



CENTRAL VIRGINIA LEGAL AID SOCIETY

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Fair Debt Collection

A debt collector may not harass, abuse, mislead, deceive, or be unfair to you. A federal law called the Fair Debt Collection Practices Act makes this illegal. This law covers personal, family and household debts. This law does not cover business or commercial debts.

Who is a debt collector?

A debt collector is anyone, other than the creditor to whom you owe money, who collects debts for others. (A person or business you owe money to is called a creditor.) An attorney who regularly collects debts for others is a debt collector. The Fair Debt Collection Practices Act doesn't apply to creditors who collect their own debts.

How may a debt collector contact me?

A debt collector may contact you in person, by mail, telephone, telegram, or fax. A debt collector may not contact you an excessive number of times. A debt collector may not contact you at unreasonable times or places, such as before 8:00 a.m. or after 9:00 p.m. A debt collector also may not contact you at work if the collector knows that your employer objects to this.

May a debt collector contact anybody else about my debt?

If you have an attorney, the debt collector may not contact anyone other than your attorney. If you don't have an attorney, a debt collector may contact other people, but only to find out where you live and work. A debt collector can't contact other people to get location information more than once. A debt collector can't tell or suggest to anyone other than you and your attorney that you owe money.

What must a debt collector tell me about the debt?

Within five days after you first are contacted, the debt collector must send you a written notice. This notice must tell you the amount of money you owe, the name of the creditor, and what to do if you believe you don't owe the money. A debt collector must stop collection action if you send the collector a letter, within 30 days after you first are contacted, saying you don't owe the money. If you are sent proof of the debt, such as a copy of a bill, a debt collector may contact you again.

What harassing and abusive acts by debt collectors are unlawful?

Debt collectors may not harass or abuse anyone. For example, debt collectors may not do these things.

- Threaten violence or harm to anyone.
- Threaten to harm or damage anyone's property.
- Threaten to harm or damage anyone's reputation.
- Publish a list of debtors (except to a credit bureau).
- Use obscene or profane language
- Repeatedly use the phone to annoy anyone.
- Telephone people without identifying themselves.
- Advertise your debt.

What misleading and deceptive acts by debt collectors are unlawful?

Debt collectors may not use misleading or deceptive (false) statements. For example, debt collectors may not do these things.

- Say you have committed a crime.
- Say you will be arrested or jailed if you don't pay your debt.
- Say they will garnish your wages, income, or bank accounts, unless it is legal to do so, and the debt collector or creditor intends to do so.
- Say they will take, attach, or sell your property, unless it is legal to do so, and the debt collector or creditor intends to do so.
- Say that a lawsuit will be filed against you, when they don't intend to.
- Say or suggest that papers being sent to you are court papers, when they are not.
- Say or suggest that papers being sent to you are not court papers, when they are.
- Send you anything that looks like papers from a court or from the government, when they are not.
- Falsely say or suggest they are attorneys or work for a court or for the government.
- Falsely say or suggest they operate or work for a credit bureau.
- Falsely state the amount of your debt.
- Falsely state that an attorney is helping collect the debt.
- Give false information about you to anyone.
- Use a false name.

What unfair acts by debt collectors are unlawful?

Debt collectors may not be unfair. For example, debt collectors may not do these things.

- Call you collect, or send telegrams you must pay for.
- Contact you by postcard.
- Put anything on an envelope that shows it comes from a debt collector.
- Collect any amount greater than your debt, unless it is legal to do so.
- Deposit a post-dated check before the date on the check.

What control do I have over payment of my 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 don't owe.

Do I have to talk with a debt collector on the phone?

No. You don't have to talk with a debt collector on the phone. In most cases, you have nothing to gain by talking with a debt collector on the phone. The debt collector is not interested in why you haven't paid or can't pay. The debt collector only wants you to pay a certain debt, even if you have more important debts or bills to pay first. Remember that it's your money, and you have the right to decide which debts and bills to pay first. You can't be arrested or jailed for not paying a debt. You have not committed a crime by not paying a debt, bill, or judgment.

If you don't want to talk with a debt collector on the phone, hang up the phone. If the debt collector calls back, hang up as many times as you need to until the debt collector stops. The information section at the front of your local telephone book should explain what to do about harassing, threatening, or annoying calls. You may report these calls to your telephone service center or annoyance call center.

Do I have to answer letters I get from debt collectors?

No. You don't have to answer letters you get from a debt collector. However, if you don't owe the debt, you should send the debt collector a letter, within 30 days after you first are contacted, explaining why you don't owe the money. Also, if you don't want to be contacted by the debt collector any more, you should send the debt collector a letter saying that. You may send this letter at any time. A sample letter to a debt collector telling them to stop contacting you, along with instructions on how to fill it out and mail it, can be found at the end of this information sheet.

Can I stop a debt collector from contacting me?

You may stop a debt collector from contacting you by writing a letter to the debt collector telling them to stop. Once they get your letter, they can't contact you again, except to say there will be no further contact or that they intend to take a certain action. Your letter should include the debt collector's name and address, and your name and return address. Sign and date your letter. Copy your letter and save it. You may want to send your letter by certified mail, return receipt requested. Save the certified mail receipt and the green return receipt.

What if a debt collector breaks the law?

You may sue the debt collector in state or federal court within one year from the date you believe the law was broken. If you win, you may recover money for any damages you suffered. You also may recover court costs and attorney's fees.

What if the creditor contacts me instead of a debt collector?

If the creditor contacts you instead of a debt collector, then the Fair Debt Collection Practices Act does not apply. However, most of the rules and information that you have read still apply. A creditor who is collecting its own debts also may not harass, abuse, mislead, deceive, or be unfair to you. If you don't want to talk with a creditor on the phone, hang up the phone the same way you would with a debt collector.

INSTRUCTIONS FOR SENDING A LETTER TO A DEBT COLLECTOR TELLING THEM TO STOP CONTACTING YOU

On the reverse side of this page is a form letter you may use to write a debt collector and demand that they stop contacting you. You should make additional copies of the reverse side for your future use. Don't send them this piece of paper!

On the three lines provided at the top right-hand side, write your name and complete address. Then, write the date on the line provided. Next, on the three lines provided on left-hand side, write the name and complete address of the debt collector that has been contacting you.

Below that, fill in your name as the "debtor," and fill in the name of the company (the "creditor") that you owe the money to (not the name of debt collection agency). Then fill in the account number, which you will find on any letters or notices sent to you from the debt collection agency.

Finally, sign your name at the end of the letter and print your name below it so that it can easily be read.

Before you mail the letter, make a copy of the completed form on a copier machine to keep for your records. If you can possibly afford to, mail the letter certified mail, return receipt requested. Save the certified mail receipt and the green return receipt. This way you can easily prove in court they received the letter if they later contact you and you sue them for doing so.

Date: _____

Re: Debtor: _____

Creditor: _____

Account #: _____

Dear Sir or Madam:

Your company has recently contacted me in regards to the above-referenced debt. At the present time I am unable to pay anything because of my poverty.

Accordingly, pursuant to the provisions of the federal Fair Debt Collection Practices Act, 15 U.S.C. sec. 1692, *et seq.*, I hereby demand that you cease any further attempts to contact me, my family, or any third party regarding this debt.

Should you fail to comply with this instruction, I am prepared to pursue your violations of the Fair Debt Collection Practices Act in federal court.

Yours truly,
