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**New York Consumers Are Susceptible to Unfair
and Deceptive Business Practices**

*National Consumer Law Center Survey Finds Significant Weaknesses in New York’s UDAP Law;
State Assemblymember Niou’s Proposed Amendment Will Eradicate these Weaknesses*

NEW YORK, NY, March 13, 2018-–State Unfair and Deceptive Acts and Practices (UDAP) laws prohibit deceptive practices in consumer transactions, such as sales of cars and other goods, loans, home improvements, utility contracts, and mortgage transactions. A [new report](http://bit.ly/2DJKbGp) from the National Consumer Law Center (NCLC) finds that the prohibitions of New York’s statute, General Business Law Section 349 (GBL 349), are relatively weak, and courts have imposed procedural hurdles on consumers seeking remedies for deceptive practices:

* New York is one of only five states that does not include a broad prohibition of unfairness or unconscionability. The statute prohibits deceptive practices alone.
* New York does not give a state agency the authority to adopt rules addressing emerging scams.
* New York is one of only seven states that prevent a consumer from obtaining any remedy for a deceptive practice without showing that the practice has a broader impact on consumers at large. New York courts have dismissed hundreds of UDAP cases simply because the consumer alleged only that the business cheated him or her.
* The statute’s treble damages remedies are undermined by outdated caps of $1,000 and $10,000 that render the law “toothless.”

**But a bill recently introduced by New York State Assemblymember Yuh-Line Niou, A09824, can reclaim New York’s leadership role in the area of consumer protection.** Bill A09824 would add a prohibition on unlawful and unfair conduct, eliminate the judicial requirement of demonstrating that the business engages in consumer-oriented conduct, increase the amount of available damages, make attorney’s fees mandatory instead of discretionary, and broaden standing to bring a claim.

"This bill, which modernizes general business law, is common sense and long overdue,” **said Assemblymember Niou**. “At least 39 other states have equal or stronger protections for their consumers, but New York has been left behind. As one of the most progressive states in the nation, we should strive to be a model of proper consumer protection – particularly as the federal government's Consumer Financial Protection Bureau steps away from representing consumers’ interests. The definitions of unfair, unlawful or deceptive acts should not be murky. Bad actors are always looking for ways to exploit vulnerable consumers, and it's our responsibility to stop this from happening."

“New York’s Deceptive Practices Act is notoriously weak. For too long, New Yorkers have been defenseless against despicable business conduct simply because it was not necessarily ‘deceptive.’ With the rapid rollback of consumer protections on the federal level, it is imperative that we strengthen our state laws. Now is the time for the New York Legislature to pass A09824 and put the “U” in “UDAP,” **said Ariana Lindermayer, Staff Attorney at Mobilization for Justice**.

“Unfair and Deceptive Acts and Practices laws should be the backbone of consumer protection in every state, but significant gaps or weaknesses in almost all states undermine the promise of these vital protections so the deck is stacked against consumers,” **said Carolyn Carter, National Consumer Law Center Deputy Director and author of** [***Consumer Protection in the States: A 50-State Evaluation of Unfair and Deceptive Practices Laws***](http://bit.ly/2DJKbGp)**.**

**Mobilization for Justice and National Consumer Law Center’s key recommendation is to adopt A09824 during this legislative calendar.**

*Download the full report, a state-by-state chart comparison, 14 comparative maps, capsule summaries of each state and the District of Columbia laws, and summaries of each jurisdiction’s statutes at:*<http://bit.ly/2DJKbGp>

*A full list of UDAP statute recommendations is available at* [*http://bit.ly/2DJKbGp*](http://bit.ly/2DJKbGp).

For more on NCLC’s body of work on unfair and deceptive practices, please visit:<https://www.nclc.org/issues/unfair-a-deceptive-acts-a-practices.html>. Subscription information for NCLC’s *Unfair and Deceptive Acts and Practices*, and free access to Chapter One of all of the legal treatises in NCLC’s Consumer Credit and Sales Legal Practices Series, is available at<http://www.nclc.org/library>.

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Since 1969, the nonprofit [**National Consumer Law Center**](http://www.nclc.org/)**®** (NCLC®) has worked for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training.