

New York City Department of Consumer and Worker Protection

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Consumer and Worker Protection (“DCWP” or “Department”) is proposing to amend rules relating to debt collectors.

When and where is the hearing? DCWP will hold a public hearing on the proposed rule. The public hearing will take place at 11:00AM on December 12, 2024. The public hearing will be accessible by phone and videoconference.

- To participate in the public hearing via phone, please dial +1 646-893-7101
 - o Phone Conference ID: 555 494 77#
- To participate in the public hearing via videoconference, please follow the online link:
 - o <https://tinyurl.com/yspazmnv>
 - o Meeting ID: 289 503 447 68
 - o Passcode: yjVa6j

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to DCWP through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Rulecomments@dcwp.nyc.gov.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by emailing Rulecomments@dcwp.nyc.gov. You can also sign up on the phone or videoconference before the hearing begins at 11:00AM on December 12, 2024. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit comments? Yes. You must submit any comments to the proposed rule on or before December 12, 2024.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, all comments received by DCWP on the proposed rule will be made available to the public online at <http://www1.nyc.gov/site/dca/about/public-hearings-comments.page>.

What if I need assistance to participate in the hearing? You must tell DCWP’s External Affairs division if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You may tell us by email at Rulecomments@dcwp.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by December 5, 2024.

What authorizes DCWP to make this rule? Sections 1043 and 2203(f) of the New York City Charter and Sections 20-104(b), 20-493(a), and 20-702 of the New York City Administrative Code authorize the Department of Consumer and Worker Protection to make these proposed rules. This proposed rule was not included in the Department of Consumer and Worker Protection’s regulatory agenda for this Fiscal Year.

Where can I find DCWP’s rules? The Department’s rules are in title 6 of the Rules of the City of New York.

What laws govern the rulemaking process? DCWP must meet the requirements of section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rules

The Department of Consumer and Worker Protection (“DCWP” or “Department”) is proposing to amend its rules relating to debt collectors. Specifically, DCWP is proposing amendments to clarify that the definition of “debt collector” continues to include those collecting debts they originated and to make minor changes for consistency to the effective date referenced in the recently adopted rules.

In November 2022, the Department proposed amendments to its rules related to debt collectors to adopt protections similar to those provided to consumers at the federal and state levels, including provisions based on the Department’s insight from its regulation of the debt industry for decades as it pertains to New York City consumers. In response to the November 2022 Notice of Proposed Rulemaking, the Department received comments from national and local industry associations, individual debt collection agencies, debt buying companies, debt collection law firms, national consumer advocacy groups, and local legal services organizations. After a public hearing on December 19, 2022, and a review of all the comments, the Department re-noticed the proposed amendments on September 29, 2023 to further address trade practices and consumer protection concerns as they pertain to debt collection from New York City consumers.

In response to the September 2023 Notice of Proposed Rulemaking, the Department received comments from local, state, and national industry trade associations for credit and collection professionals, debt collectors, as well as from national and local consumer advocacy groups and legal services organizations who work closely with community groups and consumers across New York City and State. After reviewing and considering all the comprehensive and thoughtful comments, the Department revised its proposed amendments to the rule to address certain provisions and, on August 12, 2024, published a Notice of Adoption of Final Rule, effective December 1, 2024. On November 4, 2024, in response to industry requests for additional time, the Department published a Notice of Change of Effective Date changing the effective date of the amendments from December 1, 2024 to April 1, 2025.

Among other amendments, the adopted rules included an amendment to the definition of “debt collector” in section 5-76 of part 6 of subchapter A of chapter 5 of Title 6 of the Rules of the City of New York. The Department intended for these amendments to clarify that all persons, including natural persons and organizations, and including debt collection agencies, may fall within the definition of “debt collector.” The Department also amended the definition to align with similar language in the state and federal definitions, while keeping differences in language to maintain distinctions in the scope and applicability of the term in NYC.

Since the August 2024 Notice of Adoption, the Department has become aware of stakeholder confusion regarding whether the revised definition of “debt collector” continues to apply to those collecting on their own debts. As noted above, the Department has always intended that its rules apply to collectors collecting on their own debts. Notably, unlike under federal and state definitions, the Department’s rules have never included an exception for debt collection activity that concerns a debt which was originated by the collector. If the Department had intended such a significant change from the scope and applicability of the definition of “debt collector,” it would have included a description of the change in the Statement of Basis of Purpose of the September 2023 Notice of Proposed Rulemaking or August 2024 Notice of Adoption, alongside the descriptions of other significant changes to the rules.

