

## NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

### Notice of Public Hearing and Opportunity to Comment on Proposed Rules

Notice is hereby given in accordance with section 1043(b) of the Charter of the City of New York ("Charter") that the Taxi and Limousine Commission ("TLC") proposes rules altering and clarifying the procedures by which taxicab medallions are transferred.

These rules are proposed pursuant to section 1043 of the Charter and section 19-512 of the Administrative Code of the City of New York. The proposed rules are included in the TLC's regulatory agenda for Fiscal Year 2007.

A public hearing on these proposed rules will be held by the TLC at its offices at 40 Rector Street, 5<sup>th</sup> Floor, New York, New York 10006 on December 13, 2007, at 9:30 a.m. Persons wishing to testify at the hearing may notify the TLC in advance, either in writing or by telephone to the TLC's Office of Legal Affairs at the address and telephone given below. Any request for a sign language interpreter or other form of reasonable accommodation for a disability at the hearing must be submitted to the Office of Legal Affairs in writing, by telephone, or by TTY/TDD no later than December 6, 2007.

Written comments in connection with these proposed rules should be submitted to the Office of Legal Affairs and must be received no later than November 28, 2007 to:

Charles R. Fraser  
*Deputy Commissioner for Legal Affairs/General Counsel*  
Taxi and Limousine Commission  
40 Rector Street, 5<sup>th</sup> Floor  
New York, New York 10006  
Telephone: 212-676-1117  
Fax: 212-676-1102  
TTY/TDD: 212-341-9596

Written comments and a summary of all comments received at the hearing will be available for public inspection at that office.

**Section 1.** It is hereby proposed to amend the provisions of title 35, section 1-01 of the Rules of the City of New York to add definitions of “Adequate Mail Notice to Claimant”, “Chairperson”, “Claim Letter”, “Escrow Amount”, “Excess Claim”, “Fair Market Value” “Market Value”, “Maximum Escrow Amount”, “Prior Claim Letter” “Tort Letter”, “Transferee” and “Valid Claim Letter” to read as follows:

New material is underscored.

**Adequate Mail Notice to Claimant.** “Adequate mail notice to claimant” shall mean for the purposes of section 1-81 of this chapter, notice by certified mail, return receipt requested, with a copy by regular mail and with a copy to the Commission, attention legal department, transfer division, to holders of claims that may be excess claims as follows, provided that proof of attempted mailing is provided to the Chairperson:

- (1) to a holder of a claim as may be disclosed by the lien, judgment and lawsuit searches required to be obtained in section 1-80.1(p) of this chapter, to the address for such claimant disclosed by such search and, if such notice is returned as non-deliverable, to any other address for such claimant or attorney of record of such claimant as disclosed by such search, with such notice to be deemed given if attempts to mail are made to all such addresses even if any such notice is returned as non-deliverable;
- (2) to a holder of a claim as may be disclosed by a prior claim letter or a valid claim letter, to the address for such claimant as disclosed by such letter and to the sender of the letter, or, if there is no such address disclosed for the claimant, to the address of the sender of such letter, or such address as the sender may provide, with such notice to be deemed given if an attempt is made to mail to such address even if any such notice is returned as non-deliverable; provided that, if the sender provides another address for the claimant (or recipients at any such subsequent address provide a further address for claimant), notice must be mailed to all such other, subsequently provided, addresses;
- (3) to a holder of a claim as may be disclosed by tort letters provided as required in section 1-80.1(q) of this chapter, to the address as may be disclosed in, by or through any such tort letter, or to any counsel of record as may be disclosed in, by or through such tort letter, or, if neither is indicated, by consultation with the insurers providing the tort letters as to either an address of a claimant or a counsel of record for such claimant as obtained therefrom, with such notice to be deemed given, even if any such notice is returned as non-deliverable after two mailings; provided that, if any recipient of such notice provides another address for the claimant (or recipients at any such subsequent addresses provide a further address for claimant), notice must be mailed to all such other, subsequently provided addresses; provided, further however, if no address for either a claimant or claimant’s counsel or representative can be obtained, public notice of the contents of the notice must be provided by running the notice in *The New York Times* and

The New York Law Journal as a public notice for one business day (that is, not a Saturday, Sunday, or public holiday).

**Chairperson.** The “Chairperson” shall mean the Chairperson of the Commission, or his or her designee.

**Claim Letter.** A “claim letter” is a letter asserting a possible excess claim against an owner of a taxicab medallion or against the taxicab medallion itself. Claim letters which are neither prior claim letters nor valid claim letters will not be considered for purposes of the escrow determination to be made in section 1-81 of this chapter.

**Escrow Amount.** The “escrow amount” is the amount for which an escrow account is required to be established in order to satisfy one or more excess claims. The escrow amount will be determined as set forth in section 1-81 of this chapter and shall not in any event exceed the maximum escrow amount.

**Excess Claim.** An “excess claim” is a tort claim asserted against the owner of a taxicab medallion for an amount in excess of the amount covered by an insurance policy in effect at the time the claim arose.

**Fair Market Value.** The “fair market value” in reference to the transfer of a taxicab medallion shall be the average value for arms-length transactions for similar medallions for the prior calendar month as maintained by the Commission.

**Market Value.** The “market value” in reference to the transfer of a taxicab medallion shall mean the consideration for the transfer unless the transfer is for less than fair market value, in which case the “market value” shall be the fair market value of the medallion being transferred.

