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## NYC BEGINS ENFORCING LANGUAGE ACCESS COLLECTION RULE; PUBLISHES GLOSSARY OF COMMON TERMS

Starting October 1st, the New York City Department of Consumer and Worker Protection (“DCWP”) (formerly the Department of Consumer Affairs) is enforcing a new debt collection rule aimed to protect limited English proficiency (“LEP”) consumers residing in New York City (“NYC”) from deceptive collection practices related to language access services. DCWP defines language access services as any service available in a language other than English that a debt collector provides to consumers, including, but not limited to, the use of collection letters in a language other than English.

Last week the DCWP also published a glossary of commonly used collection terms in multiple languages including English, Spanish, Arabic, Bengali, Chinese - Simplified, Chinese – Traditional, French, Haitian Creole, Korean, Polish, Russian and Urdu. These languages are the top languages spoken by LEP consumers in NYC. Translated terms are available in downloadable PDFs at <https://www1.nyc.gov/site/dca/consumers/Glossary-of-Common-Debt-Collection-Terms.page>. Under the new rule, an explanation of and link to the DCWP’s glossary of commonly used collection terms must be provided to consumers by certain “debt collectors” in a written validation of debt notice and by any “debt collector” that maintains a website accessible to the public.

The new language access rule places requirements on licensed collection agencies and requirements on debt collectors (defined broadly to include creditors). At a high level, licensed collection agencies must record a consumer’s language preference and file an annual report on language access services used to collect debts. For debt collectors, the rule (i) prohibits certain deceptive acts with respect to translations and the consumer’s language preference, (ii) requires debt collectors to make reasonable attempts to learn a consumer’s language preference before collecting a debt and (iii) requires disclosure of any available language access services provided by the debt collector and DCWP’s translations of commonly used collection terms in certain consumer-facing documents. See our ALERT dated June 24, 2020.

In August, the DCWP published FAQs to help the collection industry comply with the new rule. Among other things, the FAQs

indicate that certain provisions of the rule may apply to creditors collecting debts. The FAQs explain the form and content of licensed collection agencies’ annual reports on language access services as well as when and to what extent debt collectors must attempt to obtain a consumer’s language preference. The FAQs clarify that the rule does not require a debt collector to provide language access services at all or for all collection activities. For example, a debt collector could offer a multilingual customer service representative via telephone but not provide translated written collection communication in the same language. If a debt collector does not provide any language access services, certain consumer-facing materials must state that fact. The FAQs address other areas of ambiguity in the language access rule.

The new rule became effective on June 27th but the DCWP delayed enforcement of the rule until October 1st because of the pandemic and calls for more guidance to aid industry compliance. The NYC language access rule is the first local rule to identify *specific* conduct with respect to LEP consumers that is deemed a deceptive collection practice. ☐

✧ *Mike Tomkies and Susan Seaman*

**DEALING WITH MULTISTATE DEBT COLLECTION COMPLIANCE?** We  *routinely* advise on collection-related activities and the regulated activities of creditors, third party debt collectors, debt buyers and loan servicers. We also publish an easy-to-use reference that compiles state and federal laws governing debt collection practices. Our DEBT COLLECTION DIGEST is organized topically, includes the federal Fair Debt Collection Practices Act and Commentary for easy cross-reference, and covers ADAD and monitoring and recording statutes. Regulation F provisions will be included in the digest when the rule is finalized. **Contact us for details.**

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