



**Written Testimony
by Protect Borrowers
at a Joint Hearing of the
Codes and Consumer Protection Committees
New York State Senate**

March 4, 2026

Protect Borrowers (formerly Student Borrower Protection Center) is a team of experts, lawyers, and advocates fighting to build an economy where debt doesn't limit opportunity. We investigate financial abuses, take predatory companies to court, and push for policies to protect working people from debt traps. We aim to deliver immediate relief to families while building power and driving systemic change.

New York is not alone in terms of the rampant predatory practices that plague its consumers, workers, and small businesses. It is an outlier, however, compared to other states with respect to the low level of accountability that bad actors face when violating existing laws. Although we are lucky to have a strong prosecutor in Attorney General James, her office cannot address every wrong that every New Yorker experiences across the state. Nor should that be the objective of government enforcement; the Attorney General may be the People's Lawyer, but she is not every person's lawyer.

Without strong, privately enforceable laws working in tandem with state enforcement, New Yorkers will continue to be subjected to predatory conduct without meaningful legal recourse. This is especially true now, given the federal government's near-complete abdication of its consumer protection responsibilities.

By amending New York's existing, generally applicable consumer protection law, N.Y. General Business Law (GBL) § 349, which already includes a private right of action but which lacks meaningful protections available in nearly every other jurisdiction, the Legislature can ensure state law is responsive to current and future misconduct against consumers, workers, and small business. Doing so would send a clear signal that New York does not tolerate fraudulent and predatory practices.

New York consumers, workers, and small businesses are struggling.

It is not up for debate that New Yorkers are struggling. With sky-high prices and stagnant wages, households across the state literally cannot afford to be price gouged or taken advantage of. Unfortunately, this is an all-too-common practice, and the bad actors taking advantage of New Yorkers face little accountability.

Indeed, the very premise of this Joint Hearing is that "[s]chemes to defraud vulnerable working-class New Yorkers continue to cost our economy hundreds of millions of dollars, while

the laws to protect victims and our financial market lag behind.”¹ Legal services providers across the state are all-too familiar with this lag, as they regularly hear from people who are in need of assistance due to unscrupulous business practices. A few examples include:

- A landlord refused to add a tenant’s husband to the lease so they could qualify for a Senior Citizen Rent Increase Exemption.
- A company persuaded a 73-year-old Social Security recipient to charge \$22,000 on her credit card for a bogus entrepreneurial workshop.
- A debt settlement company pressured a 79-year-old woman with only exempt income to stop paying her credit cards and instead mail them monthly payments.
- A used car dealer charged a consumer over \$30,000 for add-on products and interest. The car broke down, and the dealer offered to replace it for an additional \$5,000. The consumer spent so much repairing the vehicle that he defaulted on the loan.
- A nursing home falsely accused an 84-year-old immigrant with disabilities of misusing his deceased spouse’s funds and sued him for \$36,920.
- A student loan servicer improperly rejected a borrower’s application for a more-affordable monthly payment plan.
- A mortgage loan servicer charged an unauthorized convenience fee for homeowners to pay their mortgages online, rather than by mail.

One prominent example of ongoing abuse for which individual New Yorkers have little recourse is deed theft. Whether through fraudulent transfers or abuses of the estate process, New Yorkers are being robbed of generations of wealth in the form of home equity. Although the Legislature has taken some steps to address deed theft, specific and narrow laws cannot keep up with the scammers, who continue to change their strategies.

Workers in New York also need stronger protections against misconduct, including abuses in the workplace that range from overreaching non-compete agreements to requiring the repayment of “lost profits” if an employee leaves their job. Gig workers are particularly vulnerable to exploitation, and generally have fewer options for recourse than traditional employees.

Small businesses need stronger protections, too. These engines of our economy are regularly the victims of abusive conduct, whether as the recipients of high-cost loans or through restrictive contracts that limit how they can have leased equipment repaired or serviced. However, too often small businesses are excluded from traditional “consumer” protections, even when they lack the resources of corporate firms on Wall Street. For mom and pop proprietors, this leaves them with no resource.