**Maximum Escrow Amount.** The “maximum escrow amount” equals the greater of (a) the market value of a taxicab medallion being transferred less the value of any debt or liens secured by such medallion and the costs of transfer (including the costs of any foreclosure or similar action and any outstanding fines or fees owed to the Commission or the Parking Violations Bureau) or (b) the market value of a taxicab medallion being transferred less the value of any debt or liens secured by such medallion and the costs of transfer (including the costs of any foreclosure or similar action and any outstanding fines or fees owed to the Commission or the Parking Violations Bureau) PLUS the value of any proceeds of any refinancing received by the owner which was not used to reduce any previously existing debt or liens secured by such medallion following the date of an occurrence of an alleged tort involving the taxicab which tort gives rise to a potential excess claim, except that in a transfer resulting from a sale by a lender or judgment creditor, the maximum escrow amount in respect of proceeds of sale held by such lender or creditor shall not exceed (a).

**Prior Claim Letter.** A “prior claim letter” is a claim letter received by the Commission prior to November 1, 2007

**Tort Letter.** A “tort letter” is a statement from the insurer of a taxicab as to whether or not the insurer is aware of excess claims against the taxicab medallion or its owner.

**Transferee.** A “transferee” is an applicant approved by the Chairperson to own and operate a medallion taxicab which is acquiring an interest, either directly or indirectly, in a taxicab license pursuant to sections 1-80, 1-80.1 and 1-80.2 of this chapter. A secured lender foreclosing upon, repossessing, or otherwise realizing against its security interest in, a taxicab license is not a transferee provided that such lender places the medallion in storage as required by section 1-80.2(c) of this chapter.

**Valid Claim Letter.** A “valid claim letter” is a claim letter which is not a prior claim letter, and which must (a) be dated no more than one year prior to the date of submission to the Chairperson of the documentation seeking approval for a proposed transfer of a taxicab medallion as set forth in this chapter, (b) set forth a minimum claim amount in an amount sufficient to be an excess claim, (c) include a copy of the police report regarding the incident in question, and (d) include a representation by the sender that the party against which the excess claim has been asserted has been provided with a copy of the claim letter.

**Section 2.** It is hereby proposed that the definition of “Owner” contained in title 35, section 1-01 of the Rules of the City of New York be amended to read as follows:

[Material inside brackets indicates deleted material].

New material is underscored.

**Owner.** (a) An “owner” is an individual, partnership, limited liability company or corporation licensed by the Commission to own and operate a medallion taxicab or taxicabs. A trust, foundation, or non-profit or not-for-profit entity may not be an owner and may not own any interest in an owner except as specifically provided in this chapter.

(b) Whenever within this chapter reference is made to the partners, general partners, shareholders and/or officers of an owner, such reference shall also include the members and managing members of any owner which is a limited liability company.

**Section 3.** It is hereby proposed that title 35, section 1-02(d) of the Rules of the City of New York be amended to read as follows:

New material is underscored.

(d) An individual, the members of a partnership, and officers and shareholders of a corporation applying for an owner’s license shall be fingerprinted. Fingerprinting shall also be required of new officers and shareholders of a corporation holding a taxicab license, and of the officers and shareholders of a management company which operates a taxicab fleet. An individual, the members of a partnership and officers and shareholders

of a corporation, who provide funds for any owner, shall also be fingerprinted, unless such provider is a licensed bank or loan company. The requirements of this paragraph may be waived by the Commission in its discretion. All such fingerprints must be submitted in the manner prescribed by the Chairperson prior to the approval of the application for ownership of any interest in any medallion and each person fingerprinted must pay any required fees or costs for the taking and processing of fingerprints and securing criminal history records from the New York State Division of Criminal Justice Services, provided that, if any person required to be fingerprinted hereby has an electronic fingerprint record made no earlier than one year prior to the date of the proposed transfer on file with the Commission, such person need not submit an additional set of fingerprints.

**Section 4.** It is hereby proposed that title 35, section 1-02 of the Rules of the City of New York be amended to add a new subdivision (m) thereto to read as follows:

New material is underscored.

(m) Each individual applicant and renewal applicant shall submit with his or her application the child support certification required by New York General Obligation Law section 3-503.

**Section 5.** It is hereby proposed that title 35, section 1-03(d)(3) of the Rules of the City of New York be amended to read as follows:

[Material inside brackets indicates deleted material].

New material is underscored.

(3) A medallion owner, [or] stockholder or owner of any type of interest in a taxicab license must be at least eighteen (18) years of age. Stock or membership interests in a limited liability company may be owned in the form of a formal trust for the benefit of a minor who retains equitable interest, only as provided by section 1-82(d) of this chapter. [If an existing owner is judicially declared incompetent, his conservator or committee must satisfy all the requisites for ownership in order to operate the medallions.]

**Section 6.** It is hereby proposed that title 35, section 1-03(d)(4) of the Rules of the City of New York be amended to read as follows:

[Material inside brackets indicates deleted material].

New material is underscored.

(4) If an owner dies or is declared incompetent by a court of competent jurisdiction, the interest in the medallion or the medallion owning [corporation] entity must be transferred to [an approved owner within a fixed time period in order for the medallion to be operated] an owner approved as required by this chapter and meeting the requirements of sections 1-02, 1-03, 1-80, 1-80.1, 1-80.2 and 1-81 of this chapter or must be operated by

an administrator, executor, conservator or guardian as provided in section 1-82 of this chapter.

