

# New York Law Journal



VOLUME 243—NO. 58 | \$3.00

WWW.NYLJ.COM

MONDAY, MARCH 29, 2010

An ALM Publication

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## City Council Law Toughens Rules for Process Servers

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ASSOCIATED PRESS

PROCESS servers, you have been served—with stricter regulations. New York's City Council passed a bill last week toughening rules for entities that hunt down people and serve them with legal papers, including a requirement that they electronically log every attempt.

The legislation also provides that deceitful process servers who dump papers instead of serving them—a trick known as “sewer service”—can be sued by the persons they were supposed to serve.

The City Council approved the legislation largely to crack down on debt collection agencies that are often accused of failing to notify debtors that they have lawsuits pending against them.

Out of some 300,000 consumer credit cases filed in New York civil courts in 2008, about 80 percent resulted in default judgments in



Daniel Garodnick

favor of the plaintiffs, the city said, meaning most defendants did not know they were being sued.

The bill addresses not only consumer credit but also the entire industry of process servers in New York City. Supporters of the legislation said improperly served papers prevent people from knowing debt collectors, landlords or others are taking action against them, and they often do not find out until their wages are garnished or bank accounts are frozen.

“By raising standards in the industry and using new technologies, we will give New Yorkers a fair chance to answer claims against them,” said Councilman Daniel Garodnick, the bill's sponsor.

The National Association of Professional Process Servers said many states and cities have laws regulating process servers in some fashion, mostly requiring registration, licensing and, in some cases, a form of insurance or bond.

Process servers must be licensed in New York City, and the consumer affairs agency licenses more than 2,000 individual servers and some 135 companies.

But applying for a license requires little more than filling out a form, supporters of the bill say.

Under the new legislation, process servers would have to pass an exam showing they understand the law. They also must electronically log their attempts to serve papers, using wireless or GPS, and keep those records in a database for seven years.

“It is everyone's constitutional right to get served properly, to know that they have a court filing against them. And at a time, when everyone is struggling to pay the bills, it is unacceptable to put this additional unjust and undue burden on them,” City Council Speaker Christine C. Quinn said in a press release.

Carolyn E. Coffey, an attorney at MFY Legal Services, the organization that proposed the idea for the legislation to Mr. Garodnick, also welcomed the bill.

“We support any reform of the [process server] industry,” Ms. Coffey said in an interview. However, she pointed out that the legislation only applies to New York City. She also said that the department of consumer affairs and the courts could do more to ensure that process servers comply with the law.

The National Association of Professional Process Servers opposed the city bill partly because of the electronic requirement, arguing it would do little to stop document dumping and other unscrupulous acts. Servers could still go to a target's home or place of employment and click their device indicating the person was served, even if that were not true.

“If someone wants to say they served someone when they didn't, they can still say they served it—the GPS doesn't do anything,” said Gary Crowe, the group's administrator.

The legislation also requires independent process servers to file a \$10,000 surety bond and companies to file a \$100,000 surety bond with the city to guarantee compliance with the regulations.

Process servers said that the bill, which Mayor Michael Bloomberg is expected to sign, unfairly penalizes honest operators.

“What they should do is punish bad apples as opposed to punishing everybody else who does a decent day's work,” said Joel Graber, president of United Process Service.

In January, William Singler, the president of Lynbrook-based American Legal Process, pleaded guilty to felony fraud for failing to notify thousands of New Yorkers that they had been sued (NYLJ, Jan. 19).

Attorney General Andrew Cuomo has brought suit against dozens of law firms and two debt collectors seeking to vacate 100,000 defaults against unserved litigants throughout New York.

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✦ Links to the bill and the committee report on the measure are posted at [nylj.com](http://nylj.com).