

## Important Points To Remember When Dealing With Collection Agencies

It is, perhaps, the most embarrassing and frightening moment a person can experience. The telephone rings and voice you've never heard before begins to berate you for being late with, or missing, a payment on your loan or credit card. Your personal honesty and integrity are called into question.. The faceless voice threatens you with legal action and personal humiliation. You try to explain what has happened and your explanation is abruptly cut off. "There is no excuse", you are told. "Pay up NOW or else ..."

As a consumer and user of credit, you are guaranteed certain rights when dealing with a collection agency. You also have certain responsibilities. Both are outlined below.

### Things Collection Agencies Cannot Do

Federal law, the *Fair Debt Collection Practices Act*, prohibits debt collectors from engaging in certain practices when attempting to collect a debt. They cannot ...

- ... call you late at night;
- ... call you at work if it jeopardizes your employment;
- ... call your employer or neighbors;
- ... make threats that are not true;
- ... harass you unfairly;
- ... use deceptive conduct in order to collect the debt.

The *Fair Debt Collection Practices Act* applies only to debt collectors who are collecting someone else's debt; i.e., Acme Collections collecting for ABC Creditor. While it does not specifically apply to a creditor collecting its on its own accounts, many creditors choose to abide by the provisions of the law voluntarily.

Creditors cannot arbitrarily seize your possessions. They must obtain a legal judgment before doing so.

Creditors cannot collect the debt from a member of your family unless that relative was a co-signer on the loan.

They cannot publish your name in the newspaper nor can they send you to prison without proving that there was a deliberate intent, on your part, to defraud the creditor.

## Things Collection Agencies Can Do

If the debt owed is *secured*, meaning that collateral has been pledged on the loan, the collateral can be repossessed. For example, an automobile loan is a *secured* loan. The lender can repossess the vehicle if payments are not made.

If the debt is an *unsecured* loan, there is no collateral and nothing to repossess. This does not mean, however, that the lender has no legal remedies to collect the money owed. The lender can ...

- ... request a legal judgment for garnishment of your wages. A garnishment orders your employer to deduct a specified percentage of your gross pay from each paycheck and submit it to the creditor. A creditor's right to obtain a garnishment order varies from one state to another, so a person who is being threatened with garnishment should seek legal counsel;

- ... report your payment history, and the fact that you have failed to pay your debt in full, to credit reporting agencies;

- ... sue you for recovery of the money owed and any costs incurred by the creditor in its collection efforts;

- ... stop doing business with you.

## Things You Can Do

You have the right to dispute the debt if you believe that you do not owe the money. Creditors are required to send you written notice that identifies both the creditor and the debt. If you dispute the debt, the creditor must stop collection efforts until a response has been sent to your dispute.

You can request, in writing, that the creditor stop contacting you by telephone or at work. The *Fair Debt Collection Practices Act* requires that the creditor honor this request. If the creditor continues to contact you after you have made this request, you may file a complaint with the Federal Trade Commission and your state Department of Banking and Commerce. Remember, though, that the credit can continue to send you written correspondence in its attempt to collect a valid debt.

You can sue a debt collector for violating the *Fair Debt Collection Practices Act* if you have suffered financial, physical, or emotional harm from the illegal activity. If you believe that you have a valid claim against a creditor regarding a violation of this law, contact a lawyer who specializes in consumer protection law.

You can resist pressure to make payments on an unsecured loan when you need to meet other obligations which represent survival needs; i.e., your mortgage or rent payment and utility bills.



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If you are under constant pressure or harassment from creditors and feel that you cannot satisfy your obligations, take steps to secure help by contacting a non-profit credit counseling agency for assistance with budgeting and determine any options that may be available to you.

*Consumer Debt Counselors, Inc. is an accredited, licensed, and bonded non-profit corporation that provides financial literacy programs that promote the prudent stewardship of financial resources. CDC provides financial crisis counseling on a low-cost/no cost basis and serves as a community resource. CDC helps reduce financial stress that individuals and families face by providing the tools needed to resolve the issues creating that stress. These may include low-cost/no-cost Debt Management Programs where appropriate and where the individual/family qualifies for such a program.*