All of these populations—consumers, workers, and small businesses—also face the shared risk that Artificial Intelligence poses. In light of the federal government’s attempts to

¹ Notice of Public Hearing, N.Y.S. Senate Standing Committee on Codes, *New York’s criminal and civil fraud statutes, practices, and impacts on consumers, workers, and businesses* (Mar. 4, 2026), <https://www.nysenate.gov/calendar/public-hearings/march-04-2026/joint-public-hearing-current-patterns-white-collar-crime-and>.

preempt the AI industry from state oversight, it is especially important that New York have a strong and robust consumer protection law, which as a law of general applicability, can be used to combat misconduct as it arises from the misuse of AI and similar technology.

Background on UDAAP protections.

The bedrock of consumer protection in this country is the prohibition against unfair, deceptive, or abusive acts or practices, often referred to as “UDAAP” laws.² These protections have existed at the federal level in the Federal Trade Commission (FTC) Act since 1938, and were reaffirmed after the Financial Crisis when Congress created the Consumer Financial Protection Bureau (CFPB) and gave the agency UDAAP authority over the consumer finance industry.³ Over the past 60 years, all states have enacted their own form of a UDAAP law to prohibit unscrupulous practices and to give state agencies the authority to enforce these prohibitions and allow individual consumers to seek remedies.⁴

The UDAAP standards—unfairness, deception, and abusiveness—are well defined in state and federal law and have been interpreted by courts for nearly a century.⁵ They are intentionally broad, covering all aspects of trade and commerce, and are flexible enough to address new and emergent consumer harms without the need for legislating issue-specific fixes. As explained by the National Consumer Law Center:

UDAP statutes provide the basic protections for the thousands of everyday transactions that each consumer in the United States enters into each year. Although UDAP statutes vary widely from state to state, their basic premise is that unfair and deceptive tactics in the marketplace are inappropriate. UDAP statutes are the basic legal underpinning for fair treatment of consumers in the marketplace.⁶

Strong UDAAP laws must be broad and flexible in order to serve their purpose. When drafted correctly, these protections extend beyond “consumer” protection, and offer protections to small businesses, tenants, workers, and more.

New York’s UDAAP is weaker than the national standard.

A central reason for the lag in New York’s laws is that, for decades, New York’s UDAAP statute has been one of the weakest in the country. This is in large part because it was not a “true” UDAAP law: GBL § 349 prohibited only deceptive acts or practices. That left New York households and small businesses open to all manner of unfair and abusive economic conduct that is unlawful elsewhere, and put honest companies at a competitive disadvantage. New

² Laws in jurisdictions that do not prohibit “abusive” conduct are generally referred to as “UDAP” laws.

³ 15 U.S.C. § 5 (FTC’s UDAP authority); 12 U.S.C. § 5531 (CFPB’s UDAAP authority).

⁴ Nat’l Consumer L. Ctr., *Consumer Protection in the States: a 50-State Evaluation of Unfair and Deceptive Practices Laws* (Mar. 2018), https://www.nclc.org/wp-content/uploads/2022/09/UDAP_rpt.pdf.

⁵ See generally Prentiss Cox, Amy Widman, & Mark Totten, *Strategies of Public UDAP Enforcement*, 55 Harv. J. on Legis. 37 (2018).

⁶ Nat’l Consumer L. Ctr., *Consumer Protection in the States: a 50-State Evaluation of Unfair and Deceptive Practices Laws* 10 (Mar. 2018), https://www.nclc.org/wp-content/uploads/2022/09/UDAP_rpt.pdf.

York—often considered a bastion of consumer protection—is one of only 8 jurisdictions in the nation without privately enforceable protections against unfair or abusive conduct, along with states such as Mississippi, Tennessee, and South Dakota. When companies treated New Yorkers unfairly or abusively, they were able to do so with the knowledge that federal enforcers likely lacked the resources—or volition—to stop them and that state law permitted their misconduct.

In addition to missing key protections, GBL § 349 protections have been eroded over time by courts limiting their applicability. Although the Legislature’s intent with § 349 was to broadly apply its protections “in the conduct of any business, trade or commerce or in the furnishing of any services,”⁷ courts have imposed a “consumer-oriented” standard that effectively limits the law’s applicability to conduct that affects the entire public.⁸ If a consumer cannot establish that the public at large experienced the same unlawful conduct that they did, courts will throw out their case. This effectively requires all enforcement to emulate class action litigation, which was never the Legislature’s intent and has no support in the text of the law itself. This inhibits both the state’s and private litigants’ ability to enforce the law against bad actors if their conduct is directed towards individuals and not the population more broadly.

