Int. No. 1105

By Council Members Epstein, Cabán, Marte, Hudson, Aldebol, Won, Abreu, P. Sanchez, Krishnan, Farías, Thomas-Henry and Nurse (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to providing an enforcement mechanism against unfair methods of competition, and unfair, deceptive, abusive, or unlawful acts or practices in business, trade, or commerce, and to deter the continuing use of such practices

Be it enacted by the Council as follows:

1 Section 1. Legislative findings. The Council hereby declares that the enactment of this law
2 is necessary to assure that there are just mechanisms in effect to remedy all unfair methods of
3 competition, and unfair, deceptive, abusive, or unlawful acts or practices in business, trade, or
4 commerce, and to deter the continuing use of such practices in the city of New York, without
5 relying on federal and state oversight; provide a standard that can address current and future
6 improper practices in business, trade, or commerce; promote, through effective enforcement, fair
7 practices in business, trade, or commerce throughout the community; and educate and empower
8 consumers, workers, and small businesses to demand high standards and seek proper redress of
9 grievances. These mechanisms are critical to ensure that every person in the city of New York has
10 access to a private right of action to protect against improper business practices. While the
11 "Fostering Affordability and Integrity through Reasonable (FAIR) Business Practices Act",
12 chapter 94 for the laws of 2026, strengthened section 349 of the General Business Law, New York,
13 unlike other states, still does not provide a private right of action for claims alleging unfair and
14 abusive acts or practices. For example, New Jersey provides for a private right of action for all
15 claims under its Consumer Fraud Act (CFA), including unconscionable and abusive commercial
16 practices. *See* N.J. CFA §§ 56:8-2, 56:8-19. Recognizing the current limitations in New York state

law, the Council finds that the enactment of this law is necessary to ensure the most meaningful, robust, and effective protection for New Yorkers against unfair and abusive acts or practices.

The Council intends that the provisions of this law be broadly interpreted and applied to accomplish the remedial purposes thereof and to authorize a private right of action to maximize deterrence of prohibited conduct. For example, the term "unfair method of competition" should be broadly interpreted to include all conduct that would constitute an unfair method of competition by the "Policy Statement Regarding the Scope of Unfair Methods of Competition Under Section 5 of the Federal Trade Commission Act," commission file number P221202, issued by the Federal Trade Commission on November 10, 2022, regardless of whether such policy statement is active, superseded, or rescinded. Similarly, the term "unfair, deceptive, or abusive acts or practices" should be broadly interpreted to include all conduct described as constituting an abusive act or practice by the "Policy Statement on Abusive Acts or Practices," issued by the Consumer Financial Protection Bureau on April 3, 2023, regardless of whether such policy statement is active, superseded, or rescinded.

§ 2. Title 22 of the administrative code of the city of New York is amended by adding a new chapter 15 to read as follows:

CHAPTER 15

ENFORCEMENT AGAINST UNFAIR METHODS OF COMPETITION AND UNFAIR, DECEPTIVE, ABUSIVE OR UNLAWFUL ACTS OR PRACTICES

§ 22-1501 Definitions. As used in this chapter, the following terms have the following meanings:

Abusive act or practice. The term "abusive act or practice" means any act or practice that:

1. materially interferes with the ability of a consumer to understand a term or condition of a good or service; or

2. takes unreasonable advantage of (i) a lack of understanding on the part of a person of the material risks, costs, or conditions of a good or service; (ii) the inability on the part of a person to protect such person's interests in selecting or using a good or service; or (iii) the reasonable reliance by a person on the person engaging in the act or practice to act in the interests of such person.

3. Such term includes conduct that would constitute an abusive act or practice under section 5531 of title 12 of the United States code.

Injury. The term "injury" means any impairment of a person's lawful interests, whether or not such impairment to such interests are quantifiable, economic, or monetary in nature, including but not limited to loss of time, loss of privacy, loss of security, or other harm caused by a violation of this chapter.

Nonprofit organization. The term "nonprofit organization" means an entity that is either incorporated as a not-for-profit corporation under the laws of the state of its incorporation or exempt from federal income tax pursuant to subsection (c) of section 501 of the internal revenue code.

Small business. The term "small business" means an entity that is independently owned and operated, is not dominant in its field, employs four or fewer employees, and, whose gross revenue in the preceding fiscal year was in an amount less than five million dollars.

Unfair method of competition. The term "unfair method of competition" means coercive, exploitative, collusive, abusive, deceptive, predatory, restrictive, or exclusionary conduct undertaken by a person in the marketplace that negatively affects or interferes with competitive

conditions through the impact of such conduct on consumers, workers, or other market participants. Such term includes conduct that would constitute an unfair method of competition under section 45 of title 15 of the United States code.

