



# Municipal Financial Empowerment:

## A **Supervitamin** for Public Programs

Strategy #4: Targeting Consumer Financial Protection Powers



Michael R. Bloomberg  
Mayor

**Department of Consumer Affairs**  
Office of Financial Empowerment

Jonathan Mintz  
Commissioner



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# Acknowledgments

Over 40 years ago, then-Mayor of the City of New York John V. Lindsay urged the New York City Council to create the Department of Consumer Affairs (DCA).

*“This bill represents a milestone in consumer protection at the municipal level. It would permit consumer law enforcement that is truly meaningful, for it would allow the city to stop some of the abuses practiced by the handful of dishonest merchants who prey upon the unwary and the misinformed.*

*It would also provide the only form of redress that restores the consumer’s losses and denies the offenders the profits of illegal dealings.”*

—Joint announcement of Mayor Lindsay and Bess Myerson Grant, then-Consumer Affairs Commissioner, about proposed legislation as reported in *The New York Times*, April 23, 1969

On April 29, 1969, the official date of DCA’s creation, the Council passed the landmark Consumer Protection Law that gave the Department its broad authority to protect the public from deceptive business practices, making it the first municipal agency of its kind in the country. This commitment, combined with these local consumer protection powers, have given rise to a Department whose decades of work reflect the single strongest such entity in the country, one that has become a model for other such departments at local, state, and national levels worldwide.

On December 18, 2006, Mayor Michael R. Bloomberg announced the creation within the Department of the Office of Financial Empowerment (OFE)—the very first program to be implemented under the Center for Economic Opportunity and part of the Administration’s innovative efforts to fight poverty in New York City. With a specific mission to educate, empower, and protect individuals and families with low incomes, OFE expanded DCA’s role beyond securing benefits or tackling abuses to improving people’s economic circumstances, particularly in the financial services marketplace.

The Department gratefully acknowledges the City leadership and City employees who have dedicated themselves to empowering consumers and businesses to ensure a fair and vibrant marketplace for more than 40 years.

Finally, there were many talented staff members who contributed to this report. Special thanks to Peter Bruland, Amelia Er Witt, Fran Freedman, David Friedman, Deborah Garner, Debra Halpin, Erich Lazar, Kay Sarlin, Max Selver, Marla Tepper, and Laurel Welton.

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# Introduction

Consumer protections safeguard all consumers from predatory practices and enable honest businesses to thrive by ensuring a fair and vibrant marketplace. More than just a regulatory tool, consumer protections—for example, protections against abuse by debt collectors, deceptive advertising by used car dealers, or improper service by process servers—are the backbone of an effective financial empowerment strategy for individuals and families with low incomes.

This report, the fourth in the series “Municipal Financial Empowerment: A Supersupplement for Public Programs,” details how New York City has targeted consumer financial protection powers to enhance the effectiveness of public programs in two key ways:

1. Ensuring that financially destructive predatory practices do not reverse the valuable gains that clients in public programs make toward exiting poverty.
2. Reducing the public resources required to redress the destructive impact of predatory financial practices.

To protect the most vulnerable consumers in the financial marketplace, New York City’s Department of Consumer Affairs uses a three-pronged approach:

- I. Municipal Consumer Protection Regulations
- II. Outreach and Education to Businesses and Consumers
- III. Consumer Advocacy

## New York City Department of Consumer Affairs

Hailed by the federal Consumer Financial Protection Bureau (CFPB) as the gold standard for local consumer financial protection<sup>1</sup>, New York City’s Department of Consumer Affairs (DCA) uses several tools to achieve our mission of empowering consumers and businesses to ensure a fair and vibrant marketplace. DCA:

- **Licenses and regulates problematic industries.** DCA licenses more than 81,000 businesses in 55 industries, including debt collectors, process servers, used car dealers, and home improvement contractors, giving the Department the ability to set and enforce standards for fair business practices and help businesses establish their own legitimacy.

In addition, DCA enforces many other important local laws, including the City’s Consumer Protection Law, which outlaws deceptive consumer sales and advertising practices across the retail sector. DCA is also the designated local consumer protection enforcement agency for key state laws, such as weights and measures accuracy regulations governing the retail gasoline and home heating oil delivery industries.

