

ATTACHMENT B

**SUPREME COURT PROCEDURES GOVERNING THE PRIVATE
COLLECTION OF MUNICIPAL COURT DEBT
UNDER L. 2009, C. 233**

Promulgated March 31, 2011

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Appendix B.

L. 2009, c. 233

Preface

The New Jersey Judiciary, Municipal Court Services Division, is releasing procedures and guidelines for implementing L. 2009, c. 233, Private Collection of Municipal Court Debt.

The law permits the governing body of the municipality or county to authorize the assessment of a fee by a private collection agency or firm, not to exceed 22% of the amount collected, to be paid by the defendant to the private collection agency for the purpose of paying for the cost of collection. The new law also authorizes the Administrative Director of the Courts to contract with a private agency or firm to collect any outstanding monies payable to the Superior Court, the Tax Court, or the municipal courts.

The law clarifies that the only municipal court cases that may be sent to a private collection agency are those where the municipal court has made a final determination of guilt, the municipal court has exhausted all judicial enforcement remedies, and the Administrative Director of the Courts has authorized private collection.

Further, the law provides that the use of private collection agencies shall be governed by rules and procedures adopted by the Supreme Court.

**SUPREME COURT PROCEDURES GOVERNING
THE PRIVATE COLLECTION OF MUNICIPAL
COURT DEBT UNDER L. 2009, C. 233
[Procedures Promulgated March 31, 2011]**

1.0 Purpose

- 1.1 Herein are procedures for the private collection of municipal court debt in order to implement the provisions of L. 2009, c. 233 (“the statute”), as set forth in appendix B, which authorizes municipalities and counties with a central municipal court to contract with private collection agencies to collect outstanding municipal court debt.
- 1.2 These procedures provide guidance to municipalities, counties, municipal courts and private collection agencies consistent with the provisions of the statute.

2.0 Definitions

- 2.1 “ACS” means the Automated Complaint System, which is a computer system operated by the New Jersey Judiciary to track all the non-traffic complaints filed in New Jersey’s municipal courts.
- 2.2 “Adjudicated case” means a case in which the court has made a final determination of guilt (for example, a finding of guilty, an acceptance of a guilty plea).
- 2.3 “Administrative fee” means the fee authorized by the municipality or county, not to exceed 22% of the amount collected, to be assessed by a private collection agency to pay for the costs of collection as authorized by N.J.S.A. 40:48-5a and N.J.S.A. 40:23-6.53.
- 2.4 “AOC” means the New Jersey Administrative Office of the Courts.
- 2.5 “ATS” means the Automated Traffic System, which is a computer system operated by the New Jersey Judiciary to track all the traffic complaints filed in New Jersey’s municipal courts.

- 2.6 "Blanket surety bond" for the purposes of these procedures means broad insurance covering a number of projects or employees which protects the insured against financial loss.
- 2.7 "Central municipal court" means a municipal court established by county ordinance pursuant to N.J.S.A. 2B:12-1(e), which adjudicates cases filed by agents of the county health department, members of the county police department and force, or county park police system, or such other cases within its jurisdiction referred by the vicinage Assignment Judge pursuant to the Rules of Court.
- 2.8 "Civil judgment form" for the purposes of these procedures means a document for use by the municipal court in filing a civil judgment against the debtor in Superior Court for the debtor's failure to pay debt.
- 2.9 "COLL" means a four digit code in the New Jersey Judiciary's ATS and ACS systems indicating that a defendant's case is in collection status.
- 2.10 "Delinquent time payment" means a situation in which a defendant has failed to comply with a court-ordered time payment plan (see time payment).
- 2.11 "FTP/SFTP" means 'File Transfer Protocol/Secure File Transfer Protocol', a standard communications protocol that allows two separate entities or agencies to exchange files electronically in a uniform and trusted manner.
- 2.12 "Municipal court" means an inferior court of limited jurisdiction established pursuant to N.J.S.A. 2B:12-1.
- 2.13 "New Jersey Judiciary" means the judicial branch of State government, which is constitutionally entrusted with the administration of all courts within the State of New Jersey, including, but not limited to, the municipal courts.
- 2.14 "Outstanding monies" means delinquent fees, fines, costs, surcharges, and other penalties or assessments imposed by a municipal court that are owed after a final determination of guilt by the municipal court.
- 2.15 "Page Center" means an electronic reporting software program used by the New Jersey Judiciary that contains municipal court reports and notices.
- 2.16 "Private collection agency" for the purposes of these procedures means any private agency or firm that engages in the collection of any debts, or

which regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another.

