

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Taxi and Limousine Commission (“TLC”, “Commission”) is proposing rules which would amend and add provisions to the existing rules governing Medallion Broker Licenses in Chapter 62 as well as the rules governing Taxicab Agent Licenses in Chapter 63 of Title 35 of the Rules of the City of New York.

When and where is the Hearing? The Commission will hold a public hearing, at which the public and interested parties are invited to submit comments and testimony on the proposed rules, at 10:00 a.m. on October 30, 2019. This hearing will be held in the Commission’s public hearing room at 33 Beaver St., New York, NY on the 19th Floor.

The hearing room is wheelchair accessible and CART will be provided in the meeting room.

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

- **Mail.** You can mail comments to the Taxi and Limousine Commission, Office of Legal Affairs, 33 Beaver Street – 22nd Floor, New York, New York 10004.
- **Fax.** You can fax comments to the Taxi and Limousine Commission, Office of Legal Affairs, at 212-676-1102.
- **Email.** You can email comments to tlcrules@tlc.nyc.gov.
- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC rules Web site at www.nyc.gov/nycrules.
- **By Speaking at the Hearings.** Anyone who wants to comment on the proposed rule at the public hearings must sign up to speak. You can sign up before either hearing by calling 212-676-1135. You can also sign up in the hearing room before the session begins on October 30, 2019. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, you must submit comments by October 30, 2019.

Do you need assistance to participate in the Hearings? You must tell the Office of Legal 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 212-676-1135. You must tell us by October 24, 2019.

Can I review the comments made on the proposed rules? 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 Commission to make this rule? Sections 1043 and 2303 of the City Charter and section 19-503 of the City Administrative Code authorize the Commission to make this proposed rule. This proposed rule was not included in the Commission's regulatory agenda for this Fiscal Year because the need for it was not contemplated when the Commission published the agenda.

Where can I find the Commission's rules? The Commission's rules are in title 35 of the Rules of the City of New York.

What laws govern the rulemaking process? The Commission 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 RULE

The TLC is proposing rules that would amend or add sections to the existing rules governing Medallion Broker Licenses and Taxicab Agent Licenses.

Broker License Rule Amendments

In April 1984, the City Council of the City of New York enacted Local Law No. 18 which added what is now section 19-527 of the Administrative Code of the City of New York. That section, in substance, (1) defines "Taxicab Broker" as one "who, for another... acts as an agent or intermediary in negotiating the purchase or sale of a taxicab" (Administrative Code §19-527[a]); (2) provides for the licensing of such brokers, the payment of an annual license fee of \$500, the posting of a \$50,000 bond for nonpayment of fines imposed by the Taxi and Limousine Commission ("TLC") or judgements "by reason of any misrepresentations, fraud or deceit, or any unlawful act or omission of such licensee, his or her agents or employees" (Administrative Code §19-527[b], [c], [e]); and (3) granted TLC the power to impose a fine of up to \$10,000, suspend or revoke a license for making a material misstatement or misrepresentation on a Taxicab Broker license application, committing a fraudulent, deceitful or unlawful act while acting as a Taxicab Broker, or violating any TLC rule (Administrative Code §19-527[f]).

TLC's rules implementing this local law, located at chapter 62 of Title 35 of the Rules of the City of New York, establish: (a) procedures for the licensing and supervision of an individual or business entity acting as a Taxicab Broker; (b) the qualifications, requirements, prohibitions, and procedures for getting and maintaining a Taxicab Broker's License; (c) rules of operation to protect Taxicab Brokers' customers and the public; and (d) penalties for violations.

In response to allegations of Broker misconduct, on May 20, 2019, Mayor de Blasio ordered a joint investigation by the TLC, Department of Finance and Department of Consumer and Worker Protection into Taxicab Brokers practices. The 45-day review was charged with identifying and penalizing Taxicab Brokers who violated existing TLC regulations and developing regulatory changes to address issues uncovered and unaddressed by the existing regulatory framework.

The report¹ detailing the findings of the joint investigation, includes a summary of identified TLC rule violations, which were forwarded to TLC's Prosecution Division for enforcement and are currently the subject of ongoing administrative enforcement proceedings², as well as a number of recommended changes to TLC rules in order to ensure that Taxicab Brokers are held to a higher standard going forward.