**Section 7.** It is hereby proposed that sections 1-80, 1-81 and 1-82 of chapter 1 of title 35 of the Rules of the City of New York relating to medallion transfers be repealed.

**Section 8.** It is hereby proposed that chapter 1 of title 35 of the Rules of the City of New York be amended by the addition thereto of new sections 1-80, 1-80.1, 1-80.2, 1-81 and 1-82 as follows:

New material is underscored.

#### §1-80 General Provisions Concerning Medallion Transfers

(a) Transfer of a taxicab license may be accomplished by purchase, gift, bequest, operation of law, acquisition of the stock or assets of a corporation, or acquisition of membership interests in or assets of a limited liability company and only with the written approval of the Chairperson as to the transferee. Any transfer of any interest in a taxicab license, whether in whole or in part, and whether directly or indirectly, is subject to the provisions of this section. Any proposed transferee of any direct or indirect interest in a taxicab license must apply for a taxicab license and must comply with the provisions of this chapter and meet the qualifications and requirements for ownership and operation of a medallion taxicab as set forth in this chapter, including those contained in sections 1-02 and 1-03 of this chapter, the tort claim provisions contained in section 1-81 of this chapter, and the medallion transfer provisions in this section and sections 1-80.1 and 1-80.2.

(b) No person or entity shall attempt to transfer or participate in the transfer of any taxicab medallion without fulfilling the requirements of subdivisions (c) and (d) of this section, as applicable to such person, and obtaining the written approval of the Chairperson for such transfer. Submission to the Chairperson of an application to transfer a taxicab medallion shall not be a violation of this subdivision.

(c) An applicant for a taxicab license which is a transferee, or an applicant which is an executor, administrator, conservator or guardian seeking to operate a taxicab under the provisions of section 1-82 (c) of this chapter, in order to complete the transfer of such license to applicant pursuant to this section, must appear in person as directed by the Chairperson, except that an applicant (or as to any shareholder, partner or member of an applicant who is required to appear by the following sentence) who (i) holds an existing, continuing license from the Commission, and (ii) has an electronic fingerprint record made no earlier than one year prior to the date of the transfer on file with the Commission, may appear by power of attorney. If the applicant is a corporation, partnership or limited liability company, applicant must be represented in such appearance by all individual shareholders, general partners, or members, except those to whom the exception in the preceding sentence is applicable.

(d) A transfer of the interest in the taxicab license shall be complete and effective upon the Chairperson's approval of the applicant's application, the appearance of the transferee as required in subdivision (c) of this section 1-80, payment of any New York City taxicab license transfer tax due as required in subdivision (h) of this section 1-80 and in subdivision (m) of section 1-80.1 of this chapter, the transferor's and the transferee's fulfillment of the requirements as to tort liabilities set forth section 1-81 of this chapter and the fulfillment by the parties of the applicable medallion clearance requirements of section 1-80.2 of this chapter.

(e) Each transferee of a taxicab medallion must place the medallion into service with a vehicle eligible for use as a taxicab under chapter 3 of this title and which has been hacked up as that term is used in section 3-01(a) of this title within seven (7) days of the effectiveness of the transfer of the taxicab. Each applicant which is an executor, administrator, conservator or guardian seeking to operate a taxicab under the provisions of section 1-82 (c) of this chapter must place the medallion into service with a vehicle eligible for use as a taxicab under chapter 3 of this title and which has been hacked up within seven (7) days of approval of the application.

(f) No voluntary transfer or sale of a taxicab license may be made if a judgment has been filed within the City of New York against the holder of a license and remains unsatisfied and notice of said judgment has been filed with the Chairperson, except that a transfer may be permitted if an appeal is pending from an unsatisfied judgment and a bond is filed in an amount sufficient to satisfy the judgment but not to exceed the fair market value of the medallion or medallions being transferred. A transfer may also be permitted without filing a bond provided that all the judgment creditors of unsatisfied judgments file written permission for such a transfer with the Chairperson or provided that the proceeds of sale are paid into court or held in escrow, on terms and conditions approved by the Chairperson.

(g) An owner's interest in such a taxicab license may be transferred involuntarily and disposed of by public or private sale in the same manner as personal property. However, upon such involuntary transfer, the owner's license shall immediately be cancelled. A new license shall be issued to the purchaser or his or her vendee when the transfer is effective as provided in subdivision (d) of this section, provided that (i) such purchaser or vendee has qualified as a transferee under and met the requirements as provided in this sections 1-80 through 1-80.2 of this chapter and (ii) the tort liability requirements of section 1-81(e) of this chapter have been met or are met at the time of such transfer; except that if the involuntary transfer is by reason of a tort judgment against an involuntary transferor, no bond need be provided with respect to the same judgment.

(h) A transferee of a taxicab license must satisfy his or her transfer tax liability as determined by the Department of Finance pursuant to Title 11 of the Administrative Code, prior to or at the time of transfer.

(i) A transfer of the taxicab license of an independent taxicab owner shall be made only to a transferee that will be an independent taxicab owner; similarly, the transfer of the

license of a fleet or minifleet taxicab owner shall be made only to transferee that will be a minifleet or fleet owner.

