



CLIENT SERVICES & POLICY DIVISION Legal Assistance Office



What To Know About Debt Collection

What types of debts are covered under the law? Your credit card debt, auto loans, medical bills, student loans, mortgage, and other household debts are covered under the FDCPA. Business debts are not.

Can debt collectors contact me at any time or place? No. Debt collectors can't contact you before 8 a.m. or after 9 p.m., unless you agree to it. They also can't contact you at work if you tell them you're not allowed to get calls there.

How can a debt collector contact me? Debt collectors can call you, or send letters, emails, or text messages to collect a debt.

How can I stop a debt collector from contacting me? Mail a letter to the collection company and ask it to stop contacting you. Keep a copy for yourself. Consider sending the letter by certified mail and paying for a "return receipt." That way, you'll have a record the collector got it. Once the collection company gets your letter, it can only contact you to confirm it will stop contacting you in the future or to tell you it plans to take a specific action, like filing a lawsuit. If you're represented by an attorney, tell the collector. The collector must communicate with your attorney, not you, unless the attorney fails to respond to the collector's communications within a reasonable time. Consider talking to the collector at least once, even if you don't think you owe the debt or can't repay it immediately. That way, you can get more information about the debt and confirm whether it's really yours. To avoid debt collection scammers, see: <https://www.consumer.ftc.gov/articles/0258-fake-and-abusive-debt-collectors#HowToKnowIfADebtIsYours>. Be careful about sharing your personal or financial information, especially if you're not already familiar with the collector.

Can a debt collector contact anyone else about my debt? A debt collector generally cannot discuss your debt with anyone but you or your spouse. If an attorney is representing you, and you've told the collector, the debt collector must contact the attorney. A collector can contact other people to find out your address, your home phone number, and where you work, but usually can't contact them more than once, and cannot tell them you owe a debt.

What does the debt collector have to tell me about the debt? A collector has to give you "validation information" about the debt, either during the collector's first phone call with you or in writing within five days after first contacting you. The collector has to tell you four pieces of information: 1) how much money you owe; 2) the name of the creditor you owe it to; 3) how to get the name of the original creditor; and 4) what to do if you don't think it's your debt.

What if I don't think I owe the debt? If you don't recognize a debt, send the debt collector a letter, and ask for verification of the debt. Once you get the validation information, if you don't recognize a debt, or don't think the debt is yours, send the debt collector a dispute letter saying you don't owe some or all of the money, and ask for verification of the debt. Make sure to send the dispute letter within 30 days. Once the collection company receives the letter, it must stop trying to collect the debt until sending you written verification of the debt, like a copy of the

original bill for the amount you owe. Consider sending your letter by certified mail and requesting a return receipt to show that the collector got it. Keep a copy of the letter for your records.

What are debt collectors not allowed to do? Collectors can't harass you. For example, collectors: can't threaten to hurt you, may not use obscene or profane language, and can't repeatedly call you. Collectors can't lie. For example, collectors: cannot tell you that you owe a different amount than what you actually owe, may not pretend to be an attorney or from the government, and can't tell you that you'll be arrested, or claim they'll take legal action against you if it's not true. Collectors can't treat you unfairly. For example, collectors: may not try to collect interest, fees, or other charges on top of the amount you owe, unless the original contract or a law says they can, can't deposit a post-dated check early, and cannot publicly reveal your debts, including by sending postcards or putting information on envelopes.

Can I control which debts my payments apply to? 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 choose. A debt collector can't apply a payment to a debt you say you don't owe.

What should I do if a debt collector sues me? If a debt collection lawsuit is filed against you, see a legal assistance attorney. You must respond by the date specified in the court papers. And you can respond either personally or through your attorney. That will preserve your rights. Don't ignore the lawsuit.

Can a debt collector take money from my paycheck? Yes, but the collector must first sue you to get a court order — called a garnishment — that says it can take money from your paycheck to pay your debts. A collector also can seek a court order to take money from your bank account. Don't ignore a lawsuit, or you could lose the chance to fight a court order.

Can my federal benefits be garnished? If you have an unpaid debt, a creditor or the debt collector it hires may get a court order to try to take money from your bank account to pay the debt. The court order is called a garnishment. Many federal benefits are generally exempt from garnishment, except to pay delinquent taxes, alimony, child support, or student loans. States have their own laws about which state benefits can be garnished. Federal benefits that are generally exempt from garnishment (except to pay delinquent taxes, alimony, child support or student loans) include: Social Security benefits, Supplemental Security Income benefits, Veterans benefits, Federal student aid, Military annuities and survivors' benefits, Benefits from the Office of Personnel Management, Railroad retirement benefits, and Federal emergency disaster assistance.