Unfair act or practice. The term "unfair act or practice" means an act or practice that:

1. causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers; and

2. such substantial injury is not outweighed by countervailing benefits to consumers or to competition.

3. Such term includes conduct that would constitute an unfair act or practice under section 5531 of title 12 of the United States code or section 45 of title 15 of the United States code.

§ 22-1502 Unfair trade practices prohibited. Unfair methods of competition and unfair, deceptive, abusive or unlawful acts or practices in or affecting business, trade, or commerce are prohibited.

§ 22-1503 Enforcement. a. A person who is injured as a result of a violation of this chapter may commence an action, proceeding or special proceeding alleging a violation of this chapter, in accordance with applicable law, in any court of competent jurisdiction, on behalf of such person, a group of similarly situated persons, or the general public. Such person may also assert a claim under this chapter as a counterclaim or cross-claim in any action, proceeding or special proceeding commenced against such person. Such action, proceeding or special proceeding, or claim may seek compensatory, injunctive and declaratory relief, including such person's actual damages and $2,500 per violation of this chapter. The court shall award reasonable attorney's fees and costs to a prevailing plaintiff.

b. A nonprofit organization may commence an action, proceeding or special proceeding alleging a violation of this chapter, in accordance with applicable law, in any court of competent jurisdiction, on behalf of itself or any of its members, or on behalf of members of the general public who have been injured by a violation of this chapter, including a violation involving goods or services that such nonprofit organization purchased or received to test or evaluate qualities pertaining to use for personal, household, or family purposes. A nonprofit organization commencing an action, proceeding or special proceeding pursuant to this subdivision may seek the same remedies and damages that a person may seek under subdivision a of this section.

c. A nonprofit organization may, on behalf of the interests of a person or a class of persons who have been injured by a violation of this chapter, commence an action, proceeding, or special proceeding alleging a violation of this chapter. A nonprofit organization commencing an action, proceeding or special proceeding pursuant to this section may seek the same remedies and damages that a person may seek under subdivision a of this section. An action, proceeding or special proceeding brought under this subdivision shall be dismissed if the court determines that a nonprofit organization does not have sufficient nexus to the interests involved of the person or class to adequately represent those interests. A nonprofit organization may bring an action, proceeding or special proceeding under this subdivision without pursuing any independent interest of such nonprofit organization or its members.

d. Prior to commencing an action, proceeding or special proceeding pursuant to this chapter, a person commencing an action, proceeding or special proceeding pursuant to subdivision a of this section, or a nonprofit organization commencing an action, proceeding or special proceeding pursuant to subdivisions b or c of this section, shall send to the party against whom such action, proceeding or special proceeding is contemplated a notice by certified mail, first class

mail, or electronic mail and provide an opportunity for such party to show in writing within 10 business days after mailing of such notice why such action, proceeding or special proceeding should not be commenced against such party. Notwithstanding the first sentence of this subdivision, such notice shall not be required if (i) such action is brought as a counterclaim or crossclaim, (ii) the sending of such notice would cause immediate and irreparable injury, loss or damages, or (iii) there are other exigent circumstances including but not limited to the necessity of filing suit to prevent the expiration of any statute of limitations. Such notice does not limit the facts, claims, or damages that a person or nonprofit organization may assert in any action, proceeding or special proceeding.

e. For an action, proceeding or special proceeding commenced pursuant to this section, it shall not be a requirement that the person commencing such action, proceeding or special proceeding allege reliance on a prohibited act or practice, nor shall any such action, proceeding or special proceeding be limited to acts or practices related to personal, family, or household use or to acts or practices with a public impact or that are consumer oriented.

f. Any action, proceeding or special proceeding commenced pursuant to this section shall be commenced within 3 years of the date that the person commencing such action, proceeding, or special proceeding knew or should have known of the alleged violation.

g. In any action, proceeding or special proceeding commenced pursuant to this section, it shall be a complete defense that the act or practice complained of is, or if in interstate commerce would be, required by the rules and regulations of, and the statutes administered by, the federal trade commission or any official department, division, commission or agency of the United States as such rules, regulations or statutes are interpreted by the federal trade commission or such department, division, commission or agency or the federal courts.

h. Nothing contained in this chapter shall be construed as creating any private right of action against the city or any agency or employee thereof or a small business.

§ 22-1504 Construction. This chapter is remedial and shall be liberally construed to effectuate its purposes.

§ 3. This local law takes effect immediately.

9/22/2026