

New York City Department of Finance

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Finance (“DOF”) is proposing a rule relating to a new local law governing the enforcement of property tax collection. This proposed rule would establish how qualified property owners can:

- renew a property tax hardship installment agreement through self-certification of income and primary residence;
- apply for removal from a tax lien sale and appeal a denial of an application for removal;
- demonstrate that they are qualified for a tax lien certificate surcharge waiver; and
- apply for a program that allows property owners to participate in the DOF Preservation Track program.

When and where is the hearing? NYC Department of Finance will hold a public hearing on the proposed rule. The public hearing will take place at 11:00 AM on Monday, February 3, 2025. The hearing will be conducted remotely through Webex Event Center. To participate in the public hearing, enter the Webex URL <https://nycdof.webex.com>. If prompted to provide the meeting number, please enter: 2344 261 2305; If prompted for a password, please enter the following: PTE2025. You can also participate in the hearing via telephone by calling 1-646-992-2010 (New York City); or 1-408-418-9388. The meeting access code is 2344 261 2305.

This location has the following accessibility option(s) available:
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How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the NYC Department of Finance through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to DOFRules@finance.nyc.gov.
- **Mail.** You can mail comments to NYC Department of Finance, Legal Affairs Division, 375 Pearl Street, 30th Floor, New York, NY 10038, Attn: Shannon Long and Timothy Byrne.
- **Fax.** You can fax written comments to NYC Department of Finance, Attn: Shannon Long and Timothy Byrne, at (212) 748-6981.
- **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 calling Joan Best at (212) 748-7214. 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? The deadline to submit written comments is Monday, February 3, 2025.

What if I need assistance to participate in the hearing? You must contact NYC Department of Finance’s Office of Legal Affairs if you need reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can contact us by mail at

the address given above. You may also tell us by telephone by calling Joan Best at (212) 748-7214; or by email at bestj@finance.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please provide at least 72 hours' notice prior to the hearing to ensure availability.

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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, copies of all comments submitted online, copies of all written comments, and a video recording of oral comments concerning the proposed rule will be available on the DOF website. Copies of these documents may also be reviewed at NYC Department of Finance, Legal Affairs Division, 375 Pearl Street, 30th Floor, New York, N.Y. 10038.

What authorizes NYC Department of Finance's to make this rule? Sections 1043(a), and 1503 of the City Charter, as well as Chapters 3 and 4 of Title 11 of the Administrative Code of the City of New York (as amended by Local Law 82 of 2024) authorize the Department to make this proposed rule. This proposed rule was not included in the Department's regulatory agenda for this Fiscal Year because it was not contemplated when the Department published the agenda

Where can I find the NYC Department of Finance's rules? The NYC Department of Finance's rules are in Title 19 of the Rules of the City of New York. See the link below. <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCrules/0-0-0-34211>

What laws govern the rulemaking process? NYC Department of Finance 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 Rule

Local Law 82 of 2024 (LL82) amended Chapters 1 through 4 of Title 11 of the Administrative Code of the City of New York (Administrative Code). This Local Law instituted new DOF reporting and notification requirements for real property tax collection and authorized DOF to conduct sales of tax liens through calendar year 2028. LL82 also modified and expanded real property tax payment plan programs available to certain property owners. In addition, through LL82, qualified real property taxpayers have access to new programs that allow them to seek removal of their property from a tax lien sale or elect to participate in the real property Preservation Track program. Under the Preservation Track program, a real property owner voluntarily allows the City to foreclose upon their property, the City transfers the property directly to a qualified preservation purchaser, and the purchaser leases the property back to the former owner, extinguishing the outstanding tax liens on the property in the process.

Section 17 of LL82 amended Section 11-322.1(h) of the Administrative Code to authorize DOF to promulgate rules establishing a self-certification process for property owners seeking to renew real property tax payment plan agreements made as part of the property tax and interest deferral (PT-AID) program with DOF. Section 24 of LL82 added a new Section 11-412.3 to the Administrative Code, establishing an "Easy Exit" program that allows certain property owners to

request that DOF remove their tax liens from a tax lien sale, provided that certain requirements are met. Specifically, applicants must demonstrate that: (1) the property in question is their primary residence or they have received other specified exemptions that demonstrate that such property is their primary residence; (2) their household income is below the Enhanced School Tax Relief (E-STAR) threshold; and (3) they do not own other real property with the specified classifications located in the City of New York. Subdivision d of section 11-412.3 requires that DOF promulgate rules establishing procedures for making requests to remove tax liens from a tax lien sale and for appeals of denials of such requests. Specifically, the subdivision specifies that such rules may include the timeframe within which the department must respond to requests and appeals.