(j) An independent taxicab owner may not have a financial interest in any other taxicab; a taxicab fleet or minifleet, including any officer, director, partner, and/or member of an owner thereof, may not have a financial interest in an independently owned taxicab. For purposes of this subdivision, “financial interest” shall mean **any direct or indirect ownership interest or any interest given or received as a pledge or security or subject to a security agreement to secure any financing or obligation.**

(k) Conditional sales agreements

(1) No transfer of an interest in a taxicab medallion through a conditional sales agreement shall be effective until the requirements of sections 1-02, 1-03, 1-80, 1-80.1, 1-80.2 and 1-81 of this chapter have been fulfilled and the vendee has qualified as a transferee under this section 1-80. Any fines or penalties imposed against the taxicab license for violations occurring during the term of any conditional sales agreement shall remain the responsibility of the seller until the transfer is effective under subdivision (d) of this section 1-80.

(2) Parties to a conditional sales agreement are subject to the “lease cap” provisions of section 1-78 of this chapter.

(3) Parties to a conditional sales agreement shall provide the Chairperson with a disclosure statement indicating the terms of agreement.

(4) The vendor party to a conditional sales agreement shall notify the Chairperson in writing of any repossession by the vendor of the taxicab within seventy-two (72) hours exclusive of weekends and holidays.

(5) For purposes of this subdivision, “conditional sales agreement” shall mean **an agreement for the transfer of a taxicab medallion for which the effectiveness as between the parties is contingent upon the completion and/or satisfaction of certain conditions, including, but not limited to, the completion of payment of financial consideration .**

(1) *Applicability.* (1)Any person seeking to become a transferee of an interest in a taxicab license, including a person acquiring a taxicab license from or through a secured lender as a result of a foreclosure, repossession, or other realization upon security, must comply with the provisions of this section, must meet the standards and criteria for ownership of a taxicab medallion as set forth in sections 1-02 and 1-03 of this chapter, must provide the documentation required in sections 1-80.1 and 1-81 of this chapter, except if such person seeks to become a transferee of a medallion acquired pursuant to an auction of taxicab medallions under chapter 13 of this title, such person need not comply with sections 1-80.1(m)-(n), 1-80.1(p)-(r) and 1-81 of this chapter, although any subsequent proposed transferee therefrom must so comply.



(2) Any seller or transferor of an interest in a taxicab medallion (other than a secured lender foreclosing upon or repossessing its security) must comply with the provisions of sections 1-80.2 and 1-81 of this chapter.

(3) Any secured lender foreclosing upon, repossessing, or otherwise realizing upon its security in a taxicab license and not seeking to be a transferee is not required to comply with these provisions or with sections 1-80.1, 1-80.2 and 1-81 of this chapter except to the extent required in sections 1-80.1(n), 1-80.2(c) and 1-81 (e) of this chapter, although any proposed transferee acquiring an interest from or through such lender must so comply.

(4) Any administrator, executor, conservator or guardian seeking authority to operate a taxicab medallion must comply with the provisions of section 1-82 of this chapter as must any distributee from an estate or trust as permitted by this chapter.

#### § 1-80.1 Documentation And Other Requirements For Qualification As A Transferee

An applicant for a taxicab license, in order to qualify for ownership of a medallion taxicab as a transferee under section 1-80 of this chapter, shall include the following with his, her or its application for a taxicab license:

(a) a completed application in form prescribed by the Chairperson;

(b) payment of the fees in the amount of

(i) fifty dollars, in accordance with section 19-504(h) of the Administrative Code of the City of New York, for the transfer of a medallion or license from one vehicle to another, where applicable; and

(ii) one hundred sixty dollars, in accordance with section 19-512(d) of the Administrative Code of the City of New York, which must be paid upon submission of the application provided for in subdivision (a) of this section for the transfer of (a) the owner's interest in a taxicab license, or (b) stock in a corporation or membership interests in a limited liability company which is an owner of a taxicab license or an interest therein.

(c) payment of the license and inspection fees required pursuant to sections 1-04 and 1-05 of this chapter;

(d) proof of identity in the form prescribed in section 1-02(b) of this chapter, including the identity of all partners of a partnership, officers and shareholders of a corporation, and members and managing members of a limited liability company and disclosure of any trade name or entity name under which the owner intends to operate;

(e) if the applicant is acquiring an interest in a medallion from an independent taxicab owner, a current, valid number of a taxicab driver's license issued by the Commission to the person who will fulfill the service requirements of section 1-09(b) of this chapter;

(f) proof of purchase in the form of a bill of sale of vehicle eligible to be used as a taxicab under chapter 3 of this title or an affidavit from the applicant specifying that the applicant will have a vehicle eligible to be used as a taxicab under chapter 3 of this title within seven days following the effectiveness of the transaction, pursuant to section 1-80(d) of this chapter;

(g) proof of payment of any outstanding fines or fees owed to the Commission, the Parking Violations Bureau, or the successors thereto by the applicant, or any officers, shareholders, partners or members thereof;

(h) documentation in form satisfactory to the Chairperson detailing the sources of the applicant's funds used in the transaction including

(i) copies of bank account passbooks or bank statements;

(ii) affidavit explaining cash sums and deposits over \$10,000 paid to or by the applicant within six months prior to the date of submission of documentation required in this section;

(iii) affidavits from donors of any gifts;

(iv) statements from secured and/or unsecured lenders detailing amounts lent, security if any, and terms of payment; and

(v) copies of IRS Form 8300 filed by any broker in respect of funds received in the context of the transaction.