Specifically, the proposed changes:

¹ The Full Broker report can be found at <https://www1.nyc.gov/assets/tlc/downloads/pdf/broker-investigation.pdf>

² Upon the resolution of these enforcement actions, TLC will create and maintain on the TLC website a list of enforcement actions against brokers to further increase transparency for prospective buyers and sellers.

- Revise penalties for violation of the TLC Broker rules to reflect the seriousness of the prohibited conduct;
- Extend the TLC-required record retention period for Taxicab Brokers from three years to ten years;
- Provide restitution to Brokers' clients, as appropriate, for TLC rule violations;
- Clarify that TLC rules apply to all services offered by Brokers, including but not limited to medallion transfers, broker-facilitated financing or refinancing, and insurance;
- Strengthen Brokers' obligations to disclose interests in TLC-issued taxicab licenses and related taxicab business services provided to their clients, through annual disclosure to TLC of Brokers' interests;
- Expand the required disclosure of interests to include any interests held by spouses, children and other relatives of the Broker;
- Require disclosure of actual conflicts in any transaction to be completed on a form provided by TLC;
- Require written agreements between Brokers and their clients specifying all fees and costs charged by the Broker, informing clients of the Broker's duty to act in their interest, disclose any facts the Broker knows that impact the value of a medallion as well as all offers to purchase, and disclose any fees paid to the Broker by a third party;
- Require that Brokers submit to TLC completed broker agreements including all agreement attachments required by TLC rules and copies of closing statements completed on TLC-provided forms;
- Require that Brokers complete for their clients, and submit within 30 days to TLC, a plain language explanation of material loan terms for any financing or refinancing facilitated by Brokers.

These steps will provide meaningful transparency improvements in the medallion purchasing process. However, they do not address bank or credit union lending practices, which play a key role in the medallion market, but are regulated at the state and federal level. To provide medallion purchasers with greater protection and transparency, continuing review of the adequacy of state and federal regulations and the sufficiency of their enforcement will be necessary.

Agent License Rule Amendments

Outreach to owners as part of the Broker investigation revealed the need for additional regulations applicable to leases between businesses licensed as Taxicab Agents³ and passive medallion owners. This includes consistent and enforceable contracts as well as mandatory contract provisions informing passive medallion owners of their rights when working with a Taxicab Agent. Additionally, numerous owners reported that agents they

³ Taxicab Agents are business entities that operate or facilitate the operation of one or more taxicab medallions on behalf of the taxicab medallion owner.

worked with failed to make timely medallion lease payments, and agreements they entered into allowed the Agent to reduce the medallion lease payment without the owner's consent while also prohibiting owners from cancelling their lease agreements in such cases without significant penalties. Finally, passive owners also expressed uncertainty about Agents' obligation under TLC rules to pay applicable taxes and fees for medallions they manage. The proposed rules address these issues and others by requiring that:

- Written medallion leases must specify lease amounts and frequency of lease payments, all costs and fees that the Agent may charge the owner, and Agent's obligation to pay fees or taxes as required by TLC rules or the medallion lease agreement for all such fees or taxes incurred during the Agent's management of the owner's medallion.
- Written leases must include a provision allowing medallion owners to cancel the medallion lease agreement without penalty or cost if the Agent notifies the Owner of its intention to lower the medallion lease amount.
- Annual accountings to be prepared by Agents for medallion owners itemizing all taxes, fees, insurance and other costs paid by the Agent on behalf of the Medallion Owner.
- Agents provide restitution for any overcharges, underpayments, or missed payments and will face a penalty for failure to pay fees or taxes the Agent was required by TLC rules or the medallion lease agreement to pay.

Enforcement of New Regulations

The investigation into Broker practices revealed the need for greater oversight into the business practices of Brokers, Agents and other TLC-regulated businesses. To ensure that TLC-licensed businesses comply with TLC regulations, including the proposed regulations described above, TLC announced the formation of a Businesses Practices Accountability Unit (BPAU), which will be charged with ongoing monitoring of TLC-licensed businesses, detailed review of TLC-required annual disclosures as well as broker agreements and Broker-provided closing and loan disclosure statements for accuracy and completeness, and investigation of complaints lodged against such entities. TLC is currently staffing this new unit and anticipates BPAU will begin its work by the end of calendar year 2019.

