

CONSUMERS LEAGUE OF NEW JERSEY

Founded in 1900

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Assembly Bill A. 3333 Rewards the Perpetrators of Consumer Fraud

Most merchants deal fairly and honestly with consumers. But too many do not do that. That is why New Jersey has had a very strong and effective Consumer Fraud Act for over 50 years, with bipartisan support.

A Democratic Governor signed the Consumer Fraud Act into law in 1960, allowing the Attorney General to go after offenders. A Republican Governor signed into law in 1971 an amendment that permitted victimized consumers themselves to sue, individually or on behalf of a class of all those who suffered the same wrongdoing.

The Legislature saw, even then, that state government does not have the resources to pursue every case of consumer fraud. Today, when government resources are even more scarce, lawsuits against scam artists brought by victims and their private attorneys supply the enforcement that the state cannot afford to provide.

In 1997, the New Jersey Supreme Court noted that new forms of consumer fraud are constantly being developed. Not much has changed since then. Between 1997 and today, thanks to the Consumer Fraud Act, consumers have won many millions of dollars in compensation from car dealers who overcharged on registration fees, insurance companies who sold fraudulent life insurance, and many others who have cheated the public.

But now corporate special interests have declared war on the Consumer Fraud Act. Assembly Bill 3333, which is now before the Legislature, would gut the protections that the law provides to consumers. The bill is like a neutron bomb, deceptively leaving the structure of the Consumer Fraud Act standing, but killing the substance inside.

A-3333 would strip away the Consumer Fraud Act's *mandatory* triple damage provision that punishes offenders and deters other merchants from committing consumer fraud, by making it discretionary. Dishonest businesses could rip off customers and then, if they were caught, simply pay back what they stole and return to their fraudulent "business as usual."

The bill would also make it harder for victimized consumers to band together as a class, so that only the rare person who figures out that there has been a fraud could sue and get rightful compensation. And, to ensure that victims cannot hire a lawyer to protect themselves, A-3333 limits attorneys' fees that the consumer side (only) may recoup in trying to right the wrong that was done to them. Meanwhile the business side may spend unlimited amounts to bury the consumer in litigation. The bill contains many other provisions that are designed to keep consumers from making good their losses.

The special interest lobbyists are selling A-3333 as a way to make New Jersey business-friendly. That sales pitch itself is a dangerous consumer fraud.

First, A-3333 actually penalizes businesses by cutting them out of the definition of “consumers” who are protected by the Consumer Fraud Act. If a small business buys, for example, a computer, and there is fraud in that transaction, the Consumer Fraud Act currently allows the business to get compensation. A-3333 would prevent that, making small businesses into second class citizens. At a time when we need to protect and nurture New Jersey’s small businesses, A-3333 is a step backward for them.

Second, as the Supreme Court has said, reputable businesspeople have a stake in preventing dishonest competition. Watering down the Consumer Fraud Act would permit the perpetrators of fraud to compete unfairly and thrive at the expense of the vast majority of businesses who play by the rules. A-3333 is exactly the opposite of what our economy needs.

A.3333 is a “Get-Out-of-Jail-Free Card” favoring the scammers over New Jersey victims.

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