(i) if the applicant is a corporation,

(i) in the case of a corporation that is a newly formed corporation, the filing receipt of the certificate of incorporation and a copy of the certificate of incorporation;

(ii) in the case of a corporation that is not a newly formed corporation, either the filing receipt of the certificate of incorporation together with a copy of the certificate of incorporation or, alternatively a certified copy of the certificate of incorporation;

(iii) a copy of the resolution of or action by the incorporators, shareholders or directors electing officers of the corporation; and

(iv) a list of stockholders, including number of shares owned.

(j) if the applicant is a partnership,

(i) a copy of the applicant's certificate of partnership; and

(ii) a list of the partners, including the percentages owned.

(k) if the applicant is a limited liability company,

(i) a copy of the applicant's articles of organization;

(ii) a copy of the applicant's operating agreement; and

(iii) a list of the members, including the percentages owned.

(l) if the applicant is a partnership, corporation or limited liability company not organized under the laws of the State of New York, in addition to the foregoing, proof of authorization of such entity to operate in New York State.

(m)

(i) payment of the New York City taxicab license transfer tax due in connection with the transfer and/or

(ii) if the transfer is by a gift or is for less than market value, a New York City Department of Finance Waiver letter, together with any documentation referred to therein.

(n) if the transfer is the result of a foreclosure or similar action by a creditor,

(i) a hypothecation agreement, stock pledge or stock pledge agreement if the transfer is occurring by transfer of, or foreclosure upon, stock;

(ii) a UCC Article 9 Foreclosure "Affidavit of Disbursements" showing that all claims have been satisfied or will be satisfied or acceptable documentation regarding any claims not satisfied;

(iii) copies of UCC-1 filings (including file stamp or file number) filed against the owner or owner's interest in the medallion;

(iv) copies of all security agreements involved in the transfer in respect of the lenders' interests in the medallion;

(v) bill of sale, if any, or proof of other transfer in respect of any security agreement;

(vi)

A. proof of advertisement of the auction together with the attendance sheet or

B. a copy of the Notice of Sale;

(o) an affidavit or affirmation under penalty of perjury from the applicant in a form approved by the Chairperson that the applicant does not rely upon the actions or determination of the Commission with respect to the medallion. In addition, if circumstances warrant, the applicant will provide an affidavit or affirmation in a form approved by the Chairperson as to other matters pertaining to documentation.

(p) copies of a New York State UCC lien search, together with a lawsuit and judgment search for all counties in which the transferor has been domiciled for the shorter of either five (5) years prior to the transfer or while owning an interest in the medallion(s) being transferred, which searches shall also provide copies of all active records, together with an affidavit or affirmation under penalty of perjury executed by the transferor and the applicant that they have reviewed all such searches and are familiar with the contents thereof, and warranting that all disclosed liens and judgments will be satisfied prior to or from the proceeds of the transfer, included in the escrow amount, or assumed by the applicant, together with a copy of the results of such lien search.

(q) tort letters from the transferor's insurer covering the shorter of (i) six years prior to the date of the proposed effective date of transfer, as set forth in section 1-80 (d) of this chapter or (ii) the transferor's period of ownership of the taxicab medallion, down to and including the date that the medallion is placed into storage as required by section 1-80.2 of this chapter, or if not placed into storage, the date prior to the proposed effective date of transfer, together with such documentation as may be required in respect of potential excess claims as may be disclosed thereby, together with any information held by the applicant or transferor regarding any potential excess claims or as may be necessary to determine the escrow amount for the purposes of section 1-81 of this chapter. If tort letters are not available, or such letters as are available indicate a lapse in coverage during such six year period, or a secured lender is transferring an interest in a taxicab medallion as a result of foreclosure, repossession, or other realization upon its security and has not obtained tort letters, the provisions of section 1-81(e) of this chapter regarding the establishment of the escrow amount in the absence of tort letters, shall apply.

(r) if the applicant seeks to purchase an interest in a corporation, partnership, or limited liability company that owns a taxicab medallion or medallions, such applicant must also furnish with respect to such entity the documents required in subdivisions (i), (j), (k), and (l) of this section;

(s) such other documentation as may be required by the Chairperson in order to assist in the determination whether the proposed transferee meets the criteria for licensing and ownership of a taxicab medallion, including as set forth in sections 1-02, 1-03, 1-80, 1-80.1, 1-80.2 or 1-82 of this chapter.

#### §1-80.2 Medallion Clearance

Pursuant to the transfer of any interest in a taxicab license and before the transfer can be effective, the transferor of the interest in the taxicab license must, or must cause the owner of the taxicab license to:

(a) place the medallion in storage with the Chairperson for at least seven (7) days not counting the day it is put in storage or the day the clearance is given; except that a medallion owned by a corporation, or limited liability company need not be placed in storage if the transfer is to be effected by a transfer of stock or membership interests therein; and

(b) clear all open items (including response to all summons issued by the Commission, payment of all outstanding fines and penalties due to the Commission, the Parking Violations Bureau, or the successors thereto, and completion of all uncompleted renewal requirements) against the medallion or the owner of the medallion or the officers, shareholders, partners or members of the owner, as well as any fines and penalties against the owner's taxicab drivers license (including those of any officer, shareholder, partner or member of the owner).