- 2.17 “Time payment” means a payment schedule approved by the court whereby the defendant agrees to pay the money owed to the court in installments over a court-approved period of time.

3.0 Process Overview

- 3.1 Municipal courts shall attempt to make collections of outstanding monies via “all judicial enforcement remedies permitted by law or court rule.” N.J.S.A. 2B:19-6(a).
- 3.2 After exhausting these remedies, a municipality or county may request authorization from the Administrative Director of the Courts to collect unpaid outstanding monies by entering into a contract with a private collection agency.
- 3.3 The authorization of the Administrative Director of the Courts shall be contingent upon the municipality or county demonstrating to the Administrative Director of the Court’s satisfaction that the municipality or county shall adhere to the procedures set forth in this document.
- 3.4 Upon receipt of authorization from the Administrative Director of the Courts to do so, the municipality or county may contract with a private collection agency in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and its applicable regulations.
- 3.5 Prior to implementation of the contract, the municipality or county shall send to the Administrative Director of the Courts a copy of the contract with the private collection agency, which sets forth, among other provisions, the amount of the administrative fee to paid by the debtor, and any documents proposed to be used as part of the services performed by the private collection agency.
- 3.6 The municipality or county may authorize the assessment of a fee, not to exceed 22% of the amount collected, to be assessed by the private collection agency to pay for the costs of collection.
- 3.7 The private collection agency shall instruct the debtor to make all payments, including the administrative fee, directly to the municipal court.
- 3.8 The municipal court shall forward all private collection agency administrative fees processed during the previous month to the private collection agency.

This process will be carried out through the provisions detailed below.

4.0 Obtaining Administrative Director of the Court's Authorization to Utilize a Private Collection Agency

- 4.1 Municipalities or counties shall submit a request for the Administrative Director of the Courts' authorization to the following address:
Administrative Office of the Courts; Municipal Court Services Division; PO Box 986; Trenton, New Jersey 08625-0037.
- 4.2 Requests shall provide information and documentation demonstrating that the municipal court has exhausted all judicial enforcement remedies permitted by law or court rule and shall contain a specific request for authorization to utilize the services of a private collection agency for the purposes of collecting unpaid monies.
- 4.3 The municipality or county shall demonstrate to the Administrative Director of the Courts' satisfaction that it shall adhere to the Guidelines contained in Appendix A.
- 4.4 The Administrative Director of the Courts shall respond to the municipality's or county's request in one of the following manners:
 - 4.4.1 Provide authorization to enter into a contract with a private collection agency; or
 - 4.4.2 Request further information from the municipality or county in order to make a determination; or
 - 4.4.3 Deny the municipality's or county's request to enter into a contract with a private agency.

5.0 Responsibilities of the Administrative Office of the Courts (AOC)

- 5.1 The AOC shall provide timely review of all requests for authorization to use a private collection agency.
- 5.2 The AOC shall generate regularly scheduled files (daily and weekly) to be placed on a File Transfer Protocol (FTP) computer server for private collection agencies to access and download to their computer systems. The files shall contain information on the cases being forwarded to the private collection agency for collection.
- 5.3 The AOC shall generate regularly scheduled reports (daily and weekly) to be available on Page Center, which the municipal court can send to the

private collection agency. The report shall contain information on the cases being forwarded to the private collection agency for collection.

- 5.4 The AOC may conduct an evaluation of any or all of the cases provided to the private collection agency pursuant to the contract between the private collection agency and the municipality or county.

6.0 Responsibilities of the Municipality/Municipal Court

- 6.1 Prerequisites for municipality entering into contract with private collection agency:

The following requirements must be met in order for the governing body of a municipality to enter into contract with a private collection agency to collect delinquent fees, fines, costs, surcharges and other penalties or assessments imposed by a municipal court:

- a) There has been a final determination of guilt by the municipal court;
- b) The municipal court has exhausted all judicial enforcement remedies permitted by law or court rule; and
- c) The municipality has obtained the authorization of the Administrative Director of the Courts to collect the outstanding monies through a private collection agency.

