

The

DEBT COLLECTION

Consumer Fraud Education and Protection Program

Handbook

www.NJConsumerAffairs.gov ■ 1-888-656-6225

DEBT COLLECTION

introduction ▶



DEBT COLLECTION HANDBOOK

All individuals, whether they have good or bad credit, experience everyday life events that may make them susceptible to unfair debt collection practices.

- *Have you fallen behind paying your bills?*
- *Has a creditor mistakenly reported that you are late with your payments?*
- *Have you forgotten about a debt that you owed?*
- *Have you recently moved, yet despite notification to your creditor, bills are still being sent to your prior address and now you are being contacted for nonpayment?*
- *Have you received medical treatment, yet despite paying your bill, an outside firm that handles the billing did not receive notice of your payment and has contacted you for nonpayment of your bill?*
- *Have you gotten divorced and are being contacted about the debts of your former spouse?*

If any of these scenarios sound familiar, a debt collector may be contacting you. Debt collectors, however, must act responsibly in their efforts to collect debt as provided for in the Fair Debt Collection Practices Act. This Act prohibits debt collectors from using abusive, unfair or deceptive practices to collect debt from consumers and is enforced by the Federal Trade Commission (FTC). *Read this booklet to learn your rights.*

Be an Informed Consumer....We can Help!

What is a debt?

The Fair Debt Collection Practices Act (FDCPA) defines a debt as any obligation of a consumer to pay money arising out of a transaction primarily for personal, family or household purposes, including money you owe on a personal credit card account, an auto loan, a medical bill or your mortgage.

Who is a debt collector?

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.

What must debt collectors tell consumers about their alleged debt?

Upon request, debt collectors 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 original creditor to whom you owe the money, and how to proceed if you don’t think you owe the money.

Are there certain limitations regarding when and how debt collectors may contact consumers?

- A debt collector may not contact you at inconvenient times or places, such as before 8 in the morning or after 9 at night, unless you agree to it.
- Debt collectors may not contact you at work if they're told (orally or in writing) that you're not allowed to get calls there.
Note: *Debt collectors may contact your place of employment to verify your address or other contact information, but they cannot tell your employer that you owe a debt.*
- If an attorney is representing you in connection with the debt, the debt collector **must** contact the attorney, rather than you. If you don't have an attorney, a collector may contact other people, but only to find out your address, your home phone number, and where you work. Other than to obtain this information about you, a debt collector generally is not permitted to discuss your debt with anyone other than you or your attorney.

What steps should consumers take to stop debt collectors from contacting them?

DO NOT HIDE OR AVOID THE DEBT COLLECTOR. If a collector contacts you about a debt, you should talk to him or her at least once to see if you can resolve the matter. Even if you do not believe that you owe the debt, or know that you cannot repay the debt immediately, or think that the collector is contacting you by mistake - **do not** ignore the debt collector.

If you decide after contacting the debt collector that you do not 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’ll be able to document what the collector received. Once the collector receives your letter, he or she may not contact you again, with two exceptions: a collector may contact you to tell you that there will be no further contact or to let you know that the collector or the creditor intends to take a specific action, such as filing a lawsuit.

NOTE: *Sending such a letter to a debt collector to whom you owe money does **not** rid you of the debt, but it should stop the contact. The creditor or the debt collector still can sue you to collect the debt.*

Fair Debt Collection Practices Act

The Fair Debt Collection Practices Act prohibits debt collectors from using abusive, unfair or deceptive practices when attempting to collect a debt.

Harassment

Debt collectors may not harass, oppress, or abuse you or any 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 (but they can give this information to the credit reporting companies); or
- use obscene or profane language, or repeatedly use the phone to annoy someone.

False statements

Debt collectors may **not** lie when they are trying to collect a debt.

For example, they may **not**:

- *falsely claim that they are attorneys or government representatives;*
- *falsely claim that you have committed a crime;*
- *falsely represent that they operate or work for a credit reporting company;*
- *misrepresent the amount you owe;*
- *indicate that papers they send to you are legal forms if they aren't; or*
- *indicate that papers they send to you aren't legal forms if they are.*

Fair Debt Collection Practices Act

Debt collectors also are prohibited from saying that:

- you will be arrested if you don't pay your debt;
- they'll seize, garnish or attach your wages, or sell your property unless they are permitted by law to take the action and intend to do so; or
- legal action will be taken against you, if doing so would be illegal or if they don't intend to take the action.

Debt collectors may not:

- give false credit information about you to anyone, including a credit reporting company;
- send you anything that looks like an official document from a court or government agency if it isn't; or
- use a false company name.

Fair Debt Collection Practices Act

Unfair practices

Debt collectors may **not** engage in unfair practices when they try to collect a debt. 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 postdated check early;
- take or threaten to take your property unless it can be done legally; or
- contact you by postcard.

What steps should you take if you are contacted by a debt collector, but do not think that you owe the debt?

Very often, people think that they do not owe the debt. It is imperative that you do **not** ignore the request. If you think that you do not owe the debt, it is important that you send the debt collector a letter stating that you do not owe any or all of the money to the creditor, or requesting that the debt be verified and that the collector should stop contacting you. You must send this letter within 30 days after you receive the validation notice. Note, however, that a collector can begin contacting you again if he or she sends you written verification of the debt, such as a copy of a bill stating the amount you allegedly owe.



What steps should you take if you are being sued by a debt collector?

If a debt collector files a lawsuit against you to collect a debt, you must respond to the lawsuit, either personally or through your lawyer, by the date specified in the court papers to preserve your rights, even if you think you can prove that you do not owe the debt.

If you think a debt collector has violated a law, you should contact the New Jersey Division of Consumer Affairs at www.NJConsumerAffairs.gov and the Federal Trade Commission at www.ftc.gov.

You may also file a complaint online by visiting the New Jersey Division of Consumer Affairs website at: www.NJConsumerAffairs.gov/ocp/ocpform.htm or the Federal Trade Commission at www.ftc.gov.

Debt Collection

Regrettably, many of us have debts that we may have forgotten. Debt collectors remind us of this fact - sometimes properly, sometimes improperly. At times, debt collection practices can be abusive and possibly harassing. As noted in this booklet, there are laws that address such practices. However, it is important that you do not ignore letters and communications from debt collectors. If the debt is legitimate, you **must** pay it.

To learn more about debt collection and other consumer-related issues, visit the New Jersey Division of Consumer Affairs online at www.NJConsumerAffairs.gov and the Federal Trade Commission at www.ftc.gov/credit.

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