- **Mediates individual consumer complaints against businesses.** The City fields thousands of consumer complaints each year. When a complaint falls within DCA’s jurisdiction, DCA mediates between the consumer and the business. In some cases, if the issue cannot be resolved satisfactorily, DCA refers the case to the Department’s Adjudication Tribunal. Additionally, when consumer complaints reveal a pattern of abusive business practices, DCA’s Legal Division pursues affirmative litigation against offending businesses, sometimes even seeking the revocation of a license.
- **Enforces generally applicable regulations barring deceptive advertising and sales practices.** DCA inspectors, investigators, and attorneys work Citywide to enforce local and many state consumer protection laws. In addition to tens of thousands of street-level inspections every year, the Department takes legal action to halt deceptive practices such as falsely advertising Refund Anticipation Loans (RALs). Legal enforcement can also include padlocking business locations or suspending or revoking City licenses.

- **Conducts outreach campaigns to educate consumers and businesses about their legal rights and responsibilities.** DCA uses marketing campaigns, publications, website and social media tools, speaking engagements, and business seminars to educate both consumers and businesses about their legal rights and responsibilities. Press coverage of DCA enforcement actions is an additional powerful tool for helping consumers to avoid predatory business practices and businesses to comply with the law.
- **Advocates for local, state, and federal consumer protections.** DCA recommends legislation, issues formal rules, holds public hearings, and weighs in on policies and regulations at every level of government to make business practices that deceive or defraud consumers illegal. Local consumer protection experience has contributed greatly to the strength of DCA's voice to policymakers across the country.
- **Negotiates safe banking products and coordinates access to free and low-cost financial counseling and education.** DCA has partnered with financial institutions to improve the supply of affordable banking products with no or low fees to help consumers increase their financial stability. DCA also coordinates the City's Financial Empowerment Centers, which offer free one-on-one professional financial counseling, and the Financial Education Network (FEN), a consortium of government, nonprofit, and financial sector partners.

## The Supervitamin Effect in Brief

Public antipoverty programs currently face a uniquely difficult challenge. Dwindling government resources and increasing demand for services are forcing municipalities to do more with less. City governments across the country are starting to address this challenge with an innovative approach: integrating financial empowerment programming into core social services.

Financial instability is an undercurrent among city residents presenting with social service needs across the country. By integrating financial empowerment and asset building strategies into public programs, cities have found a way to boost clients' financial stability which, in turn, strengthens the effectiveness and impact of the primary services they receive: the "supervitamin" effect.

The supervitamin approach has its roots in the growing field of municipal financial empowerment. In 2006, New York City Mayor Michael R. Bloomberg launched the first municipal Office of Financial Empowerment (OFE) within DCA. OFE's financial empowerment strategy focuses on four pillars of work:

1. Professional financial education and counseling
2. Asset building
3. Safe and affordable banking access
4. Targeted consumer protections to safeguard assets

The first three reports in the supervitamin series detail, respectively, New York City's efforts to integrate professional financial counseling into key social services; professionalize the field of financial counseling to ensure quality and consistency in service delivery; and increase access to mainstream banking accounts by incorporating them into public programs.

Municipal financial empowerment efforts reach well beyond New York City.

Co-founded by Mayor Bloomberg and then-Mayor Gavin Newsom and co-chaired by New York City and San Francisco, the Cities for Financial Empowerment (CFE) Coalition now comprises 12 municipalities serving approximately 19 million people. CFE Coalition cities collaborate to make financial empowerment a core part of their antipoverty strategies.

The CFE Fund, which launched in 2012, is strengthening the field of municipal financial empowerment further through grant making and technical assistance. For example, the CFE Fund supports five cities with over \$16 million to replicate New York City's Financial Empowerment Center model and integrate financial counseling into core social services.

# I. Municipal Consumer Protection Regulations

DCA uses our licensing and enforcement tools to regulate industries that can negatively impact consumers' financial stability. For example, for clients of workforce development and housing programs, gains like a new job or paying rent or a mortgage on time can be derailed quickly by financial distress. This section highlights several industries where DCA has made significant inroads in safeguarding consumers' finances.

## Debt Collectors

Debt collectors can cause considerable damage to consumers' finances, in particular when illegal collection leads to frozen bank accounts, garnished wages, and ruined credit scores.

All debt collection agencies that seek to collect personal or household debts from New York City residents must have a DCA license no matter where the agency is located. DCA currently licenses 1,338 debt collection agencies from all 50 states and nine foreign countries.<sup>2</sup>

New York City's debt collection regulations provide the strongest consumer protections in the country, banning debt collectors from engaging in harassment and deceptive practices, and also ensuring that consumers receive accurate and complete information about debts they owe so they do not fall victim to predatory practices. NYC-licensed debt collectors:

- Must provide specific information about each consumer debt they attempt to collect.

