

## **How to Handle Debt Collectors**

Being contacted by someone who wants to collect a debt can be upsetting. This fact sheet explains some of your rights and responsibilities under the law and answers some frequently asked questions about debt collection.

### **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.

### **What should I do if a collector calls me?**

The most important thing to do is to remain calm; arguments do not solve anything. If you get angry you may forget important information. In responding to complaints that bill collectors were abusive, it is often discovered it was actually the consumer who was abusive.

If you are contacted:

- Find out the name, address and phone number of the company calling you.
- Find out the name of the business you owe money to, if different from the caller.
- Get the exact amount they claim you owe.

### **How do I dispute a debt?**

If a collection agency is involved, write them within 30 days of receiving the initial notice and inform them you are disputing the debt. The collection agency must then halt collection activity until a copy of the verification is sent to you. It can then resume collection efforts. If the debt cannot be verified, the collection agency must cease activity on your account. During this time you are disputing the debt, the collector may not disclose any information about the debt, without also stating that it is being disputed.

### **The creditor called yesterday and threatened to sue me if I didn't pay my debt. Is that legal?**

Yes. A creditor can threaten legal action against you. This includes threats to garnishee 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. Only the creditor has the authority to decide whether legal action should be taken. A collection agency cannot initiate legal action on its own but can recommend legal action to the creditor.

### **What is considered harassment?**

Harassment is difficult to describe in exact terms, but it usually means that a collector 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. 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. Remember it is not against the law to be rude, and there is a distinction between rudeness and harassment.

**Is a collection agency allowed to contact my employer?**

The collector can contact your employer only for the following reasons – to verify employment or the amount of your earnings, or to communicate with an employer who has an established debt counseling service or procedure. Collectors can also contact an employer after a final court judgment has been made on the debt.

**What do I do if I simply can't afford to pay off the debt?**

Try to propose to pay off the full debt in regular but specific 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 with your proposal, and you might want to consider including a payment with that letter in the amount of the proposed payment. The payments should be in an amount that would pay off the debt in a reasonable amount of time. 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.

**I've had problems paying my bills and I'm trying to set up payment plans but the collectors are demanding full payment. Can they do that?**

Yes. Once your account goes into default, a creditor or collector can demand any amount they wish, up to full payment of the debt. Although many collectors might accept smaller payments on a regular basis, they are not obligated to accept any offer you make them.

**The collector threatened to tell my neighbor about my debt. Can he do that?**

No. A collector cannot disclose, or threaten to disclose, information about your personal or credit reputation to anyone, without a legitimate business need to know it. Remember, however, that collectors can report accurate information to the credit bureau and that information could end up on your credit report.

**The collector called my neighbor and asked if I live here. I thought collectors couldn't call anyone except me.**

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 also 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.

**What should I do if I have questions or concerns about a collection agency's activities?**

Call or write the

Division of Corporate & Consumer Services

Department of Financial Institutions

P. O. Box 8041

Madison, WI 53708-8041

(800) 452-3328 (Wisconsin residents only) or (608) 264-7969

Please keep in mind that they can only act on complaints filed in writing or submitted through their Website [www.wdffi.org](http://www.wdffi.org).