Additional Non-Regulatory Work

The investigation into Broker practices also revealed that for current drivers who own their medallions, the largest single issue they face is unaffordable debt. The average median debt owed by surveyed drivers who own their medallions is approximately \$500,000, well above the prices medallions regularly sell for today on the secondary market. Because of loan refinancing, drivers who purchased their medallions years ago at lower prices also often carry significant debt. Fifty-one-percent of surveyed drivers who own their medallions stated they struggle to pay their monthly bills and 26% stated they are considering bankruptcy. However, only 15% of surveyed drivers who own their

medallions indicated their lender has lowered the monthly payments or reduced the loan principal.

To address these financial challenges facing many TLC licensees, the City is preparing to open a new Driver Assistance Center to serve as a central location where licensees can make appointments and receive free services from the TLC and other agency partners. At the Center, licensees will find on-site staff offering financial counseling and debt restructuring assistance, financial advocacy for those negotiating loan refinancing, referrals to mental health services and screening for public benefits. The Center will be located at TLC's Long Island City facility and will be open to all TLC licensed drivers.

The Commission's authority for this rule is found in §2303 of the New York City Charter and §§19-503 and 19-527 of the Administrative Code of the City of New York.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Subdivision (c) of Section 62-03 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (c) *Broker or Taxicab Broker* is an individual or Business Entity licensed by the Commission to act as an agent for another person or Business Entity in negotiating [either] any of the following:
- (1) The transfer of any interest in a Medallion
 - (2) A loan to be secured by a Medallion or a Taxicab, including any refinancing, extension or modification of any such loan

Section 2. Section 62-03 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (h), to read as follows:

(h) *Related Party or Parties* means a spouse, domestic partner, child, grandchild, parent, sibling, or grandparent; a parent, child or sibling of a spouse or domestic partner; and a spouse, or domestic partner of a parent, child or sibling of any natural person who is a Broker, or, if a Broker is a Business Entity, of any natural person who is a partner, member, shareholder and/or officer of a Broker.

Section 3. Subdivision (c) of section 62-05 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) *Potential Conflicts of Interest.*

- (1) The Applicant must disclose all information about Applicant's interests if the Applicant or any principal of the Applicant or any Related Party of Applicant also:

- [(1)](i) Acts as a lender, insurance broker, or automobile dealer; [or]
- [(2)](ii) Has a financial interest in a lender, insurance broker, or automobile dealership; or
- (iii) Has a financial interest in any business primarily serving applicants or holders of TLC-issued taxicab licenses or offering products or services targeted to applicants or holders of TLC-issued taxicab licenses or which specifically advertises to applicants or holders of TLC-issued taxicab licenses

- (2) Such disclosure must be made at the time of submission of an Application for a new or renewal Broker license in the form and manner prescribed by the Commission.
- (3) The disclosure on file with the Commission must be updated within 30 days of any material change in the terms of the disclosure.

§62-05(c)(3)	Fine: \$2,500–\$10,000 and/or suspension or revocation	Appearance REQUIRED
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- (4) The TLC may post such disclosures on its web site or otherwise make them publicly available.

Section 4. Subdivision (b) of Section 62-10 of Title 35 of the Rules of the City of New York is amended by adding a new paragraph (4), to read as follows:

(4) The Applicant failed to disclose any information about Applicant’s interest, or that of any principal of the Applicant, or any Related Party of Applicant, in any transaction involving a Medallion, a transfer of a Medallion, or a financing or refinancing of a Medallion in which the Applicant or any Related Party has a financial interest.

