



Consumer Rights – Debt Collection

The Fair Debt Collection Practices Act (FDCPA) is the main federal law that protects consumers from unfair debt collection practices. The FDCPA only applies to “consumer debt” - overdue bills and dishonored checks for purchases of personal, family, or household items. The FDCPA does not apply to debts that you have from running a business. It is a protection only for consumers. The law is meant to protect consumers against certain actions of debt collectors. Generally, this law prohibits debt collectors from harassing and threatening consumers, and it also requires debt collectors to be fair and completely honest with their debt collection attempts. A debt collector must send you a written “validation notice” within 5 days from first contacting you, telling you how much money you owe. It must include the name of the creditor and what steps to take if you do not owe the money. You can send a written request for proof of the debt within 30 days from receiving the “validation notice” and the debt collector must stop contacting you. Once the debt collector sends you proof of the debt, the debt collector can start contacting you again.

When is a debt collector prohibited from communication? A “communication” is any way that a debt collector contacts someone, including mail, e-mail, telephone calls, texting, etc. A debt collector must not communicate with you:

- At an unusual or inconvenient time or place. Generally, before 8 am or after 9pm is considered an inconvenient time
- After the debt collector knows the consumer is represented by an attorney
- At the consumer’s place of work if the debt collector knows or should know that the consumer’s employer does not allow such communications.

Harassment and abuse are not allowed – In communicating with a consumer, a debt collector may not:

- Make threats of violence or other illegal means to harm the consumer, the consumer’s reputation, or the consumer’s property
- Use obscene, profane, or abusive language
- Coerce payment (bully or try to force you to make a payment)
- Continually call with the intent to annoy, abuse, or harass (leaving numerous messages is not allowed).

Debt collectors may not give consumers false or misleading information –

- **Requirement** – In addition to identifying themselves as a debt collector, debt collectors must also state the reason for the communication (to collect the specific debt). This is referred to as a “mini-Maranda” requirement, and it must be done in all communications with a consumers, including voicemails.
- A debt collector may not give any false impressions concerning the aspects of the debt collection attempt. For example, the debt collector may not imply that the consumer committed a crime or that refusal to pay the debt collector will result in arrest.

Other prohibited practices- debt collectors are also not allowed to:

- Collect any amount, including interest, fees and expenses, unless the amount is either permitted by law or specifically allowed for in the agreement that created the debt
- Accept, solicit or deposit post-dated checks in order to threaten or get the consumer in trouble with the law
- Take or threaten to take the consumer’s property (repossession) without a court order

Who else can a debt collector contact about a consumer’s debt? Debt collectors are allowed to communicate only with the actual consumer and the consumer’s spouse. They are prohibited from contacting anyone else and revealing the consumer’s debt to them. They may contact other people only to get the consumer’s location.

What can consumers do to stop the communications? A debt collector must stop communicating with a consumer if the consumer notifies the debt collector in writing that the consumer refuses to pay the debt or that the consumer wants the debt collector to stop further communications. (The debt collector is allowed one follow-up communication after this). At this point, the debt collector may decide to take legal action, such as suing the consumer.