Section 23 of LL82 added two new subdivisions (c) and (d) to section 11-332 of the Administrative Code, which would limit a tax lien certificate holder's authority to collect tax lien surcharges, provided that the applicable property owner meets certain qualifications and submits sufficient documentation to DOF and such holder receives all other amounts that the holder is entitled to receive without commencing a foreclosure proceeding. The qualifications for an owner with respect to this limitation on the collection of tax lien certificate surcharges are similar to those for the "Easy Exit" program: applicants must demonstrate that: (1) the property in question is their primary residence or they have received other specified exemptions that demonstrate that such property is their primary residence; (2) their household income is below the E-STAR threshold; and (3) they do not own other real property with the specified classifications located in the City of New York.

Section 24 of LL82 added sections 11-412.4 and 11-412.5 to the Administrative Code, which establish the Preservation Track program and provide that property owners can apply for the program using forms developed by DOF.

Section 1 of this proposed rule would add a new subdivision (o) to section 40-03 of title 19 of the Rules of the City of New York to permit applicants for PT-AID hardship installment agreements to self-certify, for the purpose of annual renewal, that they satisfy the statutory requirements set forth in paragraph 2 of subdivision (h) of section 11-322.1 of the Administrative Code. LL82 amended section 11-322.1 to specifically provide for such a rule. Self-certification would ease the burden on both applicants and DOF to submit and process documentation, respectively, and thereby improve the efficiency of the PT-AID program. This section would also authorize DOF to void an installment agreement in certain circumstances in which the DOF Commissioner determines that an applicant has intentionally made a material misstatement in such a self-certification. This authority would not limit DOF's existing authority to terminate an agreement for any reason set forth in subdivision (k) of section 11-322.1 of the Administrative Code.

Section 2 of this proposed rule would amend subdivision (n) of section 40-03 of Title 19 of the Rules of the City of New York to elaborate on the definition of "extenuating circumstances" that is used in determining eligibility for hardship installment agreements and how DOF makes a finding of extenuating circumstances.

Section 3 of this proposed rule would add new sections 40-04, 40-05 and 40-06 to Title 19 of the Rules of the City of New York. Section 40-04 would establish an application and appeals process for the new "Easy Exit" program. This section would require a designated reviewer to respond to "Easy Exit" applications no later than 30 days after receipt. If a designated reviewer denies an application, this rule would permit the applicant to appeal a denial to a second tier of review. This section would also establish a definition of "household income" to determine "Easy

Exit” program eligibility.

Section 40-05 of this proposed rule would create an application process allowing property owners to submit documentation demonstrating their eligibility for a tax lien surcharge waiver. This section would require DOF to respond to such applications no later than 30 days after receipt. This section would also establish a definition of “household income” to determine surcharge waiver program eligibility.

Section 40-06 of this proposed rule would create an application process allowing property owners to submit application forms required for participation in the new Preservation Track program. This section would require DOF to respond to such applications no later than 30 days after receipt. This section would also establish a definition of “household income” to determine Preservation Track program eligibility.

New material is underlined.

“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. Section 40-03 of chapter 40 of Title 19 of the Rules of the City of New York is amended by adding a new subdivision (o), to read as follows:

(o) Hardship installment payment renewal self-certification. An applicant seeking renewal of their hardship installment agreement may, in their application, self-certify that they are eligible to renew their agreement and meet the requirements set forth in paragraph (2) of subdivision (h) of Administrative Code section 11-322.1. In addition to the termination provisions set forth in subdivision (k) of such section, the Commissioner or a designee of the Commissioner may void any installment agreement where the Commissioner or a designee of the Commissioner determines that an applicant has intentionally made a material misstatement in their application and the Department of Finance relied on such misstatement in good faith in approving such application.

§2. Subdivision (n) of section 40-03 of chapter 40 of Title 19 of the Rules of the City of New York is amended by adding a new paragraph (3), to read as follows:

(3) For the purpose of subdivision (n) of section 11-322.1 of the Administrative Code, “extenuating circumstances” has the meaning set forth in subparagraphs (i) and (ii) of paragraph (4) of subdivision (e) of this section. An application for a finding of extenuating circumstances submitted pursuant to subdivision (n) of section 11-322.1 of the Administrative Code is subject to the requirements and procedures set forth in subparagraph (iii) of paragraph (4) of subdivision (e) of this section.

§3. Chapter 40 of Title 19 of the Rules of the City of New York is amended by adding new sections 40-04, 40-05 and 40-06, to read as follows:

§ 40-04 Removal of Tax Liens from a Tax Lien Sale.

(a) Request for removal. (1) Submission of Request. An owner of a property or a dwelling unit, as such terms are defined in subdivision (a) of section 11-412.3 of the

Administrative Code, may request removal of a tax lien from a tax lien sale pursuant to subdivision b of such section by submitting an application in a paper or electronic format determined by the Department.

(2) Response by the Department. When a request is submitted pursuant to paragraph (1) of this subdivision, an individual designated by the Commissioner will respond to such request no later than 30 calendar days after the date of receipt of such request, by approving the request, denying the request, or instructing such property or dwelling unit owner to provide additional documentation if such designated individual determines that additional documentation is necessary to evaluate the request. When such designated individual instructs such owner to provide additional documentation, such designated individual will respond to the request for removal no later than 30 calendar days from the date of receipt of the additional documentation.