The information provided to consumers must include:

- o Name of the original creditor
- o Amount of the debt
- o Information about the right to dispute the debt

When consumers ask for proof that they owe the debt, the collection agency must provide verification which must include:

- o A document from the original creditor that shows the consumer made the purchase and owes the debt.
- o A copy of the final account statement from the original creditor and a document that lists the total principal amount and each additional charge or fee, including the total, date incurred, and description for each charge or fee.

- Cannot collect on usurious payday loans that trap consumers in cycles of high-cost debt.
- Must disclose if the statute of limitations on the debt has expired, along with information about legal rights.
- Must confirm in writing any payment schedule reached.
- Must give consumers a call-back number to a phone that is answered by a live person and the name of that person.

DCA leverages our licensing and enforcement powers to secure restitution for consumers when debt collectors use illegal harassing tactics or attempt to collect on debts that are not owed or were already paid. Since 2008, DCA has erased over \$6 million in wrongful debt collection. DCA also revokes the licenses of collectors that engage in sustained patterns of illegal collection practices.

In addition, DCA has extended our regulatory reach to a burgeoning offshoot industry with even more aggressive players: "debt buyers." These businesses buy old debt and then try to collect money, sometimes by taking consumers to court.



Particularly when a collector is pursuing debts no longer or never owed, but also when harassing consumers for debt they do owe, illegal debt collection practices can seriously undermine consumers' efforts to stabilize and improve their finances. Illegal collection efforts that damage consumers' banking relationships, credit scores, and employment can create long-lasting impediments to financial stability, preventing individuals and families from escaping poverty.

## Process Servers

In the case where a business sues an individual, litigation begins with the filing of a complaint in court and the delivery of court documents (known as "process") by process servers to the individual against whom the complaint is brought. When process is not served, consumers do not know they need to defend themselves.

Debt collectors commonly sue consumers who they claim owe a debt. In cases where process is not served, consumers find out about legal action against them only after a judge issues a default judgment. To collect on the judgment, the collector may freeze a consumer's bank accounts or seize account funds, actions that can have a long-range devastating impact on credit scores. These judgments and frozen bank accounts are particularly troubling in the context of the high incidence of errors in the underlying debt collection.<sup>3</sup>

DCA licenses both process serving agencies and individuals who serve process. Under the City's licensing law, agencies and individuals must meet basic standards of accountability and integrity. For example, individuals who want to serve process must submit to a criminal background check.

In response to concerns about improper service of process, including servers who lied about actually delivering court documents to individuals (so-called "sewer service"), New York City became the first jurisdiction in the country to require process servers to carry a Global Positioning System (GPS) device that records the date, time, and location where any process was served or attempted to be served. Additional legal requirements for which DCA successfully fought include:

- Individuals who serve process must pass a written examination regarding proper legal service of process.
- Process serving agencies must:
  - Prepare a monthly compliance report of their review of the completeness and accuracy of the records maintained by each individual process server, fostering accountability for employees' work.
  - Keep electronic records of process served or attempted for at least seven years.
- Both agencies and individuals must:
  - Notify DCA of all court hearings in which proper service is contested ("traverse hearings").

Aimed at ending the improper service that can lead to deeply damaging default judgments, DCA's efforts ensure that consumers have a chance to defend themselves in court against wrongful collection attempts, thus protecting their hard-earned assets from being improperly garnished or frozen.

## Spotlight: Process Server Statistics

- There are currently 1,060 individual process servers and 135 process serving agencies operating in New York City.<sup>4</sup>
- About one in 10 people who took the process server exam during the February 2012 renewal period failed the test. Individuals were given two attempts to pass the exam. If they failed the exam two times, they had to reapply for the license if they wanted to pursue serving process in New York City.
- Since 2008, DCA submitted 1,054 charges against individual process servers who failed to comply with the law.
- In 2012, DCA fined process serving agencies and individual process servers nearly \$150,000 for failing to comply with the law.

## Used Car Dealers

A car is not only one of the single most expensive purchases people with low and moderate incomes make over several years, but often also a critical work support, needed to commute to a new job or to run a small business. Predatory used car dealers who lure consumers into larger-than-anticipated purchases through illegal tactics such as “bait-and-switch” advertising, contract irregularity, and overly costly financing drain consumers’ hard-earned assets and saddle them with high debt, limiting their ability to get ahead.