(c) Any secured lender which is foreclosing upon, repossessing or otherwise realizing upon its security in respect of any taxicab license must, upon obtaining possession of the medallion, place the medallion in storage with the Chairperson.

#### § 1-81 Tort Claims And Medallion Transfers

(a) An applicant for a taxicab license, in order to be qualified as a transferee, shall supply proof to the Chairperson that the applicant or the transferor has filed a bond with the Chairperson to cover all outstanding tort liabilities of the vendor or transferor; however this requirement shall not apply to an applicant who is a legatee or distributee of a decedent's estate owning a taxicab license.

(b) In lieu of filing a bond as provided in subdivision (a) of this section, the applicant or his or her transferor may establish an escrow account in the amount of the escrow amount, not to exceed the maximum escrow amount, to satisfy excess claims. No transfer of the taxicab medallion(s) may occur until the bond is posted, or the escrow account is established, and the escrow agent has given an undertaking to the Chairperson to establish the escrow account and hold it on the terms required by this section, with confirmation of the establishment to occur in writing within five (5) days of such establishment, or it is determined by the Chairperson that none of the foregoing is required as provided in this section.

(c) Establishing the claim amount.

(i) The transferor must first attempt to establish the amount of each claim that is a potential excess claim for purposes of determining the escrow amount by the following process:

(A) The transferor must request copies of claim letters held in the Commission's medallion file.

(B) The transferor must notify the holder of each potential excess claim that may be indicated by either a valid claim letter, a prior claim letter, a tort letter, or the lien, judgment and lawsuit searches required to be obtained in section 1-80.1(p) of this chapter of the escrow amount transferor proposes to establish in respect of such claim. The transferor must provide adequate mail notice to such claimant by certified mail, return receipt requested, with a copy by regular mail and with a copy mailed to the Commission, to the attention of the legal department, transfer division. The transferor must provide to the Chairperson proof of mailing of all such notices in the form of copies of the mailing receipts together with an affidavit or affirmation under penalty of perjury verifying the mailing.

(C) The transferor's notice shall be of a form approved by the Chairperson:

(1) The notice to each potential claim holder must state whether such holder's claim is believed by the transferor to be a potential excess claim or not and must state a specific dollar amount (including \$0) proposed to be established as the escrow amount for such claim.

(2) Such notice must further state that the claimant has thirty days from the date of the notice to object thereto, by notice to the transferor, with a copy of such notice to be provided to the Commission, to the attention of the legal department, transfer division.

(3) Such notice must further state that failure of the Commission to receive the claimant's objection within such thirty day period shall be deemed acceptance of the transferor's proposal regarding the escrow amount to be established for such claim.

(4) Such notice must further state that the claimant's acceptance of, or failure to object to, the transferor's proposed escrow amount for such claim shall not prejudice any rights, claims, or remedies the claimant may have against the transferor.

(5) Failure of the claimant to object to the transferor's proposed escrow amount within thirty (30) days of the transferor's notice provided pursuant to this paragraph (c)(i) (and the Commission's non-receipt of an objection shall be deemed a failure to object) shall be deemed acceptance of the proposed escrow amount in respect of such claim. Claimant's objection to the transferor's proposed escrow amount must state the basis for such objection.

(ii) If claimant objects to the transferor's proposed escrow amount as to such claim, the Chairperson shall refer the matter to the New York City Office of Administrative Trials and Hearings (OATH) to determine the amount of the claimant's claim to be included in the escrow amount.

(A) In any proceeding before OATH to determine the amount of the claim to be included in the escrow amount, OATH's rules of practice shall govern. In determining the amount of the claim to be included in the escrow amount, OATH shall apply principles of tort law.

(B) For the purposes of such proceeding, the transferor shall be the respondent and the transferor's notice containing the proposed escrow amount as provided in paragraph (c)(i) of this subdivision shall be the answer and the claimant shall be the petitioner and the claimant's objection required by this paragraph (c)(ii) shall be the petition. In the proceeding, the petitioner shall have the burden of proof that the claim is an excess claim. The administrative law judge assigned by OATH to decide the matter shall issue a determination which shall be a final determination.

(iii) At any time, the transferor and the claimant may agree as between themselves as to the amount of the claim for purposes of establishing the escrow amount in respect of such claim. Such agreement must be executed by both parties and a copy of such agreement must be provided to the Chairperson.

(d) The Chairperson shall determine the required escrow amount following completion of the steps set forth in subdivision (c) of this section as to each claim, except for those claims for which a determination was made by an administrative law judge at OATH. This determination shall be based upon the transferor's proposed amount in the event that the claimant agrees, or does not object, to such proposed amount as provided in paragraph (i) of subdivision (c) of this section or the parties' agreement as to the proposed amount as provided in paragraph (iii) of subdivision (c) of this section. If an administrative law judge at OATH has made a determination as to any claim, as provided in paragraph (ii) of subdivision (c) of this section, the escrow amount for such claim shall be the amount as set forth in such determination. The determination shall be a final

agency determination as to the amount of the claim to be used in determining the escrow amount, although nothing contained in these rules or in any such determination is intended to be, and shall not be, determinative as to the actual merits of the claim.