- 6.2 Exhaustion of all judicial enforcement remedies:

A municipal court is deemed to have exhausted all of its enforcement remedies when a defendant is delinquent on a time payment and the defendant's case has been in one of the following statuses for a minimum of one year:

- a) The defendant's driver's license has been suspended; or
- b) The defendant's vehicle registration has been suspended; or
- c) A warrant has been issued for defendant's arrest.

- 6.3 Upon receipt of authorization from the Administrative Director of the Courts to contract with a private collection agency, the municipality may contract with a private collection agency in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and its applicable regulations.

- 6.4 Prior to implementing the provisions of the contract, the municipal court judge and representatives from the municipality and the private collection agency shall meet to discuss the implementation of procedures, clarification of billing and other processes relating to the contract. This meeting shall take place within 30 days of signing the contract, unless otherwise agreed upon by the parties.
- 6.5 All written notices, letters and telephone scripts to be used by the private collection agency shall be approved by the municipal court judge prior to their use.
- 6.6 When the municipality satisfies the prerequisites set forth in Section 6.1 above, the municipal court shall send a final notice to the defendant indicating that the case will be transferred to a collection agency if the matter is not satisfactorily addressed within 30 days.
- 6.7 If the matter has not been addressed to the court's satisfaction within the 30 day period, the municipal court may forward the case to the private collection agency.
- 6.8 Once a case has been transferred to the private collection agency for collection, it will be considered in "collection account status" (as indicated by "COLL" in the New Jersey Judiciary's state computer system).
- 6.9 The municipality may authorize the assessment of an administrative fee, not to exceed 22% of the amount collected, by the private collection agency to pay for the costs of collection.
- 6.10 The municipal court shall forward all administrative fees processed during the previous month to the private collection agency on a monthly basis.

7.0 Responsibilities of Counties with a Central Municipal Court

- 7.1 Prerequisites for a county with a central municipal court entering into contract with a private collection agency:

The following requirements must be met in order for the governing body of a county to enter into contract with a private collection agency to collect delinquent fees, fines, costs, surcharges and other penalties or assessments imposed by a central municipal court:

- a) There has been a final determination of guilt by the central municipal court; and

- b) The central municipal court has exhausted all judicial enforcement rules permitted by law or court rule.
- 7.2 Exhaustion of all judicial enforcement remedies
A central municipal court is deemed to have exhausted all of its enforcement remedies when a defendant is delinquent on a time payment and the defendant's case has been in one of the following statuses for a minimum of one year:
- a) The defendant's driver's license has been suspended; or
 - b) The defendant's vehicle registration has been suspended; or
 - c) A warrant has been issued for defendant's arrest.
- 7.3 If the county has satisfied the prerequisites set forth in Section 7.1 above, the county may contract with a private collection agency in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and its applicable regulations.
- 7.4 Prior to implementing the provisions of the contract, the central municipal judge and representatives from the county and the private collection agency shall meet to discuss the implementation of procedures, clarification of billing and other processes relating to the contract. This meeting shall take place within 30 days of signing the contract, unless otherwise agreed upon by the parties.
- 7.5 All written notices, letters and telephone scripts to be used by the private collection agency shall be approved by the central municipal court judge prior to their use.
- 7.6 When the county satisfies the prerequisites set forth in Section 7.1 above, the central municipal court shall send a final notice to the defendant indicating that the case will be transferred to a collection agency if the matter is not satisfactorily addressed within 30 days.
- 7.7 If the matter has not been addressed to the court's satisfaction within the 30 day period, the central municipal court may forward the case to the private collection agency.
- 7.8 Once a case has been transferred to the private collection agency for collection, it will be considered in "collection account status" (as indicated by "COLL" in the New Jersey Judiciary's state computer system).

- 7.9 The county may authorize the assessment of an administrative fee, not to exceed 22% of the amount collected, by the private collection agency to pay for the costs of collection.
- 7.10 The central municipal court shall forward all administrative fees processed during the previous month to the private collection agency on a monthly basis.