DCA licenses 659 used car dealers who must comply with a long list of industry-specific regulations, as well as general consumer protection laws such as those requiring truth in advertising.<sup>5</sup> DCA has targeted enforcement and investigations to end deceptive practices by used car dealers, often through industrywide sweeps.

### Spotlight: Used Car Dealer Enforcement

- Since 2009, DCA has secured nearly \$6 million in restitution for consumers who were deceived by used car dealers.
- DCA has issued 1,076 violations to used car dealers since 2008. The most common charge is for engaging in deceptive business practices, among them the “bait and switch” tactic of falsely advertising low-price cars that in fact had been sold already, then pressuring consumers to buy a different, costlier car once at the dealership.

## Tax Preparers

The Earned Income Tax Credit (EITC), available to tax filers with low incomes, is the country’s single largest antipoverty program.<sup>6</sup> Since 2002, New Yorkers have claimed almost \$20 billion in refunds through the EITC alone. These refunds, often the single largest check an individual or family with low incomes will receive all year, are put to important uses like rent or mortgage payments, transportation and childcare, and building short-term and long-term savings. Applied toward these goals, tax refunds can boost outcomes in core social services like housing assistance, workforce development, and savings programs.

Professional income tax preparers play a key role in securing these benefits.<sup>7</sup> DCA has used consumer protection powers to ensure that preparers transparently disclose their qualifications and the costs of preparation and do not deceptively siphon anticipated refunds with deceptive advertising and sales practices.

For many years up until the product’s virtual demise, cracking down on deceptive advertising of Refund Anticipation Loans (RALs) was an enforcement priority for DCA. RALs, which are high-interest loans based on a filer’s estimated tax refund, were often deceptively marketed by tax preparers as “instant refunds” or “rapid refunds.” RALs impose a high price on filers who, in reality, can get their refund in its entirety quickly and for free from the Internal Revenue Service (IRS). Filers taking out a RAL are obligated to pay back the full amount of the loan, plus interest, even if their refund is less than expected. RALs unnecessarily take money from tax filers’ refunds that they could be using to bolster their overall financial stability.

Prior to federal regulatory action that now has largely curbed RALs’ prevalence in the marketplace, DCA addressed the issue locally through a combination of disclosure and advertising regulations that allowed the Department to get ahead of the curve and limit RALs’ negative impact on financial stability in a variety of ways:

- Requiring that advertisements of RALs conspicuously state that a RAL is a loan and include the lender’s name.
- Prohibiting tax preparers from using come-ons like “fast cash” that disguise the fact that a RAL is a loan.

- Requiring tax preparers to have all customers read and sign a disclosure form that explains both the meaning of a RAL and the terms of the loan, including the interest expressed as an Annual Percentage Rate (APR).

DCA's rules also require tax preparers to distribute to customers key information developed by the Department that helps tax filers make informed decisions about the services they are procuring. The Department translates information in several languages. For example, tax preparers must:

- Post exactly how tax preparation fees are calculated, and fees may not be based upon the amount of the refund.
- Give customers a statement of all charges and copies of all tax forms filed.
- Notify customers whether or not they will represent them at an audit, and also provide year-round contact information.

## Spotlight: Tax Preparer Enforcement Sweeps

DCA conducts annual enforcement sweeps to ensure that tax preparers comply with the law, targeting tax preparers who received violations in previous years and those in neighborhoods with large immigrant populations and high RAL usage. During the 2013 Citywide enforcement sweep, DCA conducted 636 inspections; 197 of these inspections resulted in a violation. Inspectors wrote nearly 600 charges for illegally promoting RALs, violating consumer disclosure requirements, and misrepresenting tax preparer qualifications.

## Home Improvement Contractors

Home improvement contractors perform a wide variety of construction, repair, and remodeling tasks on residential buildings. Just like buying a car, home repairs and improvements often represent the largest expense those with low and middle incomes will make.

Under New York City law, home improvement contractors working for individual homeowners must be licensed by DCA. To qualify for a DCA license, an applicant must pass a criminal background check and either hold a bond or pay into the Home Improvement Contractor Trust Fund. DCA can use the Trust Fund to reimburse aggrieved homeowners up to \$20,000. Currently, DCA licenses 11,117 home improvement contractors.<sup>8</sup>

In 2012, complaints against home improvement contractors were DCA's second highest complaint category; in previous years complaints against home improvement contractors were often the top complaint category. Since 2008, DCA has secured more than \$27 million in restitution for consumers who were defrauded by home improvement contractors who, among other abuses, took upfront payments and then neglected to complete the work.

