

FAIR DEBT COLLECTION



prepared by
**MOUNTAIN HOME AFB
GUNFIGHTER LEGAL OFFICE**



INTRODUCTION

If you use credit cards, have a loan, or are paying off a mortgage, you are a “debtor.” Most people are. If you’re behind in paying your bills, or a creditor’s records mistakenly make it appear that you are, a debt collector may be contacting you. The Fair Debt Collection Practices Act (FDCPA)¹ prohibits debt collectors from using abusive, unfair, or deceptive practices to collect your debts. It does not, however, eliminate legitimate debts.

WHAT DEBTS ARE COVERED?

The FDCPA covers personal, family, and household debts, including money you owe on a personal credit card account, an auto loan, a medical bill, and your mortgage.

WHO IS A DEBT COLLECTOR?

A debt collector is any person other than a creditor (the original person you owe money to) who *regularly* collects debts owed to you by others. For example, if you default on your loan from a bank, the Act does not apply to the efforts of the bank to collect the debt. However, if the bank hires a debt collection agency to pursue the debt for it, the Act applies to the efforts of the debt collection agency.

HOW MAY A DEBT COLLECTOR CONTACT YOU?

A debt collector can contact you by telephone, mail, or telegram, but not at an inconvenient time (before 8 a.m. or after 9 p.m.) unless you agree. A debt collector may not contact you at work if he knows that your employer does not approve.

You do need to tell the collector if that is the case. If you want the collector to stop contacting you entirely, you must send a letter to the agent or agency and tell them to stop. Sending such a letter to a debt collector you owe money to does not get rid of the debt, but it should stop the contact. The creditor or the debt collector still can sue you to collect the debt.

CONTACTING OTHERS

A debt collector may contact your family or friends to find out your address, your home phone number, and where you work. A debt collector is generally not permitted to discuss your debt with anyone other than you, your spouse, or your attorney.

REQUIRED DISCLOSURES

Every collector must send you a written 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 creditor.

¹ 15 U.S.C. § 1692 (2010).

PROHIBITED COLLECTION PRACTICES

Harassment, oppression, and abuse are prohibited. Prohibited practices include:

- Threats of harm to the person, property, or reputation of a person;
- Publication of a list of persons who refuse to pay, except to a credit bureau (This restriction may not apply to taxes and monies owed to public services and governmental bodies or some transactions involving real estate.);
- Use of obscene/profane language;
- Repeated telephone calls to harass;
- Telephoning people without giving meaningful disclosure of the caller's identity;
- Advertising the debt.

Collectors cannot use false statements to collect a debt. For example, debt collectors cannot:

- Imply they are an attorney (unless they are), or government representative;
- Imply you have committed a crime;
- Imply they work for a credit bureau;
- Misrepresent the amount of the debt;
- Misrepresent the legal nature of forms presented.

Further, debt collectors may not:

- Say you will be arrested for failure to pay;
- Say they will seize, garnish, attach, or sell your property or wages unless they legally intend to do so;
- Say actions will be taken against you which legally may not be taken;
- Give false credit information about you to anyone;
- Use a false name;
- Use symbols or words indicating "debt collection" on postal correspondence.
- Send you something that looks like an official document from a court or government agency if it is not.

WHAT CAN YOU DO IF YOU BELIEVE A DEBT COLLECTOR HAS BROKEN THE LAW?

You have the right to sue a debt collector in state or federal court within one year from the date of the violation. If you win, you can recover actual money damages, and possibly court costs and attorney. If a group of people have been damaged and sue collectively, they can recover up to \$500,000 or one percent of the collector's net worth, whichever is less.

***This handout is general in nature. It is not a substitute for legal advice from an attorney regarding individual situations. (August 2021)**

For additional information on this and other legal topics, see the Air Force Legal Assistance Website: <https://aflegalassistance.law.af.mil>