(3) Required documentation. Such designated individual will not approve a request submitted pursuant to this subdivision unless the documentation submitted with the request demonstrates that the owner satisfies the requirements set forth in paragraphs (1) through (3) of subdivision (c) of section 11-412.3 of the Administrative Code.

(4) Appeal of denial. If a request submitted pursuant to this subdivision is denied, the property or dwelling unit owner may appeal such denial by filing an appeal with the Commissioner within ten calendar days from receipt of the denial. Such appeal must be in writing and must briefly state all the facts or other basis upon which such owner contests the finding of ineligibility. The Commissioner or a designee of the Commissioner will respond to such appeal in writing no later than 60 calendar days from the date of receipt of the appeal. Any such designee will not be the same individual who made the finding of ineligibility that served as the basis of the denial of the application. The denial of an appeal is a final agency determination reviewable pursuant to Article 78 of the New York Civil Practice Law and Rules.

(b) Household income definition for application of the income threshold. For the purpose of determining eligibility for removal of a tax lien from a tax lien sale pursuant to section 11-412.3 of the Administrative Code, the term "household income" means the combined income of all owners, including both residents and non-residents, and any owner's spouse who resides at the property or dwelling unit.

§ 40-05 Exemption from Tax Lien Surcharges.

(a) Application process.

(1) Submission of Request. An owner of a property may request an exemption from tax lien surcharges pursuant to subdivision (c) and (d) of section 11-332 of the Administrative Code by submitting an application in a paper or electronic format determined by the Department.

(2) Response by the Department. When a request is submitted pursuant to paragraph (1) of this subdivision, an individual designated by the Commissioner will respond to such request no later than 30 calendar days after the date of receipt of such request, by approving the request, denying the request, or instructing such owner to provide additional documentation, if such designated individual determines that additional documentation is necessary to evaluate the request. When such designated individual instructs such owner to provide additional documentation, such designated individual will respond to the request no later than 30 calendar days from the date of receipt of the additional documentation. A denial of a request is a final agency determination reviewable pursuant to Article 78 of the New York Civil Practice Law and Rules.

(3) Required documentation and approval. Such designated individual will not approve a request submitted pursuant to this subdivision unless the documentation submitted with the request demonstrates that the owner satisfies the requirements set forth in subdivision (d) of section 11-332 of the Administrative Code. Such designated individual will notify the property owner of such approval in writing. If the request is approved and the tax lien certificate complies with the requirements set forth in paragraph (2) of subdivision (c) of section 11-332 of the Administrative Code, such designated individual will also notify the holder of the tax lien certificate in writing that such holder is not entitled to collect the surcharge described in subdivision (b) of section 11-332 of the Administrative Code.

(b) Household income definition for application of the income threshold. For the purpose of determining eligibility for a surcharge waiver requested pursuant to subdivision (c) of section 11-332 of the Administrative Code, the term "household income" means the combined income of all owners, including both residents and non-residents, and any owner's spouse who resides at the property.

§ 40-06 Voluntary In-Rem Action.

(a) Application process.

(1) An owner of a property, as such term is defined in subdivision (a) of section 11-412.3 of the Administrative Code, may seek to elect to subject the tax lien or tax liens on such property to summary foreclosure pursuant to section 11-412.4 of the Administrative Code by submitting an application in a paper or electronic format determined by the Department.

(2) Response by the Department. When an application is submitted pursuant to paragraph (1) of this subdivision, an individual designated by the Commissioner will respond to such application no later than 30 calendar days after the date of receipt of such application by approving the application, denying the application, or instructing such owner to provide additional documentation, if such designated individual determines that additional documentation is necessary to evaluate the request. When such designated individual instructs such owner to provide additional documentation, such designated individual will respond to the application no later than 30 calendar days from the date of receipt of the additional documentation. A denial of an application is a final agency determination reviewable pursuant to Article 78 of the New York Civil Practice Law and Rules.

(3) Such designated individual will not approve an application submitted pursuant to this subdivision unless the documentation submitted with the application demonstrates that the property owner satisfies the requirements set forth in paragraphs (1) through (5) of subdivision (b) of section 11-412.4 of the Administrative Code.

(b) Household income definition for application of the income threshold. For the purpose of determining eligibility for the voluntary in-rem action requested pursuant to section 11-412.4 of the Administrative Code, the term "household income" means the combined incomes of all owners, including both residents and non-residents, and any owner's spouse who resides at the property.

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: Rules Relating to Hardship Installment Payment Plan

REFERENCE NUMBER: DOF-69

RULEMAKING AGENCY: Department of Finance

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

December 30, 2024
Date

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: Rules Relating to Hardship Installment Payment Plan

REFERENCE NUMBER: 2024 RG 084

RULEMAKING AGENCY: Department of Finance

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
Corporation Counsel

Date: December 30, 2024