## Spotlight: Protecting Homeowners after Hurricane Sandy

Hurricane Sandy devastated many areas of New York City and damaged thousands of homes. Home repairs were a top priority for residents trying to get back on their feet, and home improvement contractors were on the front lines repairing homes in the most severely damaged neighborhoods soon after the storm. Knowing that the combination of desperation, overwhelming need, and federal assistance dollars would create an opportunity for predatory practices, DCA quickly engaged in a two-pronged strategy involving public awareness and licensing.

### **Public Awareness Campaign**

- Media outreach to arm consumers with needed information to protect themselves from unlicensed, deceptive home improvement contractors.
- Targeted mailing to residents in affected ZIP codes. Postcards included tips for safely working with licensed home improvement contractors, including warning against paying the full price for repairs upfront in cash.
- Distribution of informational flyers for homeowners in partnership with state and federal agencies, business partners, and groups of licensed home improvement contractors.

### **Licensing**

- DCA expedited the licensing process for new home improvement contractors so they could contribute to the storm recovery while making sure they complied with New York City law.
- DCA worked with home improvement retail businesses to distribute outreach information about getting a Home Improvement Contractor license to promote the recovery process.

DCA's public awareness campaign and licensing efforts limited abuses by home improvement contractors in the storm's aftermath. To handle deceptive practices that did occur, DCA made sure that forms to file complaints against home improvement contractors were available at the NYC Restoration Centers established by Mayor Bloomberg in devastated areas. DCA also accepted complaints through regular channels, including online and 311, the City's 24-hour customer service hotline.

## II: Outreach and Education to Businesses and Consumers

Enacting and enforcing consumer protections are vital to safeguard consumers from fraudulent practices, but all too often these protections come into play *after* consumers have suffered setbacks. Equipping both businesses and consumers with the knowledge and tools they need to make smart decisions *in the first place* is also vitally important to protect consumer assets.

As part of our outreach strategy, DCA has conducted several Citywide public awareness education campaigns targeted at asset protection, using both traditional and earned media—including enforcement announcements—to disseminate information.

Launched in 2010, “Protect Your Money” is a multi-phased, multi-faceted Citywide public awareness education campaign to help New Yorkers take advantage of City services to empower themselves to manage and protect their money. Avoiding predatory services and scams is a central component. Two examples—predatory schools and predatory debt settlement services—follow. The campaign has featured advertisements in subway cars and stations, on buses, on bus shelters and telephone kiosks, online and in newspapers, and testimonial videos.<sup>9</sup>

In 2012, DCA launched “Good for Customers. Great for Business.” This campaign alerted businesses about tools to make it as easy as possible for them to follow the law and do right by their customers. Tools include inspection checklists, the City’s first online Live Chat for businesses, and publications, including *10 Things Every Business Should Know*.

DCA’s targeted community outreach and education initiatives include:

- Participation in community events to address hot-button consumer issues and industry events to help businesses understand City laws and licensing regulations.
- Regularly scheduled meetings with business and trade associations, Chambers of Commerce, Business Improvement Districts (BIDs), Community Boards.
- Distribution of business publications and consumer publications, among them *Debt Collection Guide*, *Home Improvement Consumer Guide*, *Used Car Sales Consumer Guide*.
- Trainings for businesses on City rules and regulations at industry-specific Open Houses.
- Trainings both for Financial Empowerment Center counselors using curriculum that covers relevant consumer protection laws, debt collection, debt settlement, and bankruptcy, and for Financial Education Network (FEN) partners at FEN Forums about issues that impact consumers’ financial stability.

Whether through public awareness education campaigns, press announcements, or community events, public outreach elicits consumer complaints about unscrupulous businesses, which helps DCA focus enforcement and mediation efforts.

### Predatory Schools

There is more than \$1 trillion in outstanding student debt in the United States.<sup>10</sup> Unaccredited schools and General Educational Development (GED), certificate, and associate degree programs that lure potential students by making false promises of guaranteed job placement and six-figure incomes contribute substantially to this crisis. In addition, predatory schools fail to disclose to students whether or not credits will transfer to other schools and that “financial aid” is actually a loan, often totaling tens of thousands of dollars that students must pay back with interest. Consumers with low incomes are hit particularly hard by schools that prey upon their circumstances, leaving them with a worthless degree and a high debt burden for years to come.