Section 5. The penalty provision of subdivision (a) of section 62-12 of Title 35 of the Rules of the City of New York is amended to read as follows:

§62-12(a)	Fine: \$[500-\$]1,500 ; <u>after the third violation occurring within two years, \$10,000</u>	Appearance REQUIRED
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Section 6. The penalty provision of subdivision (e) of section 62-12 of Title 35 of the Rules of the City of New York is amended to read as follows:

§62-12(e)	Fine: \$[2,500]10,000 and/or suspension or <u>revocation</u>	Appearance REQUIRED
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Section 7. The penalty provision of subdivision (f) of section 62-12 of Title 35 of the Rules

of the City of New York is amended to read as follows:

§62-12(f)	Fine: \$[2,500]10,000 and/or suspension or <u>revocation</u>	Appearance REQUIRED
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Section 8. The penalty provisions of paragraphs (1) and (2) of subdivision (a) of section 62-13 of Title 35 of the Rules of the City of New York are amended to read as follows:

§62-13(a)(1)	Fine: \$[500]2,500–\$[1,000]10,000 and/or <u>suspension or revocation</u>	Appearance REQUIRED
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§62-13(a)(2)	Fine: \$[250]2,500–\$[1,000]10,000 and/or <u>suspension or revocation</u>	Appearance REQUIRED
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Section 9. Subdivision (d) of section 62-13 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (d) *Broker Compensation.* A Broker must not accept any commission, rebate, or profit on expenditures that the Broker makes for the owner unless the Broker has disclosed to the owner that the Broker expects to profit in an estimated amount and the owner provides written consent. The Broker must retain the written consent for three years.

§62-13(d)	Fine: \$250–\$2,000 <u>and restitution may be ordered to the owner if the Broker has not disclosed the compensation or the owner has not consented</u>	Appearance REQUIRED
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Section 10. Section 62-15 of Title 35 of the Rules of the City of New York is amended to read as follows:

§62-15 Requirements & Prohibitions – Self-Dealing

- (a) A Broker must not directly or indirectly buy or otherwise acquire for himself or herself, nor may a Related Party acquire any interest in a Medallion listed with the Broker without first disclosing that fact in writing to the owner and obtaining the owner’s written consent to such transaction, in the form and manner prescribed by the Commission. Where the Broker has an interest in such purchase or acquisition, the Broker may not charge a fee for his or her services.

§62-15(a)	Fine: \$[500-\$2,000]10,000 and suspension for 30 days; <u>restitution may be ordered.</u>	Appearance REQUIRED
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- (b) A Broker must not sell a Medallion in which he or she or a Related Party owns an interest without first disclosing that interest in writing to the purchaser and obtaining the purchaser’s written consent to such transaction, in the form and

manner prescribed by the Commission. Where the Broker has an interest in such sale, the Broker may not charge a fee for his or her services.

§62-15(b)	Fine: \$[250-\$750] <u>10,000 and suspension for 30 days; restitution may be ordered.</u>	Appearance REQUIRED
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- (c) The Broker must disclose any financial interests in writing to the [owners] purchaser and seller in any transfer of an interest in a Medallion or any other transaction facilitated by the Broker, including but not limited to financing or refinancing, where the Broker or any Related Party acts as a lender, insurance broker, or automobile dealer or has a financial interest in the lender, insurance brokerage firm, or automobile dealership or any other business entity providing services in relation to such transaction. The Broker must obtain the written consent of such purchaser and seller to any such conflict prior to offering any such products or services in the form and manner prescribed by the Commission.

§62-15(c)	Fine: \$[250-\$2,000] <u>10,000 and suspension for 30 days; restitution may be ordered.</u>	Appearance REQUIRED
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- (d) If a Broker has failed to disclose any interest held by the Broker or any Related Party in a transaction as required by this section or has failed to obtain the written consent of the other party or parties to such transaction, the Broker may be ordered to pay restitution to the other party for any fees charged or tangible or intangible benefit received by the Broker.
- (e) No Broker may represent any party in any transaction in which the Broker or a Related Party has a conflict if the Broker has not filed the disclosure of such conflict with the Commission as required by section 62-05.

§62-15(e)	Fine: \$10,000 and suspension for 30 days <u>or revocation; restitution may be ordered.</u>	Appearance REQUIRED
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Section 11. Section 62-19 of Title 35 of the Rules of the City of New York is amended to read as follows:

§62-19 Business Procedures – Documents, Transactions, and Closing Procedures

(a) *Interested Parties.*

- (1) A Broker must not request, accept or permit a party to provide a Power of Attorney or any other legal document that has not been completed and signed.
- (2) If a Broker requests a party to sign a document and return it to the Broker, the Broker must give the party a duplicate copy for the party’s own records.

If any party attends a closing and is presented with a document for signature, the Broker must furnish that party with a copy of the signed document at that closing.