What if my debt is old? Debt doesn't usually go away, but debt collectors do have a limited amount of time to sue you to collect on a debt. This time period is called the "statute of limitations," and it usually starts when you miss a payment on a debt. After the statute of limitations runs out, your unpaid debt is considered to be "time-barred." If a debt is time-barred, a debt collector can no longer sue you to collect it. In fact, it's against the law for a debt collector to sue you for not paying a debt that's time-barred. If you do get sued for a time-barred debt, tell the judge that the statute of limitations has run out. How long the statute of limitations lasts depends on what kind of debt it is and the law in your state — or the state specified in your credit contract or agreement creating the debt. Also, under the laws of some states, if you make a payment or even acknowledge in writing that you owe the debt, the clock resets and a new statute of limitations period begins. In that case, your debt isn't time-barred anymore.

Can a debt collector contact me about a time-barred debt? Sometimes. It depends on which state you live in. Some state laws say it's illegal for a debt collector to contact you about a time-barred debt. But even if you live in a state where a collector may still contact you, they cannot sue or threaten to sue you over a time-barred debt. If you're in a state where a debt collector can still contact you about a time-barred debt, they can keep contacting you by phone, email, or letter to try to collect what you owe. If you want to stop a collector from contacting you, send your request by mail. If you live in a state where a debt collector can't contact you about a time-barred debt — and they reach out to you — report it.

What if I'm not sure if my debt is time-barred? Start by asking the collection company what its records show about when you made your last payment. When you have that information, contact your state attorney general's office and ask them for the statute of limitations on your debt. You can also contact a legal aid office in your state, or research that information online. If the statute of limitations has run out, your unpaid debt is considered to be time-barred. When asking about your debt, remember that in some states, if you acknowledge in writing that you owe the debt, the clock resets and a new statute of limitations period begins.

Does a time-barred debt stay on my credit report? Yes. Negative information — like past-due debts — can generally stay on your credit report for seven years.

Do I have to pay a debt that's considered time-barred? It's up to you. Consider talking to an attorney before you decide. You can:

- **Pay nothing.** The collector can't sue you, but can keep contacting you unless you send a letter by mail telling the collector to stop contacting you.
- **Make a partial payment.** In some states, if you pay any amount on a time-barred debt, or even promise to pay, the debt is "revived." That means the clock resets, and a new statute of limitations begins. The collector might be able to sue you to collect the full amount of the debt, which may include extra interest and fees.
- **Pay off the debt.** Some collectors will accept less than what you owe to settle a debt. Before you make any payment to settle a debt, get a signed letter from the collector that says the amount you're paying settles the entire debt — and you no longer owe anything for that debt. Keep the letter and a record of any payments you make to pay off the debt.

Remember that paying off an old debt may not erase it from your credit history. Also, if you settle the debt, some collectors will report that on your credit report to show you didn't pay the full amount.

What should I do if I'm sued for a time-barred debt? Don't ignore the lawsuit. Consider talking to an attorney. Show up on the day of your case and tell the court the debt is time-barred. You will probably need to show proof of this, so plan to bring a copy of the debt information from the collector, or any information that shows the date of your last payment.

Where do I report a debt collector for doing something illegal? Report any problems you have with a debt collector to:

- the Federal Trade Commission
- the Consumer Financial Protection Bureau
- your state attorney general

Many states have their own debt collection laws that are different from the federal laws. Your state attorney general's office can help you determine your rights under your state's law.

What can I do if I think a debt collector broke the law? Besides reporting them, you can sue a collector in a state or federal court. You'll need to file your lawsuit within one year of when the

collector broke the law. If you lost wages or had medical bills because of the things the debt collector did, you can sue for those damages. If you can't prove damages, the judge can still award you up to \$1,000, plus reimburse you for attorney's fees and court costs. However, even if a court finds a debt collector violated the FDCPA, you may still owe the debt. For more information about this see: <https://www.consumer.ftc.gov/articles/debt-collection-faqs#collection>

If you have further questions, please make an appointment with the legal assistance office by emailing us at: USARMY.WIESBADEN.USAREUR.MBX.OJA-WLC-LEGAL-ASSISTANCE-CALENDAR@MAIL.MIL.