In 2011, DCA partnered with the Mayor's Office of Adult Education to launch *Know Before You Enroll*, part of the Department's Protect Your Money campaign. Campaign ads highlighted abuses at proprietary schools and for-profit colleges and alerted New Yorkers to free and low-cost alternatives, among them education and training opportunities and financial education. The campaign featured *Know Before You Enroll* tips, which included advising students to attend a licensed school only; cautioning that, even if a school is licensed, students should thoroughly research the program; and informing students that they have the right to file a complaint when they are deceived.

The campaign generated dozens of media interviews, elicited hundreds of consumer complaints, and sparked multiple conversations with the industry. A coalition of groups, including IAVA (Iraq and Afghanistan Veterans of America) and SVA (Student Veterans of America), is nationally replicating the campaign.

## Spotlight: One New Yorker's Student Debt Story

Garvin is a 26-year-old Brooklyn resident who completed a two-year associate's degree program at a school that was advertised on television. When he attempted to transfer his credits to the City University of New York (CUNY) to get his bachelor's degree, he discovered that his credits were not transferable. Not only did Garvin owe \$25,000 in student loans for the associate's degree, but he had to start college over and enter CUNY as a freshman.

Garvin was able to reduce some of his debt through free financial counseling at one of New York City's Financial Empowerment Centers and is currently working toward his bachelor's degree.

Although Garvin was able to get help managing his debt, student loan debt has long-lasting impacts on individuals' ability to pay for housing and find a job after completing school.

## Predatory Debt Settlement Services

In 2011, DCA spotlighted predatory "debt help" scams in a Protect Your Money campaign ad and also declared debt settlement the Department's top fraud at the Federal Trade Commission (FTC) annual Top Frauds press conference involving City, state, and federal protection and advocacy agencies.

Debt settlement companies target vulnerable consumers with aggressive advertising bearing false promises of debt relief. Often these companies tell consumers to stop making payments to creditors and instead pay into a special "settlement" or escrow account as the company negotiates lump-sum payments for less than consumers owe. Meanwhile, creditors keep charging consumers late fees and interest, so debt may double or triple. And consumers can still face legal actions by creditors trying to collect debts.

In most cases, debt settlement companies' irresponsible tactics worsen the problem, generally leading to increased debt, litigation and account seizures, and long-term damage to credit ratings. The FTC has found that less than 10 percent of consumers successfully settle their debts using debt settlement companies.<sup>11</sup>

DCA's outreach and education included distribution of an informational flyer about predatory debt settlement services, translated to Chinese and Spanish. The flyer included an alert about new consumer protections that went into effect on October 27, 2010, in particular:

- For-profit debt settlement companies that sell their services by phone cannot legally charge a fee before they settle or reduce a debt.
- Money that a debt settlement company asks consumers to set aside in an "escrow" or "settlement" account belongs to consumers. Consumers may cancel the account at any time, and the escrow company must refund all of the money minus any fees the settlement company legally earned.

Both the campaign ad and informational flyer urged consumers to avoid debt settlement companies and instead visit a free New York City Financial Empowerment Center. Since opening in 2008, Centers have helped New Yorkers collectively reduce more than \$12 million in debt.<sup>12</sup>

Consumers struggling with debt can afford neither the fees charged by predatory debt settlement companies nor the long-term damage to their credit. Poor credit reports and low credit scores present serious impediments to financial stability, employment, ability to secure housing, and other basic needs.

# III: Consumer Advocacy

Efforts to protect vulnerable consumers go beyond direct municipal powers. New York City has worked with state and federal partners to advocate for protections for consumers with low incomes to ensure that predatory practices do not derail their progress toward achieving positive outcomes in antipoverty programs. Two key DCA advocacy campaigns center around payday lending and exempt funds.

## Payday Lending

Payday loans are short-term, high-interest loans that advance people money based on their upcoming paycheck. Marketed as a tool for managing one-time financial crunches and largely used by people earning between \$15,000 and \$25,000 per year, payday loans have proven to be debt traps fraught with costly fees and triple-digit interest rates.<sup>13</sup> Rather than being used for one-time financial emergencies, payday loans instead are used to cover longer-term financial shortfalls over many months, with 69 percent of borrowers using them for recurring payments like utilities, car, food, rent, and mortgage. The average person using payday loans will take out 10 loans and spend nearly 200 days in debt over the course of one year.<sup>14</sup> In the long term, these loans create cycles of debt that erect major barriers to clients' ability to achieve success across the spectrum of antipoverty programs. For example, being trapped in high-cost payday loan debt can make it more difficult for a family trying to exit homeless shelters to be able to pay rent or can force public benefits recipients to use part of their checks to pay off debt.