- (3) All other documents prepared by the Broker for an interested party must be delivered to that party within 10 business days after the completion of a closing or other transaction unless otherwise provided in these Rules.
- (4) The Broker must request and retain written acknowledgement that the party received the papers. The Broker must be able to provide proof of compliance with this paragraph upon request of any party or the TLC.

§62-19(a)(1)-(4)	Fine: \$400-\$ 2,000 and/or suspension	Appearance REQUIRED
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- (5) A Broker must give written notice to all sellers and buyers involved in a Medallion transfer of their right to be represented by an attorney or an accountant of their own choosing.

§62-19(a)(5)	Fine: \$500-\$1,000	Appearance REQUIRED
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(b) *Principals.*

- (1) A Broker who arranges a loan for his or her principal must give that principal a copy of the lender’s commitment and of all other documents provided by the lender to the Broker. The Broker must be able to provide proof of compliance with this paragraph upon the request of any party or the TLC. The Broker must also be able to provide proof of compliance with the requirements of section 62-15(c) of this chapter, if applicable.

§62-19(b)(1)	Fine: \$400-\$2,000 and/or suspension	Appearance REQUIRED
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- (2) Within 10 business days after the completion of a closing (including the financial closing), a Broker must give his or her principal(s) and the Commission a written closing statement including the following:

- (i) Names and addresses of seller(s) and purchaser(s)
- (ii) Medallion(s) being sold
- (iii) Sales price
- (iv) Vehicle cost (if any)
- (v) Amount of personal funds furnished by purchaser
- (vi) Names and addresses of lenders together with amount(s) of loan(s)
- (vii) Broker’s commission
- (viii) List of all disbursements or payments made on behalf of the principal(s) including an explanation of the purpose for the individual payments

§62-19(b)(2)(i)-	Fine: \$500-\$2,000	Appearance REQUIRED
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(viii)		
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- (3) Within 10 business days after completion of the financial closing, a Broker must forward all monies due to his or her principal(s).

§62-19(b)(3)	Fine: [\$1,000-]\$2,500 and/or suspension or revocation	Appearance REQUIRED
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(c) Brokerage Agreements

- (1) All agreements for any transactions involving a Broker or any services provided by a Broker must be in writing and signed by the Broker's clients.
- (2) A copy of each fully executed agreement must be provided to the Broker's clients upon execution of the agreement and upon the client's request.
- (3) Brokerage agreements must be written in plain language.
- (4) Terms. Each agreement must provide:
 - (i) All parties represented by the Broker.
 - (A) If the parties represented by a Broker change after the execution of an agreement, the agreement must be amended to reflect this change.
 - (B) If the Broker is representing more than one party in a transaction, the Broker must indicate the fee paid by each party to the transaction.
 - (ii) The fee to be paid to the Broker or, for purposes of net listing agreements pursuant to section 62-18 of these Rules, the amount to be paid to the seller.
 - (iii) All services provided by the Broker.
 - (iv) The Broker's duty to act in the interest of his or her client.
 - (v) The Broker's duty to disclose any financial interest of the Broker in the transaction beyond the fee specified in the agreement.
 - (vi) The Broker's duty to account for all money and property of his or her client that is entrusted to the Broker.
 - (vii) The purchasers' and sellers' right to be represented by an Attorney.
 - (viii) Agreements for the transfer of an interest in a Medallion must

provide the following additional terms:

- (A) The Broker's duty to disclose any facts known to the Broker which materially impacts the value of the Medallion.
- (B) If the Broker is representing the seller, the Broker's duty to disclose all offers to purchase the Medallion.

(4) The following documents must be attached to each agreement:

- (i) A copy of the Broker's annual disclosure, signed by the Broker's client, in a form and manner prescribed by the Commission.
- (ii) A disclosure of the Broker's actual interest in the transaction, signed by the Broker's client and affirmed by the Broker as accurate and complete, in a form and manner prescribed by the Commission.
- (iii) A copy of a Broker Client Rights document, signed by the Broker's client, in a form and manner prescribed by the Commission.

