

NY CLS Gen Bus § 349-c

Current through 2024 released Chapters 1-59, 61-117

New York Consolidated Laws Service > General Business Law (§§ 1 — 1601) > Article 22-A Consumer Protection from Deceptive Acts and Practices (§§ 349 — 350-f-1)

§ 349-c. Additional civil penalty for consumer frauds against elderly persons

1. Definition. As used in this section elderly person means a person who is sixty-five years of age or older.
2. Supplemental civil penalty.
 - (a) In addition to any liability for damages or a civil penalty imposed pursuant to sections three hundred forty-nine, three hundred fifty-c and three hundred fifty-d of this chapter, regarding deceptive practices and false advertising, and subdivision twelve of section sixty-three of the executive law, regarding proceedings by the attorney general for equitable relief against fraudulent or illegal consumer fraud, a person or entity who engages in any conduct prohibited by said provisions of law, and whose conduct is perpetrated against one or more elderly persons, may be liable for an additional civil penalty not to exceed ten thousand dollars, if the factors in paragraph (b) of this subdivision are present.
 - (b) In determining whether to impose a supplemental civil penalty pursuant to paragraph (a) of this subdivision, and the amount of any such penalty, the court shall consider, in addition to other appropriate factors, the extent to which the following factors are present:
 - (1) Whether the defendant knew that the defendant's conduct was directed to one or more elderly persons or whether the defendant's conduct was in willful disregard of the rights of an elderly person;
 - (2) Whether the defendant's conduct caused an elderly person or persons to suffer severe loss or encumbrance of a primary residence, principal employment or source of income, substantial loss of property set aside for retirement or for personal and family care and maintenance, substantial loss of payments received under a pension or retirement plan or a government benefits program; or assets essential to the health or welfare of the elderly person or whether one or more elderly persons were substantially more vulnerable to the defendant's conduct because of age, poor health, infirmity, impaired understanding, restricted mobility, or disability, and actually suffered physical, emotional, or economic damage resulting from the defendant's conduct.
3. There is hereby established in the state treasury a special fund to be known as the elderly victim fund, which shall consist of and into which shall be paid all moneys derived from supplemental civil penalties imposed pursuant to this section. The moneys in such fund shall be administered by the department of law and shall be expended solely for the investigation of and prosecution of consumer frauds against elderly persons. The moneys in the fund shall be paid out on the audit and

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warrant of the comptroller on vouchers certified or approved by the attorney general.

Notwithstanding any other provision of law to the contrary, any balance in the said fund on March thirty-first of any fiscal year shall not revert to the general fund of the state.

4. Restitution to be given priority. Restitution ordered pursuant to the provisions of law listed in subdivision two of this section shall be given priority over the imposition of civil penalties designated by the court under this section.

History

Formerly § 350-j, add, L 1996, ch 687, § 1; renumbered § 349-c, L 1999, ch 189, § 1, eff July 6, 1999.

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