

# Chapter 9

## Debt Collection





Bill collectors will use many tactics to force a consumer to pay his or her debt. However, it is important for a consumer to know the laws about debt collection to avoid being scammed or abused by a collector. The federal Fair Debt Collection Practices Act (FDCPA) was created to protect consumers from unfair, deceptive and harassing debt collection practices. When collecting a debt, a debt collector must:

- Identify who he or she is when calling. During the first call, the collector must state the name of the collector's company and for whom the debt is being collected. If the debt collector fails to do this or does not provide this information when asked, use caution because the caller may not be working for a legitimate debt collection agency.
- Send a letter to the consumer's home address within five days of initial contact identifying the debt collector, which company the debt is being collected on behalf of, and the balance allegedly owed.
- Inform the consumer that he or she has the right to dispute the debt and has 30 days to demand the collector validate (provide proof of) the debt allegedly owed.
- If asked for validation (proof) of the debt, the collection agency must stop all attempts to collect the debt until it provides verification. If the consumer wants to have the debt validated, he or she must do so in writing—an oral request does not necessarily require the collector to produce validation.

The following is a list of what debt collectors can and cannot do when it comes to collecting debts.

The debt collector CANNOT:

- Call before 8 a.m., after 9 p.m., or at any time that the consumer has said is inconvenient to receive calls. The collector also cannot call the consumer's workplace if the consumer has told the collector not to do so.
- Tell people other than the consumer, the consumer's spouse, or the consumer's attorney that the debt is owed.
- Use any profane or abusive language while speaking with the consumer.

- Refuse to give the consumer information regarding the collector's name, the name of the collection agency, the company's contact information, and the creditor that the agency is collecting on behalf of.
- Misrepresent facts such as how much money the consumer owes.
- Threaten to arrest or criminally prosecute the consumer because of this debt.
- Send false information to credit bureaus.
- Cause the consumer's phone to ring an unreasonable number of times (for example, 3-4 times a day).
- Add arbitrary fees. The collection agency is not allowed to add interest or any other extra fees unless the consumer agreed to the fees in the original contract with the creditor or the fees are permitted by law.

The debt collector CAN:

- Contact a family member, friend, or work supervisor in order to get the consumer's contact information; however, the collector is not allowed to discuss the debt with this individual and can only contact this person once.
- Call at reasonable hours and times that the consumer said would be okay.

It is a very good idea to keep a record of anything discussed during a call with a debt collector. Some consumers choose to record the calls. Every state has its own policy regarding call recording. Tennessee and Kentucky are both "One Party Consent States," meaning that if a consumer would like to record the conversation with the debt collector, the consumer does not have to tell the collector that the call is being recorded.

Consumers need to know their rights and seek proof of validation of any debt that the consumer is contacted about but is unsure is actually owed. If a debt collector contacts a servicemember or servicemember's spouse about a late debt and threatens to contact the servicemember's commanding officer if the debt is not paid quickly, do not hesitate to ask questions. By law the collector is not

allowed to contact the servicemember's commanding officer, and the mention of doing so might be an indication that the call is from a scammer. Regardless of whether the servicemember believes the debt is legitimate or not, ask for the collector's information and then contact the creditor to make sure the information is accurate. Taking these steps could prevent servicemembers from becoming victims of fraudulent debt collectors.

The Federal Trade Commission's (FTC) website has helpful information about debt collection issues and the FDCPA. For more details about the law and its implications on consumers, visit: [www.consumer.ftc.gov/articles/0149-debt-collection](http://www.consumer.ftc.gov/articles/0149-debt-collection). Additionally, the Consumer Financial Protection Bureau's (CFPB) website has a list of frequently asked questions regarding debt collection on its "Ask CFPB" portal which can be viewed by visiting: [www.consumerfinance.gov/askcfpb/](http://www.consumerfinance.gov/askcfpb/). Servicemembers can file complaints about debt collectors with the FTC at [www.ftccomplaintassistant.gov](http://www.ftccomplaintassistant.gov) or by calling 877-FTC-HELP (877-382-4357). Complaints can be filed with the CFPB at [www.consumerfinance.gov/complaint/](http://www.consumerfinance.gov/complaint/).

