

Your Rights Under the FDCPA: Fair Debt Collection Practices Act



The FDCPA

The federal Fair Debt Collection Practices Act (FDCPA) was enacted in 1977, with the support of the American Collectors Association (ACA), to protect consumers from unfair and abusive collection practices. The law regulates professional, third party collection businesses, agents and attorneys, but not “in-house” collectors, or creditors who collect their own debts.

This pamphlet is not intended to be a complete or official summary of the FDCPA. The Federal Trade Commission (FTC) enforces the FDCPA on the federal level. There may be regulations in the state where you reside that provide further consumer protection. State laws vary. For more information on the FDCPA or state laws, write to: ACA International, P.O. Box 39106, Minneapolis, MN 55439-0106.

Notification

Within five working days after you are first contacted, the debt collector must send you a written notification of the amount of debt and the name of the creditor who referred the debt to the collector. This notice should inform you of your right to dispute the debt within 30 days after you receive the notice.

A debt collector must disclose in the first communication with you that he or she is attempting to collect a debt and that any information obtained will be used for that purpose. If the debt collector’s first communication with you is by phone, the debt collector must also include the above disclosure in its first written communication with you as well. In all subsequent communication with you, the debt collector must identify himself or herself.

Collection Practices

A debt collector may:

- Only use business-like language. This prohibits threats of violence or profane, obscene or abusive language.
- Only report your account to a qualified credit-reporting agency.
- Deposit a check on or after the date on the check. If a check is post-dated by more than five days, the debt collector must notify you in writing three to 10 days before depositing the post-dated check.
- Add charges that are provided for by law or by your original agreement with the creditor.

A debt collector may not:

- Make repetitive or excessively frequent phone calls to annoy or harass you.
- Misrepresent his or her identity.
- Misrepresent the legal status of your debt, falsely accuse you of criminal activity, or indicate that any document is in legal process if it is not.
- Threaten to take any action that is illegal or that the debt collector does not actually intend to take.

Collectors’ Rights

- Contact you by phone only between 8 a.m. and 9 p.m., unless you give the debt collector permission to call at other times.
- Call you at work, unless you inform the debt collector that your employer prohibits it.
- Contact you by mail so long as there is no reference to the debt on the envelope.
- Contact people who aren't directly involved in your debt to get information on where you live and work, as long as there is no communication about the debt. Collectors must state their name and must give the name of their employer if the person specifically asks. A debt collector may contact each person once, unless it is believed that the person gave the debt collector incorrect or incomplete information at the time, but now has complete or updated information.
- Contact you directly unless the debt collector has been informed that an attorney regarding the debt represents you. (You should tell the agency how to reach your attorney).
- Ask for post-dated checks if permitted by state law. If state law permits a collector to ask for a post-dated check, the debt collector must adhere to all state and federal laws when depositing the post-dated checks.
- Accept only payment in full. Most collectors will, however, accept reasonable plans for payment.

Your Rights

Within 30 days of being contacted by a debt collector, you may notify the agency in writing that you dispute the debt or any part of the debt. The debt collector must then obtain proof of the debt and stop all collection efforts until the proof is mailed to you.

You may send a written request that the collector stop all contact with you. The debt collector may then contact you only once more, to advise you as to what legal or other action the collector or creditor intends to take, or to inform you that you will no longer be contacted. Be aware, however, of the possible consequences of invoking this provision. Once you have stopped communication with a debt collector, the collector may initiate legal action, depending on the type, circumstances and amount of the debt, the policies of the creditor and the laws in your state. If a court enters a judgment against you, the creditor may pursue remedies such as repossession, liens or wage garnishments.

The cease communication provisions can protect you from an abusive debt collector. It won't, however, resolve the problem of the unpaid debt.

ACA International, the Association of Credit and Collection Professionals, formerly known as the American Collectors Association, has over 5,300 members including third-party collection agencies, creditors, attorneys and vendor affiliates. All members of ACA International agree to abide by all state and federal laws and regulations governing the collection industry, including the FDCPA. For more information on ACA International or the FDCPA visit our Web site at www.acainternational.org.

THIS INFORMATION IS NOT INTENDED AS LEGAL ADVICE AND MAY NOT BE USED AS LEGAL ADVICE. IT SHOULD NOT BE USED TO REPLACE THE ADVICE OF YOUR OWN LEGAL COUNSEL. ANY INFORMATION CONTAINED IN THIS MATERIAL IS BASED ON CURRENT RESEARCH INTO THE ISSUES AND ON THE SPECIFIC FACTS INVOLVED HEREIN.