(e) If tort letters cannot be obtained for all or any part of the period for which they are required to be provided in section 1-80.1(q) of this chapter, or if a secured lender seeking to transfer an interest in a taxicab medallion pursuant to a foreclosure, repossession or other realization upon its security has not obtained such tort letters, no transfer may occur unless an escrow account is established as provided in subdivision (f) of this section in the maximum escrow amount. Notwithstanding the provisions of subdivision (f) of this section, such escrow account must be maintained for not less than the shorter of six (6) years following the date of the transfer, or until such date that tort letters can be obtained and the transferor has validated the appropriate escrow amount to be established for any possible excess claims disclosed as required in this section and the Chairperson has determined the escrow amount for each such claim as provided in subdivision (d) of this section (with any such resulting escrow amounts to be held as required by subdivision (f) of this section).

(f) Once the escrow amount has been determined, an escrow account in the amount of the escrow amount shall be established from the proceeds of the transfer or other resources of the transferor, provided that no transfer may be effective as provided in section 1-80 (d) of this chapter until either such escrow account is established or the holder of the escrow account has given to the Chairperson an undertaking to establish the escrow account, to hold it on the terms required by this section, with written confirmation of the establishment to occur in writing within five (5) days of such establishment. The account established may be held by any of counsel for the claimant, the transferor, or otherwise as the claimant and transferor agree, although the parties must advise the Chairperson as to the holder of such account, and such account will be maintained until all the claims represented therein are satisfied or released, although amounts in the escrow account allocable to specific claims may be released upon satisfaction of, or in satisfaction of, such specific claims. Any person or entity seeking a release of escrowed funds from the escrow account shall provide proof of release, satisfaction or dismissal of the underlying claim or agreement of the parties as to resolution of such claim, or a judgment of a court directing payment of all or part of the escrow amount to a party, and if the evidence is an order of a court, such order must constitute a final order, which must be fully executed and, if appropriate filed or entered. No funds shall be released from the escrow account without the prior written approval of the Chairperson.

#### §1-82 Special Provisions Regarding Estates and Incompetency

(a) When a medallion or stock or membership interests in a corporation or limited liability company owning a medallion is distributed from an estate to a legatee or distributee, the recipient of such interest must qualify as a transferee under section 1-80 and must fulfill the requirements of sections 1-02, 1-03, 1-80, 1-80.1 and 1-80.2 of this chapter and the following additional documents shall be submitted to the Commission:



(1) a certified copy of the death certificate of the former owner listed with the Commission;

(2) a certified copy of letters testamentary or letters of administration, and, if the estate is not a New York estate, a certified copy of ancillary letters testamentary or letters of administration covering the estate's New York property; and all such letters must have been issued no earlier than six months prior to the date of submission and must be either (i) unqualified as to the amount of estate assets which the executor or administrator is authorized to administer and distribute or transfer or (ii) if qualified as to amount, such amount must be in excess of the value of the medallion(s) to be operated or transferred, as the case may be; and

(3) a copy of the will, if any, certified by the appropriate surrogate or probate court.

(b) Upon the death of an owner of an interest in a taxicab medallion, or upon a declaration of incompetence or the appointment of a guardian for such owner by a court of competent jurisdiction, the medallion may continue to be operated by the estate or executor or administrator of such owner's estate or conservator, guardian, or such other representative, as the case may be for a period of up to one hundred twenty (120) days following the death or date of declaration of incompetence of the owner, provided that such medallion is operated pursuant to an agreement with an agent licensed by the Commission. If, during such 120 day period, an executor, administrator, conservator, guardian or other representative is appointed, such representative shall have sixty (60) days from the date of appointment to be approved to operate the medallion as provided in subdivision (c) of this section. If the decedent, or the incompetent owner, was an independent taxicab owner, the service requirements of section 1-09(b) of this chapter are waived during the 120 day period, and, if a representative is appointed within such period, during the 60 day period following the appointment thereof. Thereafter, neither the estate nor such representative may continue to operate the medallion and the medallion must be placed in storage until either an executor, an administrator, conservator, guardian or new owner has qualified to operate the medallion as provided in subdivision (c) of this section. If no representative qualifies to operate the medallion as provided in subdivision (c) of this section within one hundred eighty (180) days of the death of the previous owner or the declaration of incompetence or disability of the owner, the interest of such owner must be transferred to a transferee who has received the approval of the Chairperson following submission of an application to own a taxicab license and compliance with the provisions of sections 1-02, 1-03, 1-80, 1-80.1, 1-80.2 and 1-81 of this chapter. Notice of the death or incompetence of a medallion owner must be given to the Chairperson promptly upon such occurrence.

(c) Except as provided in subdivision (b) of this section, an executor, administrator, conservator, or guardian may continue the operation of a taxicab beyond the one hundred

twenty-day period provided for in such subdivision only with approval of the Chairperson as to his or her qualifications. The executor, administrator, conservator or guardian must apply for such approval by submitting an application for a taxicab license and complying with the applicable provisions of sections 1-02, 1-03, 1-80 and 1-80.1 of this chapter and must submit in addition the documentation set forth in subdivision (a) of this section if the applicant is an executor or administrator, or a copy of an order of a court of competent jurisdiction if applicant is a conservator or guardian. Notwithstanding anything else contained within this section, if neither an executor, administrator, conservator, guardian or a new owner has qualified to operate the taxicab within one hundred eighty days following the death of the previous owner, or the date of a judicial declaration of incompetence or disability of the owner, the taxicab may not be operated and the medallion must be placed into storage until a representative or transferee has qualified to operate the taxicab. A representative for an independent taxicab owner which qualifies to operate the taxicab must also meet the service requirements set forth in section 1-09(b) of this chapter.