Nonetheless, given stakeholder confusion, the Department now proposes these amendments to clarify that the term “debt collector” continues to apply to such original creditors. In addition, the Department proposes minor edits related to the change in effective date of the previously adopted rules.

Sections 1043 and 2203(f) of the New York City Charter and Sections 20-104(b), 20-493(a), 20-702 of the New York City Administrative Code authorize the Department to make these proposed amendments.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. The definition of “Debt collector” set forth in section 5-76 of part 6 of subchapter A of chapter 5 of Title 6 of the Rules of the City of New York, as amended by section 4 of the Notice of Adoption regarding amendments to rules related to debt collectors, published in the City Record on August 12, 2024, is amended to read as follows::

Debt collector. The term “debt collector” means any person, including any natural person or organization, including a debt collection agency, who:

- (1) is engaged in any business the principal purpose of which is the collection of any debts₁ or [who]
- (2) regularly collects, or attempts to collect, directly or indirectly, debts owed or due₁ or asserted to be owed or due₁ to another person, or to the person collecting or attempting to collect the debts.

[Notwithstanding the exceptions contained in this section, debt collector] The term also includes a buyer of debts who seeks to collect on such debts either directly or indirectly, as well as any creditor that, at any time, in collecting its own debts, uses any name other than its own that would suggest or indicate that someone other than such creditor is collecting or attempting to collect such debts.

The term does not include:

- (1) any officer or employee of the United States, any State or any political subdivision of any State to the extent that collecting or attempting to collect any debt owed is in the performance of their official duties;
- (2) any person while engaged in performing an action required by law or regulation, or required by law or regulation in order to institute or pursue a legal remedy;
- (3) any individual employed by a nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors;
- (4) any individual employed by a utility regulated under the provisions of the Public Service Law, to the extent that New York Public Service Law or any regulation promulgated thereunder is inconsistent with this part; or
- (5) any person performing the activity of serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt, or serving, filing or conveying formal legal pleadings, discovery requests, judgments, or other documents pursuant to the applicable rules of civil procedure, where such person is not a party, or providing legal representation to a party, to the action.

Where a provision of this part limits the number of times an action may be taken by the debt collector, or establishes as a prerequisite to taking an action that the debt collector has received or done something, or prohibits an action if the debt collector has knowledge of or reason to know something, the term “debt collector” includes any debt collector employed by the same employer.

Section 2. The introductory paragraph of paragraph 1 of subdivision f of section 5-77 of part 6 of subchapter A of chapter 5 of Title 6 of the Rules of the City of New York, as amended by section 5 of the Notice of Adoption regarding amendments to rules related to debt collectors, published in the City Record on August 12, 2024, is amended as follows:

- (1) *Validation notice.* Within five days after the initial communication with a New York City consumer in connection with the collection of any debt, a debt collector must send the consumer a written notice containing any and all information required by federal and state law, as well as the following information in a clear and conspicuous manner, unless the consumer paid the debt or such information was contained, clearly and conspicuously, in an initial written communication sent by U.S. mail or delivery service, or if the initial communication with the consumer occurred before [December 1, 2024] April 1, 2025 and a validation notice was already sent to such consumer:

Section 3. The introductory paragraph of paragraph 7 of subdivision f of section 5-77 of part 6 of subchapter A of chapter 5 of Title 6 of the Rules of the City of New York, as amended by section 5 of the Notice of Adoption regarding amendments to rules related to debt collectors, published in the City Record on August 12, 2024, is amended to read as follows:

- (7) *Verification of debt.* A debt collector must provide a written response to a New York City consumer's first dispute or first request for verification of the debt as outlined in paragraph [(f)] (6) of this [section] subdivision, except for accounts purchased before [December 1, 2024] April 1, 2025. To comply with this paragraph, a debt collector must:

Section 4. This rule takes effect on April 1, 2025

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Related to Debt Collectors

REFERENCE NUMBER: 2023 RG 047

RULEMAKING AGENCY: Department of Consumer and Worker Protection

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: November 1, 2024

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Related to Debt Collectors

REFERENCE NUMBER: DCWP-53

RULEMAKING AGENCY: Department of Consumer and Worker Protection

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

November 1, 2024
Date