



OFFICE OF THE STAFF JUDGE ADVOCATE
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CLIENT SERVICES
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DEBT COLLECTION

If you are behind in paying bills, or a creditor's records make it appear that you are, a debt collector may contact you. The Federal Trade Commission (FTC) enforces the Fair Debt Collection Practices Act (FDCPA), which prohibits debt collectors from using abusive, unfair, or deceptive practices to collect from you. The Act covers personal, family, and household debts, including money you owe on a personal credit card account, an auto loan, a medical bill, and your mortgage. The FDCPA does not cover debts you incurred to run a business.

Who are debt collectors?

Under the FDCPA, a debt collector is someone who regularly collects debts owed to others. This includes collection agencies, lawyers who collect debts on a regular basis, and companies that buy delinquent debts and then try to collect them.

Can a debt collector contact me any time or any place?

No. Debt collectors may not contact you at inconvenient times or places, such as before 8 am or after 9 pm, unless you agree to it. They may not contact you at work if you tell them you are not allowed to get calls there.

How can I stop a debt collector from contacting me?

If a collector contacts you about a debt, you may want to talk to them at least once to see if you can resolve the matter – even if you don't think you owe the debt, can't repay it immediately, or think that the collector is contacting you by mistake. If you decide that you don't want the collector to contact you again, tell the collector – in writing – to stop contacting you. Here's how to do that: Make a copy of your letter. Send the original by certified mail, and pay for a "return receipt" so you will be able to document what the collector received. Once the collector receives your letter, they may not contact you again, with two exceptions: a collector can contact you to tell you there will be no further contact or to let you know that they or the creditor intend to take a specific action, like filing a lawsuit. Sending such a letter to a debt collector does not get rid of the debt, but it should stop the contact. The creditor or the debt collector still can sue you to collect the debt.

Can a debt collector contact anyone else about my debt?

If an attorney is representing you, the debt collector must contact the attorney rather than you. If you do not have an attorney, a collector may contact other people, but only to find out your address, home phone number, and where you work. Collectors usually are prohibited from contacting third parties more than once.

What does the debt collector have to tell me about the debt?

Every collector must send you a written validation notice telling you how much money you owe within five days after they first contact you. This notice also must include the name of the creditor to whom you owe the money, and how to proceed if you don't think you owe the money.

What practices are off limits for debt collectors?

Harassment.

Debt collectors may not harass, oppress, or abuse you or third parties they contact. For example, they may not:

- use threats of violence or harm;
- publish a list of names of people who refuse to pay their debts;
- use obscene or profane language; or
- repeatedly use the phone to annoy someone.

False statements. Debt collectors may not lie when trying to collect a debt. For example, they may not:

- falsely claim they are attorneys or government representatives;
- falsely claim you have committed a crime;

- falsely represent they operate or work for a credit reporting company;
- misrepresent the amount you owe;
- indicate papers they send you are legal forms if they are not; or
- indicate papers they send to you are not legal forms if they are.

Unfair practices. For example, they may not:

- try to collect any interest, fee, or other charge on top of the amount you owe unless the contract that created your debt – or your state law – allows the charge;
- deposit a post-dated check early;
- take or threaten to take your property unless it can be done legally; or
- contact you by postcard.

Debt collectors are prohibited from:

- saying you will be arrested if you don't pay your debt;
- saying they will seize, garnish, attach, or sell your property or wages unless they are permitted by law to take such action and intend to do so;
- saying legal action will be taken, if it would be illegal to do so, or if they do not intend to take the action.
- giving false credit information about you to anyone, including a credit reporting company;
- sending you anything that looks like an official document from a court or government agency if it isn't; or
- using a false company name.

Can I control to which debts my payments apply?

Yes. If a debt collector is trying to collect more than one debt from you, the collector must apply any payment you make to the debt you select. Also, a debt collector may not apply a payment to a debt you don't think you owe.

Can a debt collector garnish my bank account or my wages?

If you do not pay a debt, a creditor or its debt collector generally can sue you to collect. If they win, the court will enter a judgment against you. The judgment states the amount of money you owe, and allows the creditor or collector to get a garnishment order against you, directing a third party, like your bank, to turn over funds from your account to pay the debt. Wage garnishment happens when your employer withholds part of your compensation to pay your debts. Your wages usually can be garnished only as the result of a court order. Do not ignore a lawsuit summons. If you do, you lose the opportunity to fight a wage garnishment.

Do I have any recourse if I think a debt collector has violated the law?

You have the right to sue a collector in state or federal court within one year from the date the law was violated. If you win, the judge can require the collector to pay you for any damages you suffered because of the illegal collection practices. The judge can require the debt collector to pay you up to \$1,000, even if you cannot prove you suffered actual damage. You also can be reimbursed for your attorney's fees and court costs. Even if a debt collector violates the FDCPA in trying to collect a debt, the debt does not go away if you owe it.

What should I do if a debt collector sues me?

If a debt collector files a lawsuit against you to collect a debt, respond to the lawsuit, either personally or through your lawyer, by the date specified in the court papers to preserve your rights.

Where do I report a debt collector for an alleged violation?

Report problems with a debt collector to your state Attorney General's office (www.naag.org) and the Federal Trade Commission (www.ftc.gov).

For more information or assistance, contact the Fort Campbell Client Services Office, located in building 2765 Tennessee Ave., across from the Military Courthouse, (270) 798-4432.