(d) A distribution of an ownership interest in a taxicab medallion may be made from an estate to a trust only if the distribution is of stock of a corporation or membership interests in a limited liability company distributed to a trust for the benefit of a minor. The interest in the taxicab medallion must be distributed out of the trust within 60 days following the date on which the beneficiary reaches the age for ownership of a taxicab medallion required by this chapter, and at the time of such distribution, such beneficiary must qualify as a transferee and be approved as an owner under, and fulfill the requirements of, sections 1-02, 1-03 1-80, 1-80.1, 1-80.2 and 1-81 of this chapter if such beneficiary is to retain an interest upon its distribution. Notice must be given to the Chairperson promptly upon the beneficiary reaching the age for ownership of a taxicab medallion.

**Section 9.** It is hereby proposed that title 35, section 1-86 of the Rules of the City of New York be amended to add new penalties for §1-80 (b), §1-80 (e), 1-82(b) and 1-82(d) between §1-79(d)-(e) and §1-83 to read as follows:

New material is underscored.

Rule No.	Penalty	Personal Appearance Required
§1-79(d)(e)	\$50	No
§1-80(b)	<u>\$10,000 per entity, per medallion and attempted transfer invalid; penalty applicable to person or persons (transferor, transferee or both) whose actions constituted violation; revocation may</u>	<u>No</u>

	<u>be ordered.</u>	
<u>§1-80(e)</u>	<u>\$250</u>	<u>No</u>
<u>§1-81(f)</u>	<u>\$10,000</u>	<u>No</u>
<u>§1-82(b)</u>	<u>\$250 for failure to notify; revocation may be ordered if medallion operated beyond, or not transferred by, the periods specified.</u>	<u>No</u>
<u>§1-82(d)</u>	<u>\$250</u>	<u>No</u>
<u>§1-83</u>	<u>\$250 plus restitution to the driver of any replenishment account improperly retained by an owner or agent.</u>	<u>Yes</u>

Section 10. It is hereby proposed that chapter 12 of title 35 of the Rules of the City of New York be amended by the addition thereto of new section 12-06(u) to read as follows:

New material is underscored.

- (u) An agent who becomes aware of the death or incompetency of an owner of an interest in a taxicab license shall promptly inform the Commission thereof.

Section 11. It is hereby proposed that chapter 12 of title 35 of the Rules of the City of New York be amended by the addition of the new penalty for §12-06 (u) to read as follows:

New material is underscored.

Rule No.	Penalty	Personal Appearance Required
12-06(t)	\$500-2000 and/or suspension up to 30 days	Yes
<u>12-06(u)</u>	<u>\$100</u>	<u>No</u>

## **STATEMENT OF BASIS AND PURPOSE**

The proposed rules amend the provisions of chapter 1 of Title 35 of the Rules of the City of New York (the “Taxicab Owner’s Rules”) to revise and clarify procedures regarding the medallion transfer process. The proposed rules specify the documents to be submitted in order to obtain approval of the transfer and enumerate the requirements a proposed transferee of an interest in a taxicab medallion must fulfill in order to qualify to own a taxicab medallion. In addition, the proposed rules provide procedures to be followed in the event the owner of an interest in a taxicab medallion dies or is declared incompetent, and set forth the circumstances under which the taxicab may be operated by the estate or guardian and what must happen before a successor may be qualified to operate the taxicab and hold the taxicab license. Finally, the proposed rules set forth procedures by which possible claims against a transferring medallion interest owner or that owner’s taxicab may be addressed consistent with the provisions of section 19-512 of the Administrative Code. These rules provide that transferring owners must establish an escrow account to satisfy tort claims, in excess of insurance amounts, that have been asserted against them. In most cases, the amount placed into the escrow account will not exceed the transferor’s “equity” in the medallion (that is, the value of the transfer minus pre-existing secured debt). Transferors objecting to the amounts of claims asserted against them may have these amounts determined (for purposes of establishing the appropriate escrow amount) in an administrative proceeding before OATH upon giving proper notice to the claimants. These rules are intended to be consistent with the requirements of section 7-201 of the New York General Obligations Law and the provisions of the New York Uniform Commercial Code. These rules, as designed, replace the previous transfer rules which appeared at sections 1-80 through 1-82 of the Taxicab Owner’s Rules. In addition, the rules amend provisions of the Taxicab Agents’ rules appearing at chapter 12 of Title 35 of the Rules of the City of New York to provide that taxicab agents have a duty to notify the Commission of the death or incompetency of an owner of an interest in a taxicab medallion.

These rules are being proposed to codify, and in some cases to streamline, Taxi and Limousine Commission processes with respect to the transfers of taxicab medallions and, in particular, to make clear in the Taxicab Owners Rules, the documents and processes required to complete a transfer. In addition, the rules are intended to create a procedure by which the amount of possible tort claims outstanding in excess of insurance proceeds in respect of a medallion being transferred are evaluated and provided for, in a manner consistent with the requirements of law, and actual conditions existing within the taxicab industry.