<u>§62-19(c)</u>	<u>Fine: \$1,000-\$2,500 and/or suspension or revocation</u>	<u>Appearance REQUIRED</u>
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(d) *Broker Duties*

- (1) Brokers must act in the interest of their clients.
- (2) Brokers must disclose any financial interest in a transaction, in a form and manner prescribed by the Commission.
- (3) Brokers must disclose all fees received from any party related to services provided by the Broker in a transaction, in a form and manner prescribed by the Commission.
- (5) In transactions including the transfer of an interest in a Medallion:
 - (i) Brokers must disclose any facts known to the Broker which materially impact the value of the Medallion.
 - (ii) If a Broker is representing the seller, the Broker must disclose all offers to purchase the Medallion.

(iii) Prior to the transfer of an interest in a Medallion, Brokers must provide their clients and the Commission with a closing statement, in a form and manner prescribed by the Commission, as well as an executed agreement with all attachments required by paragraph (4) of subdivision (c) of this section.

(6) In transactions including the financing or refinancing of a Medallion:

- (i) A Broker must provide his or her client with all documents provided by the lender for such client.
- (ii) Brokers must disclose all material loan terms, in a form and manner prescribed by the Commission.
- (iii) For financing or refinancing transactions that do not include the transfer of an interest in a Medallion, Brokers must provide the Commission with the disclosure of all material loan terms and an executed agreement with all attachments required by paragraph (4) of subdivision (c) of this section within 10 business days of the transaction.

<u>§62-19(d)(1-6)</u>	<u>Fine: \$1,000-\$2,500 and/or suspension or revocation</u>	<u>Appearance REQUIRED</u>
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- (7) Brokers must account for all money and property of their clients that is entrusted to the Broker.
- (8) Brokers may not charge or request any additional payment or fee in excess of the dollar amount or percentage set forth in the Brokerage Agreement.
- (9) Within 10 business days following any transaction, a Broker must forward to his or her client all monies due to such client.

<u>§62-19(d)(7-9)</u>	<u>Fine: \$2,500-\$10,000 and/or suspension or revocation; restitution may be ordered.</u>	<u>Appearance REQUIRED</u>
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Section 12. Subdivision (a) of section 62-20 of Title 35 of the Rules of the City of New York is amended to read as follows:

(a) *Retention of Records.* A Broker must keep and maintain [the following records] all documents required by Section 62-19 of this chapter and any other documents provided by the Broker and signed by the Broker’s client for [three] ten years.[:

- (1) The names and addresses of transferor(s), transferee(s), mortgagee(s), or other lien holder(s), if any

- (2) The purchase price
- (3) Amount of deposit paid on contract
- (4) Amount of commission paid to Broker
- (5) Expenses of procuring the mortgage loan, if any
- (6) Closing statements
- (7) Listing placed with the Broker]

§62-20(a)[(1)-(7)]	Fine: \$250-\$1,000 <u>for each missing document</u>	Appearance NOT Required
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Section 13. The penalty provision of subdivision (b) of section 62-21 of Title 35 of the Rules of the City of New York is amended to read as follows:

§62-21(b)	Fine: \$[1,000] 2,500 -\$[2,500] 10,000 <u>and/or suspension or revocation; restitution may be ordered.</u>	Appearance NOT Required
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Section 14. The penalty provision of subdivision (d) of section 62-21 of Title 35 of the Rules of the City of New York is amended to read as follows:

§62-21(d)	Fine: \$100-\$500; <u>restitution may be ordered.</u>	Appearance NOT Required
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Section 15. Section 62-23 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (k), to read as follows:

(k) Retaliation.

- (1) A Broker may not retaliate against any Owner or client for making a good faith complaint against any Broker.
- (2) Retaliation will be broadly construed, and will include imposing any adverse condition or consequence on the Owner or client or withholding or withdrawing any beneficial condition or consequence from the Owner or client.

§62-23(k)	Fine: \$1,000 plus restitution to the owner or client for losses for the first violation and a fine of \$10,000 plus restitution to the owner or client for the second violation and subsequent violations within five years.	Appearance NOT Required
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Section 16. Subdivision (d) of section 63-07 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (d) *Medallion-Owner Agent Violates Rules.* The Commission will deny an application for an Agent’s License if the Applicant owns or manages a Medallion and has violated any Commission Rule where the penalty for that violation is revocation of the License.

