

HOME IMPROVEMENT BUSINESS TRUST FUND RULE

New York City Department of Consumer Affairs

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing?

Section 2-224(c) of Title 6 of the Rules of the City of New York authorizes the Commissioner of the Department of Consumer Affairs (DCA) to pay out funds from the Home Improvement Business Trust Fund (the “Fund”). The proposed rule would increase the limit from \$20,000 to \$25,000 on the amount that DCA can pay out from the Fund for all awards, fines and judgments arising out of a single home improvement contract.

When and where is the Hearing? The Department of Consumer Affairs will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 am on April 27, 2015. The hearing will be in the Department of Consumer Affairs hearing room at 66 John Street, 11th Floor, New York, NY 10038.

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

- **Website.** You can submit comments to the Department of Consumer Affairs through the New York City rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Rulecomments@dca.nyc.gov.
- **Mail.** You can mail comments to Mary Cooley, Director of City Legislative Affairs, New York City Department of Consumer Affairs, 42 Broadway, New York, NY 10004.
- **Fax.** You can fax comments to the Department of Consumer Affairs, (646) 500-5962.
- **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 (212) 436-0392. You can also sign up in the hearing room before the hearing begins on April 27, 2015. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes. You must submit any written comments to the proposed rule on or before April 27, 2015.

Do you need assistance to participate in the Hearing? You must tell the Office of Legislative Affairs if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 436-0155. You must tell us by April 24, 2015.

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 Web site at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs.

What authorizes the Department of Consumer Affairs to make this rule? Section 2203(e) of the City Charter and section 20-104 of Chapter 1 of Title 20 of the New York City Administrative Code authorize the Commissioner of the Department of Consumer Affairs to make this proposed rule. This proposed rule was not included in regulatory agenda of the Department of Consumer Affairs for this Fiscal Year because it was not contemplated when the Department published the agenda.

Where can I find the rules of the Department of Consumer Affairs? The Department of Consumer Affairs' rules are in title 6 of the Rules of the City of New York.

What rules govern the rulemaking process? The Department of Consumer Affairs 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(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Section 2-224(c) of Title 6 of the Rules of the City of New York authorizes the Commissioner of the Department of Consumer Affairs (DCA) to pay out funds from the Home Improvement Business Trust Fund (the “Fund”). The proposed rule would increase the limit from \$20,000 to \$25,000 on the amount that DCA can pay out from the Fund for all awards, fines and judgments arising out of a single home improvement contract. This increase is necessary because the current limit is insufficient to cover judgments to aggrieved consumers. In the last 5 years, 287 restitution judgments were paid from the Fund. Approximately 35% of these cases involved awards in excess of \$20,000. The balance in the Fund is sufficient to cover the proposed increase.

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.

Proposed Rule

Paragraph (3) of subdivision (c) of section 2-224 of subchapter V of chapter 2 of title 6 of the Rules of the City of New York is amended to read as follows:

(3) Disbursements from the [f]Fund will be made at the discretion of the Commissioner or his or her designee[, provided, however, that invasion of the Fund] and shall be limited to no more than twenty-five thousand dollars for all awards, fines and judgments arising out of a single home improvement contract.

**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: Disbursements from Home Improvement Trust Fund

REFERENCE NUMBER: 2015 RG 019

RULEMAKING AGENCY: Department of Consumer Affairs

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: March 13, 2015

**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: Disbursements from Home Improvement Trust Fund

REFERENCE NUMBER: DCA-19

RULEMAKING AGENCY: DCA

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

March 13, 2013
Date