

Fair Debt Collection

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Fair Debt Collection

If you use credit cards, owe money on a personal loan, or are paying on a home mortgage, you are a "debtor." If you fall behind in repaying your creditors, or an error is made on your accounts, you may be contacted by a "debt collector."

You should know that in either situation the Fair Debt Collection Practices Act requires that debt collectors treat you fairly by prohibiting certain methods of debt collection. Of course, the law does not forgive any legitimate debt you owe.

This brochure provides answers to commonly asked questions to help you understand your rights under the Fair Debt Collection Practices Act.

What debts are covered?

Personal, family, and household debts are covered under the Act. This includes money owed for the purchase of an automobile, for medical care, or for charge accounts.

Who is a debt collector?

A debt collector is any person, other than the creditor, who regularly collects debts owed to others. Under a 1986 amendment to the Fair Debt Collection Practices Act, this includes attorneys who collect debts on a regular basis.

How may a debt collector contact you?

A collector may contact you in person, by mail, telephone, telegram, or FAX. However, a debt collector may not contact you at unreasonable times or places, such as before 8 a.m. or after 9 p.m., unless you agree. A debt collector also may not contact you at work if the collector knows that your employer disapproves.

Can you stop a debt collector from contacting you?

You may stop a collector from contacting you by writing a letter to the collection agency telling them to stop. Once the agency receives your letter, they may not contact you again except to say there will be no further contact. Another exception is that the agency may notify you if the debt collector or the creditor intends to take some specific action.

May a debt collector contact any person other than you concerning your debt?

If you have an attorney, the debt collector may not contact anyone other than your attorney. If you do not have an attorney, a collector may contact other people, but only to find out where you live and work. Collectors usually are prohibited from contacting such permissible third parties more than once. In most cases, the collector is not permitted to tell anyone other than you and your attorney that you owe money.

What is the debt collector required to tell you about the debt?

Within five days after you are first contacted, the collector must send you a written notice telling you the amount of money you owe; the name of the creditor to whom you owe the money; and what action to take if you believe you do not owe the money.

May a debt collector continue to contact you if you believe you do not owe money?

A collector may not contact you if, within 30 days after you are first contacted, you send the collection agency a letter stating you do not owe money. However, a collector can renew collection activities if you are sent proof of the debt, such as a copy of a bill for the amount owed.

What types of debt collection practices are prohibited?

Harassment. Debt collectors may not harass, oppress, or abuse any person. For example, debt collectors may not:

- I use threats of violence or harm against the person, property, or reputation;
- I publish a list of consumers who refuse to pay their debts (except to a credit bureau);
- I use obscene or profane language;
- I repeatedly use the telephone to annoy someone;
- I telephone people without identifying themselves;
- I advertise your debt.

False statements. Debt collectors may not use any false statements when collecting a debt. For example, debt collectors

may not:

I falsely imply that they are attorneys or government representatives;

I falsely imply that you have committed a crime;

I falsely represent that they operate or work for a credit bureau;

I misrepresent the amount of your debt;

I misrepresent the involvement of an attorney in collecting a debt;

I indicate that papers being sent to you are legal forms when they are not;

I indicate that papers being sent to you are not legal forms when they are.

Debt collectors also may not state that:

I you will be arrested if you do not pay your debt;

I they will seize, garnish, attach, or sell your property or wages, unless the collection agency or creditor intends to do so, and it is legal to do so;

I actions, such as a lawsuit, will be taken against you, which legally may not be taken, or which they do not intend to take.

Debt collectors may not:

I give false credit information about you to anyone;

I send you anything that looks like an official document from a court or government agency when it is not;

I use a false name.

Unfair practices. Debt collectors may not engage in unfair practices in attempting to collect a debt. For example, collectors may not:

I collect any amount greater than your debt, unless allowed by law;

I deposit a post-dated check prematurely;

I make you accept collect calls or pay for telegrams;

I take or threaten to take your property unless this can be done legally;

I contact you by postcard.

What control do you have over payment of debts?

If you owe more than one debt, any payment you make must be applied to the debt you indicate. A debt collector may not apply a payment to any debt you believe you do not owe.

What can you do if you believe a debt collector violated the law?

You have the right to sue a collector in a state or federal court within one year from the date you believe the law was violated. If you win, you may recover money for the damages you suffered. Court costs and attorney's fees also can be recovered. A group of people also may sue a debt collector and recover money for damages up to \$500,000, or one percent of the collector's net worth, whichever is less.

Where can you report a debt collector for an alleged violation of the law?

Report any problems you have with a debt collector to your state Attorney General's office and the Federal Trade Commission. Many states also have their own debt collection laws and your Attorney General's office can help you determine your rights.

If you have questions about the Fair Debt Collection Practices Act, or your rights under the Act, write: Correspondence Branch, Federal Trade Commission, Washington, D.C. 20580. Although the FTC generally cannot intervene in individual disputes, the information you provide may indicate a pattern of possible law violations requiring action by the Commission.