Section 17. Section 63-08 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (j), to read as follows:

- (j) *Retaliation.*
- (1) An Agent may not retaliate against any Driver or Owner for making a good faith complaint against any Agent.
- (2) Retaliation will be broadly construed, and will include imposing any adverse condition or consequence on the Driver or Owner or withholding or withdrawing any beneficial condition or consequence from the Driver or Owner.

<u>§63-08(j)</u>	<u>Fine: \$1,000 plus restitution to the driver or owner for losses for the first violation and a fine of \$10,000 plus restitution to the driver or owner for the second violation and subsequent violations within five years.</u>	<u>Appearance NOT Required</u>
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Section 18. Section 63-09 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (c), to read as follows:

- (c) An Agent must not dispatch a Taxicab or other vehicle unless the registration of such Taxicab or other vehicle is Valid.

<u>§63-09(c)</u>	<u>Fine: \$100-\$350 and/or suspension up to 30 days.</u>	<u>Appearance Required</u>
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Section 19. Subdivisions (c) and (d) of section 63-11 of Title 35 of the Rules of the City of New York, relating to the duties of agents with regard to drivers and owner-must-drive compliance, are REPEALED, and a new subdivisions (c) and (d) are added, to read as follows:

- (c) *No Unlicensed Drivers.*
- (1) An Agent may not permit a Taxicab to be operated for hire unless the

driver has in his or her possession a Valid TLC Driver License.

<u>§63-11(c)(1)</u>	<u>Fine: \$400 and/or suspension up to 30 days.</u>	<u>Appearance Required</u>
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(2) Exceptions. An Agent can permit a person who does not possess a TLC Driver License to drive the vehicle only when all of the following limited circumstances are met:

- (i) The vehicle is being driven to or from the Commission’s centralized Taxicab inspection facility or a repair facility;
- (ii) The driver has entered the appropriate off duty code in the Technology System;
- (iii) A current Trip Record (written or electronically printed out) is in the Taxicab, indicating the vehicle is “Off-Duty” and why;
- (iv) The rear doors are locked;
- (v) The person driving the vehicle is licensed to drive a motor vehicle.

<u>§63-11(c)(2)</u>	<u>Fine: \$400 and/or suspension up to 30 days.</u>	<u>Appearance Required</u>
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(3) The Commission will post on its website a list of Drivers holding Valid TLC Driver Licenses.

(d) Hours of Operation. Maximum Driving Hours. An Agent may not require a Driver to operate one or more Taxicabs for more than 12 consecutive hours.

<u>§63-11(d)</u>	<u>Fine: \$50</u>	<u>Appearance NOT Required</u>
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Section 20. The penalty provision of subdivisions (g) of section 63-11 of Title 35 of the Rules of the City of New York is amended, to read as follows:

<u>§63-11(g)</u>	<u>Fine: \$1,000-\$10,000 and Suspension until compliance or Revocation; Restitution to the Owner may be ordered.</u>	<u>Appearance NOT Required</u>
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Section 21. Subdivision (a) of Section 63-12 of Title 35 of the Rules of the City of New York is amended, to read as follows:

(a) [Partition] Vehicle Safety Equipment. An Agent must not dispatch a Taxicab unless it is [equipped with a partition that isolates the Driver from the rear seat passengers in accordance with the specifications in §67-10 of the Hackup Chapter

unless the Taxicab is exempt from the partition requirements under the general] in compliance with the provisions of §58-35[(b)] of the Taxicab Owners Chapter.

Section 22. Section 63-14 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (f), to read as follows:

(f) No Driver Lease Payments through TPEP. An Agent may not require a driver to make a lease payment pursuant to section 58-21 of these Rules utilizing the TPEP system.

§63-14(f)	Fine: First violation \$500 Second and subsequent violations: \$1000 and/or suspension of the Agent for up to thirty days.	Appearance NOT Required
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Section 23. Chapter 63 of Title 35 of the Rules of the City of New York is amended by adding a new section 63-16, to read as follows:

§63-16 Leasing of Medallions from Medallion Owners

(a) Lease must be in writing.

(1) All lease agreements between Agents and Medallion owners, including any amendments to such leases, must be in writing and signed by the Agent and Medallion or Taxicab owner. Electronic signatures are permissible for electronic leases.

(2) A copy of the fully executed lease must be provided to the Medallion or Taxicab owner upon lease execution and upon the owner’s request.