While payday lending is effectively illegal in New York State under the state's 25 percent criminal usury cap, check cashers have been pressuring lawmakers for years to give them a special exemption to make minimally underwritten short-term loans.

DCA has used our strong voice and on-the-ground consumer experience to try to prevent the passage of legislation that would erode the usury cap by authorizing high-cost paydaylike loans. Representatives from DCA have met with legislators individually, testified before the State Assembly, written formal memoranda in opposition, and published editorials and other public statements calling attention to the dangers of legislation to authorize problematic loans with interest rates in excess of New York's longstanding usury cap. DCA eventually played an instrumental role in securing the public opposition of the Governor and key legislators to proposed legislation in 2013, effectively killing the bill.

Advocacy to oppose legalizing usurious short-term loans and to strengthen regulations against them is taking place in New York and in more than 20 states around the country.<sup>15</sup> By simultaneously offering vulnerable consumers high-cost and hard-to-escape debt, these loans represent one of the single greatest threats to financial stability of consumers with low incomes.

## Spotlight: Cracking Down on Internet Payday Loans

Payday lenders have taken to the Internet with deceptive advertising, promising cash that is "just one click away." Just as it is unlawful to make usurious loans in person, it is illegal to provide these loans to New York State residents through the Internet. DCA has used several tactics to crack down on Internet payday lenders, including:

- Leveraging DCA's debt collection licensing authority to take legal action against debt collectors attempting to collect on payday loans illegally made to New Yorkers over the Internet.
- Mailing warnings to over 1,000 debt collection companies that it is illegal to collect on payday loans made to New Yorkers over the Internet.
- Issuing warnings about Internet payday loans as part of consumer outreach and education efforts.

## Exempt Funds

Due to inadequate consumer protections safeguarding money legally exempt from seizure in individuals' banking accounts, debt collectors previously have had the ability to freeze all funds available in a person's accounts to collect on debt the person owes. DCA supported the New York State Exempt Income Protection Act, which more effectively and clearly protects the money in people's bank accounts necessary to meet their basic needs like food and shelter from being improperly frozen by debt collectors. The bill was signed into law in 2009. Under the law:

- A bank may never take or freeze the first \$1,740 in a person's bank or credit union account to pay a judgment, whether or not the account has exempt funds.
- A bank must leave at least \$2,500 in the account if a person receives direct deposit of exempt funds, which include Social Security benefits, Supplemental Security Income (SSI) benefits, veterans' benefits, Civil Service and federal retirement and disability benefits, military annuity and survivors' benefits, to name several.<sup>16</sup>

In 2010, DCA submitted formal comments to proposed federal regulations to deal with the issue of accounts containing statutorily exempt funds being improperly frozen due to garnishment orders. Federal rules went into effect in 2011 to ensure two months of exempt benefits payments remain fully available to recipients. These rules, which do not preempt stronger state laws, work in concert with the New York State protections.

Fear of account freezes and garnishment are significant barriers that drive many people out of the mainstream banking system or discourage them from opening accounts in the first place. However, those with mainstream bank accounts, compared to those without, tend to keep more of their earnings by avoiding high-cost alternative financial services, faring better against financial shocks, and saving more. Bank accounts create a structure to pay bills on time, maximize income, and develop smart spending habits. These important milestones to achieving long-term economic stability are solidified when consumers know that the money they put in a bank account to meet basic needs is protected by law from being improperly frozen by debt collectors.



# Conclusion

For clients in public programs who are working toward long-term economic stability, targeting consumer financial protection powers to safeguard them from predatory practices can ensure that they achieve core program outcomes like on-time rent and mortgage payments, employment, financial independence from an abusive partner, and more.

In short, consumer protections are an intrinsic component of financial empowerment strategies.

Recognizing this dynamic, the Consumer Financial Protection Bureau (CFPB) in 2013 launched a partnership with New York City and the Cities for Financial Empowerment (CFE) Fund to replicate embedding consumer protection and financial empowerment strategies like those implemented by DCA into local governments around the country. Through these efforts, DCA and municipalities nationwide can continue to respond to changing market conditions to ensure that honest businesses operate freely while safeguarding vulnerable consumers from deceptive and predatory practices to protect public investments in their financial stability.