Finally, New York’s law has severely outdated damages provisions. The current statutory damages are \$50, which is a meaningless deterrent for bad actors.⁹ Where an actor is found to have willfully and knowingly engaged in unlawful conduct, courts may order treble damages capped at \$1000, which may have been severe when initially enacted in the 1980s, but is merely the cost of doing business today, when willful bad actors may collect millions of dollars in profit from their conduct.¹⁰

As a result, New York’s UDAAP law cannot protect households and small businesses from some of the most common injustices. For these reasons, the National Consumer Law Center called New York’s law “toothless.”¹¹

Recent amendments to New York’s law do not address its deficiencies.

Although the Legislature passed the Fostering Affordability and Integrity Through Reasonable Business Practices Act, or “FAIR Act,” last year in an effort to address some of the deficiencies in New York law, the version of the Act that passed leaves most of these shortcomings in place.

After chapter amendments, the FAIR Act merely adds “unfair” and “abusive” to the list of prohibited conduct, for a full “UDAAP,” but only does this for the Attorney General’s authority. It leaves the existing private right of action applicable to only deceptive acts or practices, and does nothing to fix the judicially imposed “consumer-oriented” conduct requirement for both the Attorney General and private litigants, or the paltry penalties.

⁷ N.Y. Gen. Bus. L. § 349(a).

⁸ See *Oswego Laborers’ Local 214 Pension Fund v. Marine Midland Bank*, 85 N.Y.2d 20, 25 (1995) (“Thus, as a threshold matter, plaintiffs claiming the benefit of section 349 . . . must charge conduct of the defendant that is consumer-oriented.”).

⁹ N.Y. Gen. Bus. L. § 349(h).

¹⁰ *Id.*

¹¹ Nat’l Consumer L. Ctr. *supra* note 4 at 44.

The improvements to the Attorney General’s authority were necessary, but they are not sufficient to protect all New Yorkers. When the Legislature amended GBL § 349 in the 1980s to add a private right of action to the existing statute, it did so because it recognized the need for private enforcement as a complement to public enforcement. New Yorkers’ ability to enforce their rights should not depend on the State’s staffing and resource constraints. Furthermore, not all unlawful conduct rises to the level of justifying public enforcement, which generally is reserved for instances where a large number of New Yorkers is harmed or where the harm itself is particularly egregious. Private enforcement, as the Legislature understood in the 1980s, helps individuals ensure their rights can be enforced and that they can be made whole in real time.

The FAIR Act was only a partial victory, and we urge the Legislature to finish the job.

In the absence of federal oversight, New York residents and small businesses are vulnerable to unlawful and abusive business practices and corporate power.

The two main federal UDAAP laws, the FTC Act and the Consumer Financial Protection Act, are primarily enforced by federal agencies, namely the FTC and CFPB. Even when these agencies are helmed by the most consumer-protection oriented administrations, they cannot possibly root out and address all misconduct. There are simply too many liars, crooks, and cheats operating across the country for even a well-resourced and well-intentioned agency to address. Even in the best of days, federal agencies rely on state consumer protection laws and private litigants to help protect consumers.¹²

Without these two agencies, however, households and small businesses nationwide do not benefit from these federal protections at all. Under the Trump Administration, the FTC and CFPB are both abdicating their responsibilities to enforce these laws, and New Yorkers are paying the price.

During the first year of the second Trump Administration, the FTC has taken a pro-industry and partisan approach to consumer and worker protections. For example, President Trump unlawfully fired two Democratic FTC Commissioners¹³ and appointed Andrew Ferguson as Chair, who as a minority commissioner regularly dissented in the agency’s consumer protection decisions and has a much narrower view of the agencies’ authority.¹⁴ The FTC chose

¹² See, e.g., Consumer Fin. Prot. Bureau, *Strengthening State-Level Consumer Protections: Promoting Consumer Protection Federalism* 28 (Jan. 2025), https://files.consumerfinance.gov/f/documents/cfpb_strengthening-state-level-consumer-protections_2025-01.pdf (discussing importance of private enforcement).

¹³ Kim Phan et al., *Trump Fires the Two Democratic FTC Commissioners: What This Means Going Forward*, Consumer Fin. Servs. Law Monitor (Mar. 21, 2025), <https://www.consumerfinancialserviceslawmonitor.com/2025/03/trump-fires-the-two-democratic-ftc-commissioners-what-this-means-going-forward/>.

