



NYC PROPOSES AMENDMENTS TO DEBT COLLECTOR RULES

In response to Industry feedback, the Consumer Financial Protection Bureau debt collection rules released in 2020 and comments on the prior Notice of Proposed Rulemaking in 2022, the New York City ("NYC") Department of Consumer and Worker Protection ("DCWP") has proposed new amendments to the city's Debt Collector Rules. The DCWP proposed numerous amendments to the Debt Collector Rules, including:

- (1) Amending the requirement for a debt collector to maintain an annual report identifying certain actions taken by the agency in any language other than English;
- (2) Expanding the recordkeeping requirements to require records showing compliance with relevant laws and rules as well as monthly logs documenting certain consumer interactions;
- (3) Adding required information to be provided by debt collectors at the outset of debt collection communications;
- (4) Adding definitions relating to new requirements and disclosures related to communications with consumers;
- (5) Revising the restriction on the frequency of debt collection communications;
- (6) Requiring disclosure of the existence of a debt to a consumer before reporting information regarding the consumer to a consumer reporting agency;
- (7) Amending what information is required to be disclosed to a consumer when collecting on a time-barred debt;
- (8) Adding requirements regarding collection of medical debts; and
- (9) Adding requirements regarding communications by voicemails, email, text messages and social media.

Regarding recordkeeping, the proposed amendments would increase the level of detail in a debt collector's required recordkeeping, including requiring records of all communications made or attempted. Additionally, debt collectors would be required to keep records indicating what means of electronic communication are permitted or not permitted by each consumer and, if known, the consumer's preferred means of communication in regard to the

collection of a debt.

Regarding third parties, under the proposed amendments, debt collectors must ensure that any third party contracted to handle collection calls with consumers on its behalf is compliant with the debt collection licensing rules and laws of NYC and that any third-party audio recordings are available upon request by the DCWP.

Regarding frequency of communication, under the proposed amendments, debt collectors would be prohibited from communicating or attempting to communicate, including by leaving limited content messages, with the consumer with "excessive frequency." Under the proposed amendments "excessive frequency" means either (i) any communication or attempted communication by the debt collector with a consumer, by any medium of communication or in person, in connection with the collection of debt more than three times during a seven-consecutive-calendar-day period, or (ii) after already having had an interaction with the consumer within such seven-consecutive calendar-day period.

Regarding electronic communication, the proposed amendments would limit communications through email address, text message or social media account to situations where the electronic communication is private and direct to the consumer; and (i) the debt collector obtains revocable consent from the consumer in writing to use such communication manner or (ii) the consumer used the manner of communication to communicate with the debt collector within the past 30 days and has not opted out of communications in that specific manner.

The DCWP is accepting comments by email at rulecomments@dcwp.nyc.gov, and by mail at DCWP, 42 Broadway, New York, New York 10004, through November 29, 2023. A public hearing on the proposed amendments is scheduled for November 29, 2023 from 11 am to 12 pm EDT.

We will continue to monitor updates regarding the proposed NYC amendments and other developments regarding debt collection.



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