# Endnotes

- 1 Mayor Bloomberg and Consumer Financial Protection Bureau (CFPB) Director Cordray Announce Partnership to Replicate Local Consumer Protection and Financial Empowerment Models Based on New York City's Department of Consumer Affairs. News from the Blue Room. 2 April 2013. [http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?pageID=mayor\\_press\\_release&catID=1194&doc\\_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2013a%2Fpr124-13.html&cc=unused1978&rc=1194&ndi=1](http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?pageID=mayor_press_release&catID=1194&doc_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2013a%2Fpr124-13.html&cc=unused1978&rc=1194&ndi=1)
- 2 Information is effective August 27, 2013 per DCA's Instant License Check: [http://www.nyc.gov/html/dca/html/licenses/license\\_check.shtml](http://www.nyc.gov/html/dca/html/licenses/license_check.shtml)
- 3 In Fiscal Year 2008, DCA mediated 811 debt collection complaints involving billing disputes, harassment, and misrepresentation that resulted in consumer refunds totaling \$2,090,451.24. Breakdown follows: 580 billing dispute complaints; 67 harassment complaints; 164 misrepresentation complaints.
- 4 Information is effective August 27, 2013 per DCA's Instant License Check: [http://www.nyc.gov/html/dca/html/licenses/license\\_check.shtml](http://www.nyc.gov/html/dca/html/licenses/license_check.shtml)
- 5 Information is effective August 27, 2013 per DCA's Instant License Check: [http://www.nyc.gov/html/dca/html/licenses/license\\_check.shtml](http://www.nyc.gov/html/dca/html/licenses/license_check.shtml)
- 6 EITC Calendar Year Report, December 2012. <http://www.eitc.irs.gov/central/abouteitc/>
- 7 Many cities, including New York, also promote free tax preparation services through Internal Revenue Service-certified Volunteer Income Tax Assistance (VITA) Centers. Over the last nine years, New York City's VITA network has prepared over 575,000 tax submissions claiming over \$435 million in EITC refunds alone. VITA sites do not offer Refund Anticipation Loans (RALs).
- 8 Information is effective August 27, 2013 per DCA's Instant License Check: [http://www.nyc.gov/html/dca/html/licenses/license\\_check.shtml](http://www.nyc.gov/html/dca/html/licenses/license_check.shtml)
- 9 DCA's Protect Your Money Video Series is available online on DCA's website and YouTube channel. See: [http://www.nyc.gov/html/ofe/html/policy\\_and\\_programs/protect\\_your\\_money.shtml](http://www.nyc.gov/html/ofe/html/policy_and_programs/protect_your_money.shtml) or <http://www.youtube.com/nycdca>
- 10 Consumer Financial Protection Bureau. <http://www.consumerfinance.gov/blog/our-proposed-rule-on-student-loan-servicers/>
- 11 Debt Settlement: Fraudulent, Abusive, and Deceptive Practices Pose Risk to Consumers. U.S. Government Accountability Office. 22 April 2010. <http://www.gao.gov/products/GAO-10-593T>
- 12 The first report in the Supervitamin Series highlights the Financial Empowerment Center initiative. "Municipal Financial Empowerment: A Supervitamin for Public Programs. Strategy #1: Integrating Professional Financial Counseling." New York City Department of Consumer Affairs. December 2011. <http://www.nyc.gov/html/dca/downloads/pdf/SupervitaminReport.pdf>
- 13 "Payday Lending in America: Who Borrows, Where They Borrow, and Why." The Pew Charitable Trusts. 18 July 2012. [http://www.pewtrusts.org/our\\_work\\_report\\_detail.aspx?id=85899406010](http://www.pewtrusts.org/our_work_report_detail.aspx?id=85899406010)
- 14 "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings." Consumer Financial Protection Bureau. 24 April 2013. [http://files.consumerfinance.gov/f/201304\\_cfpb\\_payday-dap-whitepaper.pdf](http://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf)
- 15 Payday Lending: 2013 Legislation. National Conference of State Legislators. 18 March 2013. <http://www.ncsl.org/issues-research/banking/payday-lending-2013-legislation.aspx>
- 16 The federal benefits that are exempt from garnishment include Social Security Benefits; Supplemental Security Income (SSI) Benefits; Veterans' Benefits; Civil Service and Federal Retirement and Disability Benefits; Military Annuities and Survivors' Benefits; Student Assistance; Railroad Retirement Benefits; Merchant Seamen Wages; Longshoremen's and Harbor Workers' Death and Disability Benefits; Foreign Service Retirement and Disability Benefits; Compensation for Injury, Death, or Detention of Employees of U.S. Contractors Outside the U.S.; Federal Emergency Management Agency Federal Disaster Assistance. Federal Trade Commission. Accessed August 13, 2013 at <http://www.consumer.ftc.gov/articles/0114-garnishing-federal-benefits>.

