

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.