¹⁴ *The Federal Trade Commission Bureau of Consumer Protection Under the Second Trump Administration: Top 10 Things to Know About Priorities, Enforcement, and Case Law Developments*, Debevoise & Plimpton (Apr. 29, 2025), <https://www.debevoise.com/insights/publications/2025/04/the-federal-trade-commission-bureau-of-consumer>.

to stop defending a rule banning non-compete provisions that had been challenged by industry,¹⁵ and reopened and set aside consent agreements against companies that were entered into by the previous administration.¹⁶

The federal government's abdication is even more stark with the CFPB, which the Trump Administration has gutted. The administration is actively trying to close the agency, firing nearly all staff and attempting to cut off its funding, which has resulted in ongoing litigation that will ultimately determine the agency's future.¹⁷ In the meantime, the CFPB has dismissed or terminated the majority of its enforcement actions,¹⁸ pardoned some of the worst corporate offenders responsible for over \$3 billion in consumer harm,¹⁹ and stopped complying with at least 87 statutory mandates.²⁰ The agency has also summarily rescinded over a decade of guidance and interpretive rules,²¹ deprioritized its work related to certain topics such as medical debt and student loans,²² and announced that its examiners—who are charged with auditing companies for compliance with applicable consumer protections—must make a “humility

¹⁵ Press Release, *Federal Trade Commission Files to Accede to Vacatur of Non-Compete Clause Rule*, Fed. Trade Comm'n (Sept. 5, 2025),

<https://www.ftc.gov/news-events/news/press-releases/2025/09/federal-trade-commission-files-accede-vacatur-non-compete-clause-rule>.

¹⁶ Press Release, *FTC Reopens and Sets Aside Rytr Final Order in Response to the Trump Administration's AI Action Plan*, Fed. Trade Comm'n (Dec. 22, 2025),

<https://www.ftc.gov/news-events/news/press-releases/2025/12/ftc-reopens-sets-aside-rytr-final-order-response-trump-administrations-ai-action-plan>.

¹⁷ See generally, Stefanie Jackman et al., *CFPB Complies with Court's Funding Order in NTEU v. Vought*, Consumer Fin. Servs. Law Monitor (Jan. 12, 2026),

<https://www.consumerfinancialserviceslawmonitor.com/2026/01/cfpb-complies-with-courts-funding-order-in-nteu-v-yought/>.

¹⁸ Memorandum, *Dismissed/Terminated CFPB Enforcement Actions*, Protect Borrowers & Consumer Fed. of America (July 7, 2025),

<https://consumerfed.org/wp-content/uploads/2025/07/CFPB-Pending-Enforcement-Actions-v2-Fellows-2.pdf>.

¹⁹ Memorandum, *Trump-Led CFPB Pardons Repeat Offender Corporations for Violations Causing Over \$3 Billion of Consumer Harm*, Protect Borrowers & Consumer Fed. of America (Mar. 26, 2025),

<https://protectborrowers.org/wp-content/uploads/2025/03/Repeat-Offender-CFPB-Pending-Enforcement-Actions.pdf>.

²⁰ Memorandum, *Statutory Requirements for Continuous Operations of the CFPB*, Protect Borrowers & Consumer Fed. of America (Feb. 13, 2025),

<https://protectborrowers.org/wp-content/uploads/2025/02/CFPB-Statutory-Requirements-2.13.25.pdf>.

²¹ Consumer Fin. Prot. Bureau, *Interpretive Rules, Policy Statements, and Advisory Opinions; Withdrawal*, 90 Fed. Reg. 20084 (May 12, 2025),

<https://www.federalregister.gov/documents/2025/05/12/2025-08286/interpretive-rules-policy-statements-and-advisory-opinions-withdrawal>.

²² Alan S. Kaplinsky et al., *CFPB rescinds enforcement, supervisory priority documents, outlines new priorities for 2025*, Consumer Fin. Monitor (Apr. 17, 2025),

<https://www.consumerfinancemonitor.com/2025/04/17/cfpb-rescinds-enforcement-supervisory-priority-documents-outlines-new-priorities-for-2025/>.

pledge” to each company before commencing an exam.²³ The cumulative effect of these actions has already caused an estimated \$18 billion in costs for working families.²⁴

