

Protecting Yourself From Debt Collectors



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The debt collecting industry is a thriving one, and it can be a very intimidating one, too. Please read the following booklet carefully. You will discover how to protect yourself from aggressive debt collectors who can create havoc in your everyday life. Be prepared.

The Fair Debt Collection Practices Act

The first thing for you to know is that The Fair Debt Collection Practices Act (FDCPA) was enacted to protect consumers from abusive, deceptive, and unfair treatment by debt collectors. The Federal Trade Commission (FTC) monitors and enforces compliance with the FDCPA. If the FTC receives a sufficient number of complaints about a particular debt collection agency, it will conduct an investigation and take the appropriate action. However, the FTC does not intervene in individual disputes. If you are the victim of FDCPA violations, you should file a complaint with your state Attorney General or local consumer protection agency for assistance with your situation. You should still send a copy of your complaint to the Federal Trade Commission, so they will know about collection agencies that violate consumers' rights.

Communicating with Debt Collectors

Do your best to communicate with debt collectors only in writing. You can refuse to communicate with them in person or by telephone. Debt collectors prefer oral forms of communication because it works to their advantage – they are very adept at scaring people. In one case, a determined debt collector repeatedly called a consumer late at night and when the consumer finally answered the phone, the collector threatened to have her fired from her job, which is an illegal tactic.

Written communication works to your advantage because you have a record of everything that they say. By forcing them to put everything into writing, you are taking the psychological edge away from them. They are more likely to use unfair and deceptive tactics if they get you on the phone or are face to face with you. There are no laws that require you to speak to debt collectors on the telephone. There are no laws against hanging up on debt collectors. If a debt collector calls, simply ask them to put everything they have to say in writing. If the debt collector refuses and keeps talking, hang up the phone. It's that easy. But debt collectors will use a variety of approaches to get you on the

phone with them. You may receive a letter from a collection agency telling you to call their office "immediately"-- don't bother. You are not obligated by law to call them. Communicate with debt collectors only in writing. Also, do not give your phone number out to a debt collector. The least amount of personal information they have, the better. If you give them your number, you are only inviting them to call you.

You can also stop them from calling entirely with what's known as a "cease and desist letter." If you send a "cease and desist," include your name, address and account number, and tell the company "do not contact me further about this debt." Send the letter certified returned receipt so that you have proof that the company received it. You should be clear that doing so doesn't cancel your debt.

The original creditor or the collection agency may decide to sue, or the creditor can simply hire another third-party collector and you will need to repeat the process. If they continue to call, be certain to record the dates and times that they call you. Calling you excessively to harass you is a violation of the Fair Debt Collection Practices Act. One

former debt collector admitted that -- if he constantly called a consumer, and verbally abused them, and he kept on threatening, and he got nastier as the days went by, the more likely the consumer would pay.

A collection agency is required by law to send a written statement to you explaining your right to dispute the debt. If the debt is questionable or false, you should wait for the written statement from the debt collector and send your response in writing. Your written response should state that you dispute the debt and that you request verification of the debt. If you send your written response within 30 days of receiving their statement about your right to dispute, the collection agency is not permitted to contact you until the verification is sent.

Certified Mail

It is important to always send your letters by certified mail with return receipt or by registered mail. You will then have proof of the dates that your letters were received by the debt collector. Letters from debt collectors serve two purposes – to collect a debt and to

get information from you to help collect on that debt in the future. This means if you provide them with any personal information, they will use it against you. Don't give them any information unless it is solid proof that you don't owe the debt (send copies, not originals).

Remember, save copies of everything -- letters and envelopes from the debt collector, letters to the debt collector, and receipts from certified letters, detailed notes, and proof of payments -- everything! Keep all of this information in a safe and familiar place so you have it handy.

Negotiate

You can always negotiate to pay the debt. Once a debt goes to collections, you may be able to work out a deal to pay less than the full amount. Collection agencies are always authorized to take something less than 100 percent of the debt. But whether you pay in full, negotiate for a percentage of the debt or accept a payment plan, get everything in writing before you give them any money.

There are a few very important things to do when negotiating a deal. Insist that the collector does not report anything

negative to the credit bureaus regarding the debt. Also, have your original creditor sign off on the deal. A collection agency could offer to settle that \$5,000 credit card bill for just \$3,000 -- but once you pay the credit agency, the original creditor can still hound you for the other \$2,000. Something to be aware of -- if you negotiate a settlement for less than you owe, you could end up paying taxes on the unpaid portion. If the unpaid amount is less than \$600, a collection agency does not have to report it to the IRS, so make certain that the collection agency won't report it as part of your written agreement. Also, pay with paper checks. Do not use online services, phone methods or debit cards. It's to your advantage to have a physical record that you've paid, plus you control exactly what you're paying.

Debt Collectors Cannot Do the Following:

- Call you at work when they know that it is inconvenient or that your employer forbids it.
- Call you before 8:00AM or after 9:00PM in your time zone.
- Makes an excessive number of phone calls to annoy or harass you.
- Tell a person other than you, your spouse, or your

attorney that you owe money. (If you are a minor, the debt collector can tell your parents or guardians about the debt).

- Misrepresent the amount, character, or legal status of a debt.
- Give others credit information about you that is false.
- Fail to honor your dispute or cease communication rights.
- Threaten to take your property or garnish your wages if this action is not legal, or if the debt collector does not intend to do it. Property can not be taken and wages can not be garnished without a court order.
- Threaten to use, violence or any other illegal means to harm you, your family, your reputation, or your property.
- Use obscene language in communicating with you.
- Intimidate you with criminal prosecution or even imply that you have committed a crime. Debt and credit issues are matters of civil law, not criminal law.
- Fool you into accepting charges for collect calls, telegrams, C.O.D.'s, etc.
- Falsely claim to be an attorney, a representative from a credit bureau or a member of law enforcement.

If you find yourself in a bad situation, be certain to educate yourself on the laws in your state. Garnishment, lawsuits and property seizure are illegal in some places, which gives you a little more power to work out a deal. To learn what is and isn't allowed, call your state Attorney General's office or the state consumer protection office. While most debt collectors abide by the law, you must prepare yourself if you are confronted by a debt collector who ignores the law and is bent on causing you grief. If this does happen, and a third-party collection agency violates your rights, you can sue for actual damages and punitive damages, as well as attorneys' fees and court costs.

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