



CITY OF HAMILTON

CORPORATE SERVICES DEPARTMENT
City Clerk's Division

TO: Chair and Members Audit, Finance and Administration Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: September 10, 2012	
SUBJECT/REPORT NO: Amendment of POA Collection Fee By-law (FCS12066) (City Wide)	
SUBMITTED BY: Roberto Rossini General Manager Finance & Corporate Services Department	PREPARED BY: Wendy Mason, x 5718
SIGNATURE:	

RECOMMENDATION

That the by-law attached as Appendix "A" to Report FCS12066, be passed to amend By-law 07-007 to establish new collection agency fees at 9.9% (corporations), 12.5% (individuals) for debt assignment to the first agency and at 10% (corporations) and 23% (individuals) for debt re-assignment to the second agency.

EXECUTIVE SUMMARY

The Municipal Act provides the authority to charge the cost of collection agency fees directly to the debtor. In early 2007 Council approved a by-law authorizing the Provincial Offences Court Administration Office (POA) to charge its collection agency fees directly to the debtor. This by-law was further amended in 2008 due to award of new contract with different rates; see FCS08034. A further amendment to the by-law is necessary in 2012 with the award of new contracts with lower rates.

Alternatives for Consideration – See Page 3

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: Not charging the collection agency fee to the debtor is an annual estimated financial impact of approximately \$150,000. Section 304 of the Municipal Act allows Council to set and recover costs incurred by the City in using collection agencies. Collection Agency fees are paid to the agencies regardless of recovery from the defendant. The POA budget is negatively impacted where collection agency fees are not recovered from the defendant.

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

Outstanding fines that are not collected internally by Provincial Offences Court Administration Staff (POA) are referred to collection agencies who charge a fee for their successful collections. Up until 2007 these fees were paid directly from the POA budget. As a cost saving measure, a report was brought to Committee in late 2005 recommending approval of a by-law to allow collection agency fees to be charged directly to the debtor. Ministry of the Attorney General approval was required at the time for the fees under the Provincial Offences Act, but is no longer a requirement. Ministry approval was not received until December 2006 which created the opportunity to pass the collection fee costs on to the debtor in 2007.

The City issued an RFP for POA collection agency services in 2007. This contract ran from March 1, 2008 for 1 year with an option to renew for two additional years. Two collection agencies were selected.

The City issued an RFP for POA collection agency services in 2011. With Council approval, this contract will run from September 15, 2012 for one year with an option to renew for two additional years. The rates for first placement agency are 12.5% for individuals and 9.9% for corporations. The rates for second placement agency are 23% for individuals and 10% for corporations.

POLICY IMPLICATIONS

There are no policies affected.

RELEVANT CONSULTATION

Legal Services
Ministry of the Attorney General
POA Staff

ANALYSIS / RATIONALE FOR RECOMMENDATION

The process of charging the debtor for the cost of collection agency fees is our most cost effective alternative. Collection agency fees in 2011 was \$150,255.

ALTERNATIVES FOR CONSIDERATION

The only other option of paying the fees directly would have a negative impact on the POA budget. Council could choose not to recover collection agency fees, however this option would have a negative impact on the POA budget.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- ◆ Financially Sustainable City by 2020

APPENDICES / SCHEDULES

Appendix "A" –Draft By-law to amend Collection Agency Fees By-law 07-007

Authority: Item , Name of Committee
Report
CM: Date

Bill No.

CITY OF HAMILTON

BY-LAW NO. 12-

To Provide for Amended Collection Agency Fees

WHEREAS Council desires to recover fees charged to the City by registered collection agencies working on behalf of the City from the debtors as part of their debts, and newly approved fees require further amendment to City By-law No. 07-007 as of September 15, 2012;

AND WHEREAS the Municipal Act, S.O. 2001, Chapter 25, section 304 allows the recovery of such fees on debts owed to the municipality;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. City By-law No. 07-007 as amended is hereby further amended by repealing and replacing section 2 with the following;
 - "2. (1) Subject to subsection (2), the Collection Agency of first assignment shall include and recover a collection fee on the debt assigned by the City, calculated at the following rates:
 - (a) nine point nine percent (9.9%) of a debt owed by a corporation; and
 - (b) twelve point five percent (12.5%) of a debt owed by an individual.
 - (2) Where the City re-assigns debt to a second Collection Agency, the second Collection Agency shall include and recover a

collection fee on the debt assigned, calculated at the following rates:

- (a) ten percent (10%) of a debt owed by a corporation; and
- (b) twenty-three percent (23%) of a debt owed by an individual."

2. In all other respects City By-law No. 07-007 as amended is confirmed.

3. This By-law comes into force on September 15, 2012.

PASSED this day of , 2012.

R. Bratina
MAYOR

R. Caterini
CLERK