON – Governor Phil Murphy today signed three bills, S-891/A-1557, S-902/A-1559, and A-1556/S-901, protecting New Jersey consumers from predatory financial practices. These new laws include measures that will toughen New Jersey's antitrust laws.

"New Jersey consumers are the heartbeat of our state's economy and it is imperative that we protect them from those who are looking to target their finances," **said Governor Murphy**. "These bills will set new standards for financial service providers to abide by, giving our consumers the protection they need from certain deceptive actors. Our communities of color will particularly benefit from this package of bills as they have experienced these unethical financial practices at a higher rate than others."

"The legislation signed by Governor Murphy today further enhances consumer protections in New Jersey and demonstrates the Administration's ongoing commitment to stand up for our State's residents, especially those most vulnerable to deceptive business practices," **said Acting Attorney General Matthew J. Platkin**. "These laws provide us more legal tools to hold accountable those who seek to take advantage of consumers in our State. And make no mistake, we will hold you accountable under the law."

"The protections signed into law today expand and strengthen the ability of the Division of Consumer Affairs to pursue action against those who violate the rights of consumers through unscrupulous business practices, deceptive service contracts, and predatory tax refund programs," **stated Cari Fais, Acting Director of the NJ Division of Consumer Affairs**. "I commend Governor Murphy and the Legislature for their commitment to protecting New Jersey consumers."

This legislation was initiated by the Division of Consumer Affairs in the Department of Law and Public Safety and will protect consumers from exploitive practices associated with tax preparation and refund services and service contracts by prohibiting misleading marketing and requiring clearer disclosures, as well as financial assurances for service contract providers. These protections are particularly important for socially vulnerable communities, including individuals with low and moderate income and limited English proficiency and people of color, who are often targeted by bad actors in the financial and services sectors.

The legislation will also enhance the ability of the Division and the Attorney General to take enforcement action to protect New Jersey consumers by making clear that abusive commercial practices and violations of federal consumer protection laws are violations of the Consumer Fraud Act, by requiring that private litigants provide notice to the Division of filings in consumer protection cases, and by amending state antitrust law to allow for claims to be brought by parties who are harmed indirectly by anticompetitive action.

The Governor signed the following bills:

S-891/A-1557 (Scutari, Pou/Moriarty, Stanley, Mukherji) - Prohibits tax preparers from engaging in certain practices involving refund anticipation checks and loans

S-902/A-1559 (Pou/Moriarty, Stanley, Benson) - Imposes certain consumer protection requirements on service contract providers

A-1556/S-901 (Moriarty, Stanley, Mukherji/Pou) - Updates notice requirements for actions alleging consumer fraud violations and adds indirect purchasers as parties who can receive damages for antitrust violations

Primary sponsors for the legislation include Senate President Nicholas Scutari, Senator Nellie Pou, Assemblyman Paul Moriarty, Assemblyman Sterley Stanley, Assemblyman Raj Mukherji, and Assemblyman Daniel Benson.

“Getting money sooner sounds good at the surface, but it almost always comes with a catch,” **said Senate President Nicholas Scutari**. “This legislation will prevent tax filing services from deceiving residents and taking money out of the pockets of people who need it the most.”

“Tax filing season represents a chance for relief for Americans who may face difficulty balancing their household budgets. Although these refunds provide a boost at just the right time for many families, the filing process can be difficult to navigate, and low-income families in need of assistance can find themselves exposed to consumer protection risks when working with tax preparation services,” **said Senator Nellie Pou**. “This law will put the onus on tax preparers to explain fully to clients what is involved in a refund anticipation check, and prohibit them from requiring clients to enter into such agreements.”

“Unscrupulous advertisements for “free” refund anticipation or loan services have misrepresented service fees for far too long. Residents, many times, are left with hundreds of dollars less in their tax refund checks. This is money out of their pockets and household budgets,” **said Assemblyman Raj Mukherji**. “With this new law, we will stop this deceptive practice and ensure consumers have all of the information they need to make the best decision at tax time.”

“Consumer protections benefit all New Jerseyans,” **said Assemblymen Dan Benson and Sterley Stanley**. “No one should be taken advantage of when going to get their taxes prepared or simply acquiring a service contract for their home. We must hold businesses accountable and ensure New Jersey residents are confident in carrying out their day-to-day purchases.”

“Consumers have every right to clear representation of any service offered by a company, especially when it applies to their tax refunds, one of the largest payments an individual receives each year,” **said Assemblyman Paul Moriarty**. “This legislation along with the other two measures maintains an even playing field for consumers and businesses. Addressing situations many New Jersey residents have faced, these measures are essential protection for New Jersey consumers.”