This federal abdication is affecting New Yorkers. Based on publicly available data from the CFPB’s consumer complaint database, the number of complaints filed by New Yorkers nearly doubled from 2024 to 2025, going from 181,803 to 300,012. The largest percentage increases in the number of complaints filed were in the Finger Lakes, Mohawk Valley, Capital Region, and Western New York, with the largest absolute increase in New York City.²⁵

Region	2024	2025	Difference	Percent Change
Capital Region	2,222	4,996	2,774	124.84%
Central N.Y.	2,211	4,155	1,944	87.92%
Finger Lakes	3,175	8,457	5,282	166.36%
Long Island	27,021	45,756	18,735	69.33%
Mid-Hudson	17,921	31,866	13,945	77.81%
Mohawk Valley	158	412	254	160.76%
North Country	230	284	54	23.48%
New York City	113,307	184,830	71,523	63.12%
Southern Tier	671	1,065	394	58.72%
Tug Hill Seaway	309	413	104	33.66%
Western N.Y.	3,730	7,695	3,965	106.30%
Total	181,803	306,909	125,106	68.81%

At the same time that the number of complaints from New Yorkers increased by 69% percent, the percentage of complaints that closed with relief versus no relief fell approximately 10 percentage points, from 51% to 41%.²⁶ Put differently, while the number of complaints is

²³ Press Release, *CFPB’s Supervision Division Releases New ‘Humility Pledge,’* Consumer Fin. Prot. Bureau (Nov. 21, 2025),

<https://www.consumerfinance.gov/about-us/newsroom/cfpb-supervision-division-releases-new-humility-pledge/>.

²⁴ Memorandum, *Trump’s Consumer Financial Protection Agenda—or Lack Thereof—Has Already Cost Americans More Than \$18 Billion*, Protect Borrowers & Consumer Fed. of America (June 24, 2025),

<https://protectborrowers.org/wp-content/uploads/2025/06/MEMO-The-Cost-of-Trumps-CFPB-.pdf>.

²⁵ Analysis of CFPB consumer complaint data on file with Protect Borrowers.

²⁶ *Id.*

increasing, the frequency of relief is decreasing. It is clear that New Yorkers cannot count on the federal government to help them.

The shortcomings in New York’s current law can be addressed through simple amendments that track with existing federal standards.

Although New York’s gap in protections is expansive, the amendments needed to fix this gap and ensure strong protections for all New Yorkers are quite simple:

- Extend the prohibitions against unfair or abusive acts or practices that were added to the Attorney General’s authority by the FAIR Act to the existing private right of action, creating a single enforceable standard under GBL § 349.
- Clarify that an act or practice does not need to be “consumer oriented” or have a public impact in order to be unlawful, which would correct the courts’ improper narrowing of the statute.
- Allow for third parties in certain instances to sue on behalf of harmed individuals or groups, which helps to ensure meaningful compliance and restitution.
- Increase penalties to ensure meaningful deterrence.

These amendments would give New Yorkers real access to justice, regardless of their financial status or of whether the state or federal government is willing and able to advocate on their behalf. It would also move New York from having one of the weakest consumer protection laws in the country to have one of the strongest.

Importantly, these amendments would not require any honest broker and law-abiding business to change their conduct. They merely create an accountability mechanism for standards that are already applicable in New York through existing state and federal law. These laws, however, are not privately enforceable and so, necessarily, are under enforced.

For this reason, opposition to a stronger private right of action by banks, the financial services industry, and insurance trade groups should be met with great skepticism. These organizations represent the interests of major corporations, not small businesses. Given that UDAAP standards already apply to the entirety of their memberships through federal law, the Attorney General’s GBL § 349 authority, the the N.Y. Banking and Insurance Laws, these groups’ opposition to a similar privately enforceable UDAAP is better understood as an assertion that they should not be held accountable. Their claims that stronger private rights of action will result in frivolous litigation are spurious and entirely unsupported. One need only look to the over 42 other jurisdictions with strong and privately enforceable UDAAPs—including in our neighboring states—to disprove this claim, as no watershed of litigation has taken place there. These industries should have no opposition to a stronger private right of action if they are already complying with existing consumer protections.

New Yorkers cannot afford to wait for the protections their neighbors already have.

New York households and small businesses need stronger consumer protections immediately. The state lags behind the vast majority of the country, and its residents pay the price. For this reason, we urge the Legislature to amend GBL § 349 to adopt the proposals detailed above. With

a true UDAAP in place, honest businesses will thrive and consumers and workers will navigate the marketplace without fear of being taken advantage of.

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