ATTACHMENT C

1.0 Guidelines for Contracting with a Private Collection Agency

In contracting with a private collection agency, the municipality or county shall ensure that the private collection agency adheres to the following guidelines.

1.1 General

- 1.1.1 The private collection agency shall comply with all applicable federal, state and local laws and New Jersey court rules, including, but not limited to, the Federal Fair Debt Collection Practices Act, 15, U.S.C.A. §§1692 – 1692p.
- 1.1.2 The private collection agency shall ensure the confidentiality of all records received from the AOC or the municipal court. These records are the property of the Judiciary and may not be used by the private collection agency for any other purpose.
- 1.1.3 The private collection agency shall allow employees of the municipal court and the AOC secure access to municipal court collection accounts on the private collection agency's computer systems.
- 1.1.4 The private collection agency shall provide to the municipal court all manuals, handbooks and documentation for the specified system services and websites. The private collection agency shall also be required to provide accessories and supplies as may be necessary.
- 1.1.5 All system services and websites developed in response to these regulations shall be available for demonstration at the municipal court prior to the start of debt collection.
- 1.1.6 The private collection agency shall institute collection activities in accordance with these regulations on all debts received from the municipal court.
- 1.1.7 The private collection agency or any of its employees may not be a creditor, an officer or an employee of the municipality or county that contracts with the private collection agency.

- 1.1.8 The private collection agency and its personnel may not, in any way, represent themselves as employees of the municipality, county, State, municipal court or the New Jersey Judiciary.
- 1.1.9 The private collection agency shall be responsible for training its staff in the relevant law governing collection agencies, the due process remedies available to debtors, and these procedures and guidelines, so that its staff can converse knowledgeably with debtors about their accounts.
- 1.1.10 Upon learning that a debtor is deceased, the private collection agency shall notify the municipal court and shall immediately cease all collection efforts with respect to that debtor.
- 1.1.11 The private collection agency shall complete and submit to the municipal court a civil judgment form for every case returned uncollected.
- 1.1.12 The private collection agency may not undertake any litigation in regard to its collection activities under its contract with the municipality or county.
- 1.1.13 The private collection agency shall accept electronic files from the AOC on behalf of the municipal court or reports from the municipal court identifying cases selected for collection. The private collection agency shall be responsible for converting AOC supplied Information or report data from the municipal court to the private collection agency's computer system.
- 1.1.14 The private collection agency shall instruct the debtor to make all payments, including the administrative fee, directly to the municipal court.
- 1.1.15 The private collection agency shall maintain individual records by the debtor's name, driver's license number and social security number, where available. Records shall contain notations for both correspondence and telephone contact. Correspondence shall be stored electronically and the municipal court shall have secure access to the correspondence.
- 1.1.16 The private collection agency shall have the ability to obtain the most recent addresses of persons who owe money from outstanding time payment orders. The municipality or county and the private collection agency shall negotiate the specifics of this in the contract.

- 1.1.17 The private collection agency shall retain appropriate records of all payments and case status information reported by the municipal court in order to provide a clear audit trail for the municipal court and to settle disputes that may arise from processing and collection activities.
- 1.1.18 The private collection agency shall discontinue all collection activities immediately upon notification that the debtor's account is paid in full.
- 1.1.19 Termination or suspension of the contract shall be done in accordance with the provisions contained in the contract established with the private collection agency.
- 1.1.20 Upon termination or suspension of the contract, the private collection agency shall provide the AOC with a timely report of the final status of all current collection cases.

1.2 Subcontractors

- 1.2.1 The private collection agency may contract with a third party subcontractor to perform collection services under the negotiated contract between the municipality or county and the private collection agency.
- 1.2.2 Subcontracting of any work by the private collection agency shall not relieve the private collection agency of its full obligations under contract. The private collection agency shall notify and receive the approval of the municipality or county before hiring any subcontractor for work specified in the contract.
- 1.2.3 The subcontractor shall comply with all applicable federal, state and local laws, New Jersey court rules and procedures, including, but not limited to, the Federal Fair Debt Collection Practices Act, 15 U.S.C.A. §§ 1692 – 1692p. which apply to the contract.
- 1.2.4 The subcontractor or any of its employees may not be a creditor, an officer or an employee of the municipality or county that has contracted with the private collection agency.