§63-16(a)	Fine: \$500 per missing lease	Appearance NOT Required
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(b) Terms. Each lease between an Agent and a Medallion owner must provide:

(1) The amount and frequency of lease payments.

(2) All costs and fees that may or will be charged to the Medallion Owner by the Agent.

(i) For each cost and fee that will be charged, the lease must provide in clear and unambiguous language an explanation of the cost or fee.

(ii) For each cost and fee that may be charged, the lease must provide in clear and unambiguous language an explanation of the conditions that will result in the imposition of such cost or fee.

- (iii) If a cancellation fee is included in the lease, the cancellation fee must be reasonable and the lease must specify the minimum prior notice that must be provided by the owner to avoid the cancellation fee.
- (3) All leases must include the following provisions:
- (i) The Agent is responsible for paying to New York City and New York State agencies all taxes and surcharges collected on behalf of a Medallion Owner during the periods that such Medallion is leased by the Agent. Failure to pay any taxes or surcharges collected by the Agent should be reported by the Medallion Owner to TLC.
 - (ii) TLC rules prohibit Agents from retaliating against owners for complaints filed with the TLC. Any retaliation should be reported to the TLC.
 - (iii) TLC rules prohibit Agents from charging any fees to owners unless specifically provided in the written lease between the Agent and the Medallion Owner. Any charges not specified in such lease should be reported to the TLC.
- (4) If the lease allows the Agent to change the lease payment amount, the agreement must include the following:
- (i) The Agent must provide the owner with no less than 30 days' notice before changing the lease payment amount.
 - (ii) Such notice must be sent by certified US Mail to the owner.
 - (iii) The Owner has the ability to terminate the lease agreement at any time during the 30-day notice period without any fee or penalty.
- (c) Timely Payment. Agents must make all lease payments as required by the lease agreement.
- (d) No Overcharges. Agents may not charge or request any additional payment or any fee in excess of any amount set forth in the lease agreement.
- (e) No interest in Medallion. A lease agreement may not grant the Agent any rights in or to a Medallion other than the dispatch and operation of the Taxicab to which the Medallion is affixed for the period specified. A lease agreement may not grant an Agent a right or option to purchase.

§63-16(b-e)	Fine: First violation \$500 Second and	Appearance NOT Required
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	subsequent violations: \$1000 and/or suspension of the Agent for up to thirty days. In addition to the penalty payable to the Commission, restitution to the owner, equal to the excess or unauthorized charge that was charged to the driver.	
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(f) Owner Receipts. Agents must provide owners with receipts for all payments, deductions and charges, with applicable lease provision cited for any deduction or charge.

§63-16(f)	Fine: \$200	Appearance Required
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(g) Annual Accounting. Agents must provide to owners an annual accounting of all taxes, fees, insurance and other costs paid or remitted on behalf of the Medallion owner.

§63-16(g)	Fine: \$500	Appearance NOT Required
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(h) Maintenance of Records. An Agent must maintain for a period of three years from the date a lease agreement with a Medallion owner expires or is cancelled:

- (1) A copy of the executed lease and any lease amendments;
- (2) Records of all itemized lease payments paid to owners;
- (3) Records of all itemized payments received from owners; and
- (4) Copies of all annual accountings prepared by the Agent for the owner.

§63-16(h)	Fine: \$100 for each missing item	Appearance Required
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Section 24. Subdivision (i) of Section 58-21 of Title 35 of the Rules of the City of New York is amended by adding a new paragraph (7), to read as follows:

(7) No Driver Lease Payments through TPEP. An owner may not require a driver to make a lease payment pursuant to this section utilizing the TPEP system.

**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: Amendment of Rules for Taxicab Brokers

REFERENCE NUMBER: 2019 RG 077

RULEMAKING AGENCY: Taxi and Limousine Commission

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 L. GOULDEN
Acting Corporation Counsel

Date: September 13, 2019

**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: Amendment of Rules for Taxicab Brokers

REFERENCE NUMBER: TLC-112

RULEMAKING AGENCY: Taxi and Limousine Commission

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 a cure period is not practicable under the circumstances.

/s/ Francisco X. Navarro
Mayor's Office of Operations

September 13, 2019
Date