



Your Rights Under The "Fair Debt Collection Practices Act"

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 article answers commonly asked questions about 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 debt collector may contact you in person, by mail, telephone, telegram, or fax. However, a debt collector may not contact you

after 9:00 PM, 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 can 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. The agency may notify you if the debt collector or the creditor intends to take some specific action.

May a debt collector contact anyone else about 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 may not tell anyone other than you and your attorney that you owe money.

What must the debt collector 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 anyone. For example, debt collectors may not:

- person, property, or reputation;
2. Publish a list of consumers who refuse to pay their debts (except to a credit bureau);
3. Use obscene or profane language;
4. Repeatedly use the telephone to annoy someone;
5. Telephone people without identifying themselves;
6. Advertise your debt.

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

1. Falsely imply that they are attorneys or government representatives;
2. Falsely imply that you have committed a crime;
3. Falsely represent that they operate or work for a credit bureau;
4. Misrepresent the amount of your debt;
5. Misrepresent the involvement of an attorney in collecting a debt;
6. Indicate that papers being sent to you are legal forms when they are not;
7. Indicate that papers being sent to you are not legal forms when they are.

- Debt collectors also may not state that:

1. You will be arrested if you do not pay your debt;
2. 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;
3. 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:

1. Give false credit information about you to anyone;

document from a court or government agency when it is not;

3. Use a false name.

- Unfair practices:- Debt collectors may not engage in unfair practices when they try to collect a debt. For example, collectors may not:

1. Collect any amount greater than your debt, unless allowed by law;

2. Deposit a post-dated check prematurely;

3. Make you accept collect calls or pay for telegrams;

4. Take or threaten to take your property unless this can be done legally;

5. 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 attorneys 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 collectors net worth, whichever is less.

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

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

Summary:

The following actions are illegal:

- A debt collector calls you at work and knows that it is inconvenient or that your employer forbids it.
- A debt collector calls you before 8:00AM or after 9:00PM in your time zone.
- A debt collector makes an excessive number of phone calls to annoy or harass you.
- A debt collector knows that an attorney, whose contact information is known or is easy to locate, represents you and the debt collector continues to dun you.
- A debt collector tells 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.) Debt collectors can only communicate with any other people to obtain contact information about you.
- A debt collector misrepresents the amount, character, or legal status of a debt.
- A debt collector gives others credit information about you that is false, or should be known to be false.
- A debt collector fails to honor your dispute or cease communication rights.
- A debt collector threatens to take your property or garnish your wages if this action would not be legal or if the debt collector does not intend to do it. Your property can not be taken and your wages can not be garnisheed without a court order (judgment).
- A debt collector uses, or threatens to use, violence or any other illegal means to harm you, your family, your reputation, or your property.
- A debt collector uses profane or obscene language in communicating with you.
- A debt collector threatens you with criminal prosecution

credit issues are matters of civil law, not criminal law.

- A debt collector tricks you into accepting charges for collect calls, telegrams, C.O.D.'s, etc.
- A debt collector cashes, or threatens to cash, a post-dated check before the date written on the check, if the check is post-dated by 5 days or more.
- A debt collector does not give 3 to 10 days advance notice before cashing a check that is post-dated by 5 days or more.
- A debt collector claims to be an attorney or sends a letter made to look like it is from an attorney (unless the debt collector really is an attorney).
- A debt collector sends a letter that is made to look like a government or court document when it isn't.
- A debt collector sends a government or court document that is not recognizable as such.
- A debt collector threatens any action against you that is not legally feasible or that the debt collector does not intend to take.

Disclaimer: The information contained herein is provided for general information purposes only and is not intended to be a legal opinion nor legal advice nor is it intended to be a complete information on the subject of the "Fair Debt Collection Practices Act".