1.3 Reporting

- 1.3.1 The private collection agency shall forward to the municipal court on a timely basis all statistical data requested by the municipal court in any format required. The municipal court shall have the

right to prescribe forms or electronic files which the private collection agency shall use to report collection and status of accounts. Minimum reporting requirements are as follows:

a) A list in last name sequence of all open accounts indicating the status of those accounts. The report shall also indicate the private collection agency's efforts and results for obtaining address information.

b) A list in last name sequence of all payment information transmitted by the municipal court to the private collection agency since the previous report.

c) A list of accounts against which collection efforts have begun, including recommended actions to be taken regarding problem collection accounts.

- 1.3.2 The private collection agency shall provide all reports as required by the contract in accordance with the agreed upon schedule for providing each.
- 1.3.3 The private collection agency shall provide revenue estimates for annual budget purposes, as requested by the municipal court.
- 1.3.4 The private collection agency shall instruct debtors to notify it of any address or name changes. The private collection agency shall note these changes in its file, in addition to maintaining the name and address given by the municipal court. The private collection agency shall promptly notify the municipal court of any name or address changes of which it becomes aware.
- 1.3.5 The contract between the parties shall include a provision for the private collection agency to report uncollected debt to an independent credit reporting agency. The contract between the parties shall also include the conditions that must be satisfied before sending such matters to an independent credit reporting agency.
- 1.3.6 If the private collection agency has reported an uncollected debt to an independent credit reporting agency, upon satisfaction of the debt, the private collection agency shall immediately notify the independent credit reporting agency of the satisfaction.

1.4 Insurance

- 1.4.1 The private collection agency shall agree to furnish insurance naming the municipality or county and the Judiciary as additional insured or as named insured in all insurance coverage. The private collection agency shall also agree to hold the municipality or county, and the Judiciary, their officers, agents and employees harmless from any and all claims made against the municipality or county, Judiciary, their officers, agents, and employees, which arise out of any action or omission of the private collection agency or any of its officers, agents, subcontractors or employees, and any and all claims which result from any condition created or maintained by the private collection agency, or any of its officers, agents, subcontractors or employees, which condition was not specified to be created or maintained by the contract. The agreement to hold the municipality or county, and the Judiciary, their officers, agents, subcontractors or employees harmless shall not be limited to the limits of liability insurance required under the provisions of these guidelines.
- 1.4.2 The private collection agency shall have its personnel bonded for not less than the estimated total of the yearly amount collected or provide a blanket surety bond in an amount not less than that same amount protecting the municipality or county from loss.
- 1.4.3 The private collection agency shall furnish to the municipality or county and the Judiciary a certificate of insurance naming the municipality or county and the Judiciary as an additional insured covering the work as required in these specifications as evidence that the policies of insurance required above shall be maintained in force for the entire duration of the work performed under this agreement. The certificate of insurance shall indicate that the insurance policy contain a clause that requires the insurance company to notify the municipality or county and the municipal court thirty (30) days before the cancellation date of the insurance policy. Copies of any policy endorsements must be provided to the municipality or county and the Judiciary.
- 1.4.4 The agency shall take out and maintain, during the life of this contract, such public liability and property damage insurance and shall protect it, the municipality or county and the Judiciary, their officers, agents, and employees, from claims for damage and personal injury, including death, as well as claims for property

damage which may arise from the agency's operations under this contract. The amount of such insurance shall be as follows:

- a) Public liability insurance in an amount specified by the municipality for injuries, including death, for any one person and subject to the same limit for each person in an amount not less than an amount specified by the municipality or county as a result of one occurrence.
- b) Property damage insurance in an amount specified by the municipality or county.

1.5 Access to Judiciary Data

- 1.5.1 The Administrative Director of the Courts may immediately suspend without notice the private collection agency's access to Judiciary computer systems if any of the private collection agency's practices pose a threat to or compromise the security or data integrity of ATS/ACS, any of its components or any of the public and quasi-public agencies that exchange automated information with ATS/ACS.