

RA S
BORISKIN
LAW OFFICES
MEMORANDUM

TO: All Clients
FROM: Joseph F. Battista, Esq., General Counsel
RE: New York City Debt Collection Amendments Effective October 1, 2020
DATE: September 24, 2020

We are writing to advise you regarding amendments to debt collection requirements set out in sections 2-193, 5-77 and 6-62 of title 6 of the Rules of the City of New York that apply exclusively within the five boroughs of New York City (New York, Kings, Queens, Bronx and Richmond Counties) and which become effective October 1, 2020. The referenced amendments, a copy of which are provided, apply and relate to communications with consumers and record keeping. Notably, while law firms retained for litigation purposes are exempted, the regulations may apply to servicers collecting debts within the five boroughs of New York City.

These new rules require debt collectors (defined to include both debt collectors and creditors) to:

- Inform consumers—in any initial collection notice and on any public-facing websites maintained by the collector—of the availability of any language access services provided by the collector and of a translation and description of commonly-used debt collection terms in a consumer’s preferred language on the Department’s website;
- Request, record, and retain, to the extent reasonably possible, a record of the language preference of each consumer from whom the collector attempts to collect a debt; and
- Maintain a report identifying, by language, the number of consumer accounts on which an employee of the collector attempted to collect a debt in a language other than English, and the number of employees that attempted to collect on such accounts.

These regulations prohibit debt collectors from:

- Providing false, inaccurate, or incomplete translations of any communication to a consumer in the course of attempting to collect a debt; and
- Misrepresenting or omitting a consumer’s language preference when returning, selling, or referring for litigation any consumer account, where the debt collector is aware of such preference.

The regulations also impose new record keeping requirements. Most of the information to be maintained is already available in systems such as Black Knight, Tempo, Vendorscape, Equator, Clarifire and ADR. However, it is recommended to add a Traverse Hearing sub-rail/process to permit the input of the data and documents required to be maintained upon the completion of a Traverse Hearing.