

---

## **Debt Collection: Your Rights and Responsibilities**

Being contacted by a debt collector can be upsetting. However, under the law you do have rights as well as responsibilities in handling debt collection. If a collector calls you the most important thing to do is to remain calm. If you get angry you may miss important information. When a collector contacts you, find out the name, address and phone number of the collection. Also, find out the name of the business you owe money to, if different from the caller. Get the exact amount they claim you owe.

### **Debt Collection Basics**

Debt collection can occur on any legitimate debt in default. It's important to understand that default includes paying less than the contract requires. Many people incorrectly think that if they just pay a creditor something, a creditor cannot take action. Consumers are responsible for abiding by the contract they've agreed to. If your contract calls for a payment of \$150 each month, that's what you must pay. Otherwise you are breaking the contract.

Debt collection activities can include assessing a late fee, placing the account in a default status, reporting status to credit bureaus, phoning/writing the debtor, turning the account over to a collection agency, suing, garnishing wages or bank accounts, and repossession. The statute of limitations for debt collection is 6 years from the date of the last payment. It is 20 years for judgments.

### **A collector may not harass you.**

Harassment usually means that a collector has used obscene or threatening language with you. This includes calling you names, demeaning your occupation, or questioning the decisions that lead to your account being placed with a collection agency. Remember that it is not against the law to be rude.

It is also considered harassment to contact you at unusual hours (usually defined as before 8:00 a.m. or after 9:00 p.m.), or to call so often that it becomes harassing.

A collection agency or creditor may contact your employer only to verify employment or the amount of your earnings, or to initiate garnishment after a final court judgment. A collector can contact a third party only to determine if you reside at the location listed on the account. If you've moved, they can ask for the new address, phone number, and where you are employed. Any further discussion between a third party and a collector is prohibited in Wisconsin.

A collector can threaten legal action against you. This includes threats to garnish your wages or seize collateral. However, such action can only be threatened if it is taken in the regular course of business or is intended with respect to your particular debt. Unless the collector has purchased the loan from the original creditor, a collection agency cannot initiate legal action on its own but can recommend legal action to the creditor.

### **What if there is an error?**

If you feel that you do not owe the debt or that there has been an error made you can dispute the debt. If a collection agency is involved, write them within 30 days of receiving the initial notice to

inform them that you are disputing the debt. The collection agency must then halt collection activity until a verification statement is sent to you. It can then resume collection efforts. However, if the debt cannot be verified, the collection agency must cease activity on your account and cannot contact you again. During the period of time that you are disputing the debt, the collector may not disclose any information about the debt to a third party such as credit bureau, without also stating that it is being disputed.

**What if I can't pay off the debt?**

If you are in a financial bind and can't pay off the debt, try to propose a plan to pay off the full debt by making specific regular payments. Be prepared to provide evidence concerning your current financial condition. Make sure that the payments are in an amount you can afford. Write both the creditor and collection agency with your proposal. Try to include a payment in the proposed amount in your letter.

The payment plan should be reasonable. Offering to pay \$5 a month on a \$1,000 debt probably would not be accepted by a creditor or collection agency. If the collector approves these new payments, it is extremely important that you do not miss any payments. Remember, once your account goes into default, a creditor can demand any amount they wish, up to full payment of the debt. They are not obligated to accept any offer you make them.

Collectors cannot disclose, or threaten to disclose, information about your personal or credit reputation to anyone, without a legitimate business need to know it. However, collectors can report accurate information to the credit bureau and that information could end up on your credit report.

If you have questions about your rights or the conduct of a collection agency, contact the Department of Financial Institutions, at 1-800-452-3328. You can also find more information on the DFI web site at, <http://www.wdfi.org>.